

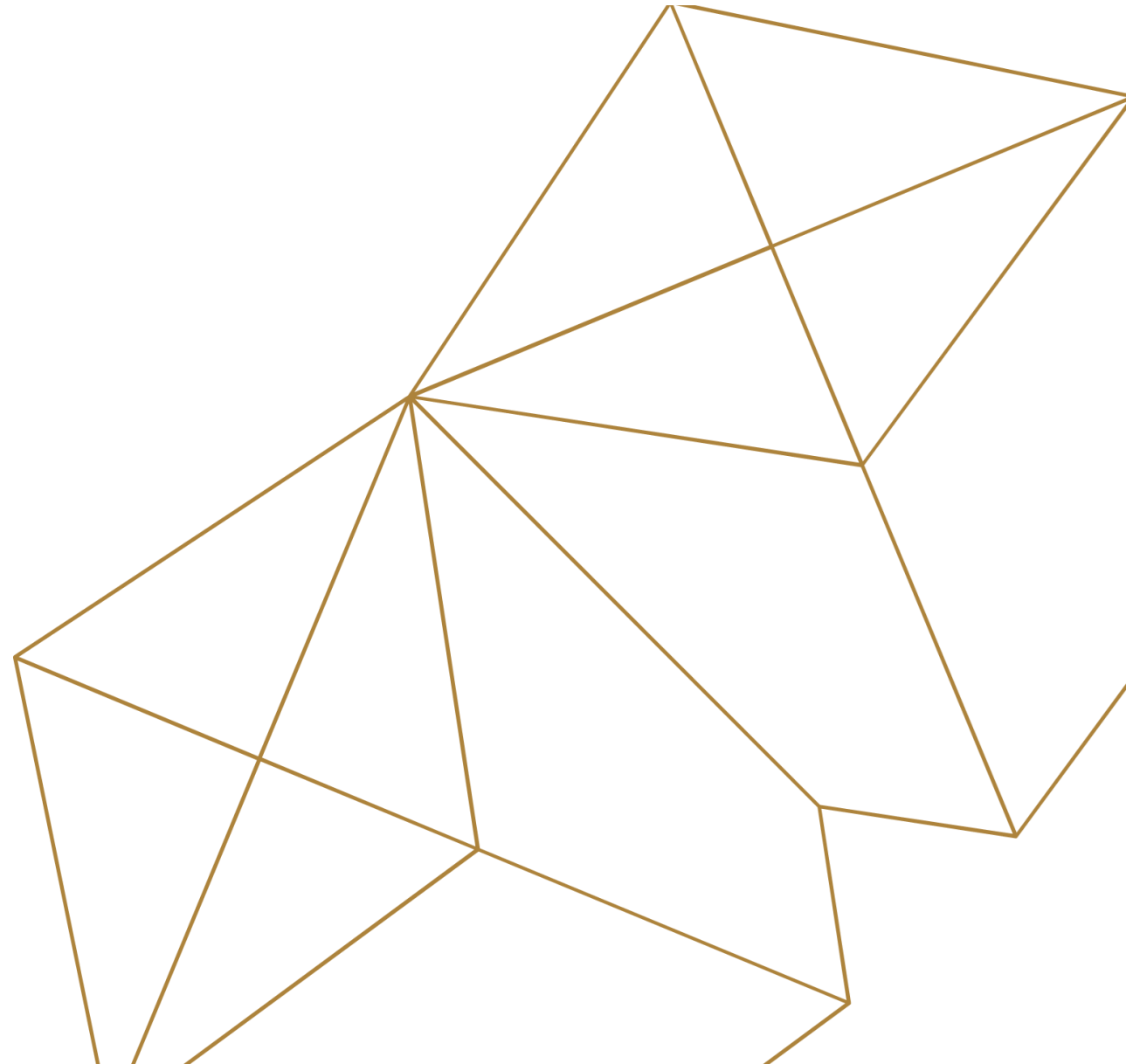
Strategic Negotiations: Principles and Techniques

Date: 09 January 2024 (version 01)

Learning Objectives

- Develop comprehensive understanding of strategic negotiation principles and techniques within the context of FTAs. This focuses on:
 - Preparatory steps for successful negotiations including stakeholder engagement, research, and setting objectives
 - Negotiation strategies and tactics
 - Effective communication techniques to convey positions clearly and persuasively
 - Overcoming impasses and conflict resolution

**Preparatory steps
for successful
negotiations
including
stakeholder
engagement,
research, and
setting objectives**



Taking the First Steps...

- This involves consensus on negotiation parameters (mandate/goals) and methodologies (modalities)
- Define the structure of the FTA
- Accord on the procedural guidelines (organization, duration, participant inclusion) for conducting FTA negotiations
- Consensus on negotiation scope (e.g., goods exclusively, goods and services, or a comprehensive trade agreement)

Key Preparatory Steps for FTA Negotiations

- Setting objectives
 - Political considerations
 - Problem identification
 - Interest identification
 - Inter-governmental consultation
 - Inter-governmental coordination
- Formulation of negotiating strategies and positions
- Preparation of opening positions

Problem Identification

- Concessions for partners at different levels of development
- Dispute Settlement Mechanisms
- Transitional arrangements
- Modalities
 - request/offer v. formula
 - negative or positive listing

Problem Identification

Based on the national priorities and feasibility studies, before talks begin, the key areas of focus are:

- Negotiating market access concessions
 - Goods (tariff and non-tariff barriers)
 - Services (sectors/sub-sectors and modes)
 - Sectoral initiatives
- Negotiating new trade rules
 - Digital Trade, Sustainable Development, Trade Remedies, Technical Barriers to Trade, Sanitary and Phytosanitary Measures, Government Procurement, Intellectual Property Rights, Competition, E-Commerce, State-Owned Enterprises, SMEs, etc.

Political Considerations

- Endorsement of FTA negotiations from key decision-makers is important
 - With support from key stakeholders
- Need for convincing evidence regarding the advantages of undertaking FTA negotiations
- Thorough understanding of the political challenges associated with FTA negotiations
- Recognition of winners and losers in each aspect of FTA negotiations
- Creation of institutional mechanisms to foster dialogue among all impacted stakeholders
- Mitigate unexpected developments that could affect the negotiations

Interest Identification - I

- Who will be the winners and losers from the free trade agreement?
- Key stakeholders to consider:
 - Government Ministries/Departments
 - Businesses
 - Consumers
 - Civil society
 - Labor union
 - Environmental groups
 - Human right groups
 - Ethnic/Indigenous groups
 - Others

Interest Identification - II

Some key considerations for managing stakeholders' interests:

- **Rent-Seeking Impact:**

- Special-interest groups engaging in rent-seeking behavior can diminish the efficiency of FTA outcomes

- **Lobbying Incentives for Losses:**

- Actors anticipating losses in the FTA have a strong incentive to engage in lobbying efforts, potentially influencing negotiations

- **Structural Change and Compensation Mechanisms:**

- Implementing structural changes within a FTA may be facilitated through the introduction of compensation mechanisms to address the concerns of affected groups

- **Compromises Across Groups:**

- Achieving successful FTAs often requires making compromises across various interest groups to balance conflicting priorities

Interest Identification - III

- A wide-ranging consultation programs is necessary to raise public awareness of negotiations and seek stakeholder views
- Such consultation programs typically use printed, emailed, and online information
 - Supported by briefings, discussions and correspondence with key stakeholders that have an interest in particular areas of the FTA
- For many FTAs the Government provides a dedicated contact point available for public enquiries throughout negotiations

Example – New Zealand’s RCEP Negotiations

The use of a livestream video link of an open session at the Regional Comprehensive Economic Partnership negotiating round with provisions for the public to submit questions in real time via email and Twitter, was a significant innovation in the Government’s approach to stakeholder engagement.

Inter-governmental Consultations - I

- Inter-governmental consulting processes vary based on
 - Political set up
 - Gravity of the issues being considered
- Multiple agencies have a stake in policy management
- Widely consult within the government apparatus, beyond apparent stakeholders
 - Some departments may be more internally focused due to their varied responsibilities
 - Formulate negotiating objectives that encompass the interests of all ministries or departments
 - Mitigate the risk of conflicting actions within the negotiating team
- Early consultation often reveals domestic laws and policies that could complicate negotiations

Inter-governmental Consultations - II

- Inter-governmental consultation is needed as the states or provinces may not be in the negotiating room
 - Commitments undertaken by Central/Federal level will apply to States/Provinces
 - States will play a critical role in domestic ratification and implementation of the FTA
 - States may resist the FTA or its provisions which do not account for their interest and regulatory role
- Overall, it fosters a higher level of transparency and accountability

Inter-governmental Coordination - I

- Effective coordination ensures that all team members align their efforts, maintaining a consistent and unified approach to FTA negotiations
- Coordinated teams optimize the use of resources, time and expertise, leading to greater efficiency in the negotiation process
- The consulting processes depend to some extent on the constitutional arrangements in an economy
- Inter-governmental approaches include:
 - Inter-departmental or inter-ministry processes at various levels to which the agencies with an interest in the matter are invited
 - Lower-level meetings and exchanges on technical issues - they are usually kept reasonably informal

Inter-governmental Coordination - II

- A different set of processes is needed to consult departments or ministries established by state and provincial governments
 - Ministry of Trade
 - Ministry of Foreign Affairs
 - Line Ministries (Agriculture, Industry, Services, IPRs, etc)
 - Coordinating Ministry of Economic Affairs
 - Other Relevant Government Agencies (provincial level too)
 - Others (Parliamentarians, Experts, Advisors)
- It is a general good practices to ensure better coordination that the negotiations are conducted by an inter-agency team that comprises officials from across government departments

Example – Inter-governmental Consultations

Inter-governmental FTA Consultations in the United States

- In the United States, state and local governments have minimal involvement in international trade negotiations
 - Congress holds exclusive power for treaty negotiations with other countries and organizations
- Institutional mechanisms, to include sub-national governments in decisions, are scarce given United States Trade Representative (USTR) has sole control over most trade negotiations since the 1980s
- In-spite of the lack of formal mechanisms for state government involvement in trade negotiations, some states also look to influence US trade policy through Congressional committees, as Congress has significant oversight authority to monitor the President and US Trade Representative's actions in any negotiations
- The US Trade Representative must attend meetings of committees, and respond to requests for updates and information on negotiations

The FTA Negotiating Strategy

- Each country needs a well-defined FTA strategy to maintain a consistent negotiating position and to guide its negotiators
- An FTA Strategy states its primordial goal and approach to negotiating the FTA
- It provides a framework for negotiating agreements that achieve the country's national economic development objectives, and ensures the effective management of scarce resources and skills in trade negotiation
- The FTA strategy may be or specific to the FTA partner

Formulating an FTA Strategy - I

- Develop an economic model of the economy in its present state and project the impact on macro and micro-level socio-economic indicators
 - Using modelling techniques include partial equilibrium, CGE (GTAP), Gravity Model
- Consult relevant stakeholders likely to be impacted by the FTA
- Examine the objectives in terms of the country's trade relations with
 - FTA Partners
 - Other non-FTA countries
 - Needs of stakeholders
 - Country's WTO obligations

Formulating an FTA Strategy - II

- View objectives from an economic perspective:
 - Can the FTA be used to promote domestic reform agenda?
 - Will the FTA enhance market access for exporters and their competitiveness?
 - Recognize sectors or subsectors where the nation holds a significant comparative advantage?
 - Will the FTA support the exporters to integrate to global value chains?
 - Identify potential barriers exports in partner country markets?
 - Will exempting sectors from coverage (protectionism) make a domestic sector inefficient?
 - Will exemptions raise the price of certain inputs and diminish competitiveness?
 - Will exemptions protect infant industries? Should long transition periods be used to protect such industries?

Example: The EU vs China - I

The EU's approach to FTAs

- EU trade policy distinguishes itself from China by explicitly connecting trade objectives with normative and political goals through conditionality clauses in agreements
- The EU engages in three main types of trade agreements:
 - Customs Unions - involving the elimination of customs duties and shared external tariffs
 - Various FTAs like Association Agreements, Deep and Comprehensive FTAs, and Economic Partnership Agreements
 - Limited Partnership and Cooperation Agreements - focused on establishing a general bilateral trade framework, often excluding tariff reductions
- FTAs are an important part of the EU's toolbox to pursue its normative foreign policy agenda
 - The EU uses FTAs to pursue democratic governance, the rule of law, human rights, environmental standards, labor standards, and good governance
- The EU's approach to trade agreements varies, with some favoring comprehensive deals and others opting for a more limited and gradual approach to liberalization and issue coverage

Example: The EU vs China - II

Gradualism: China's approach to FTAs

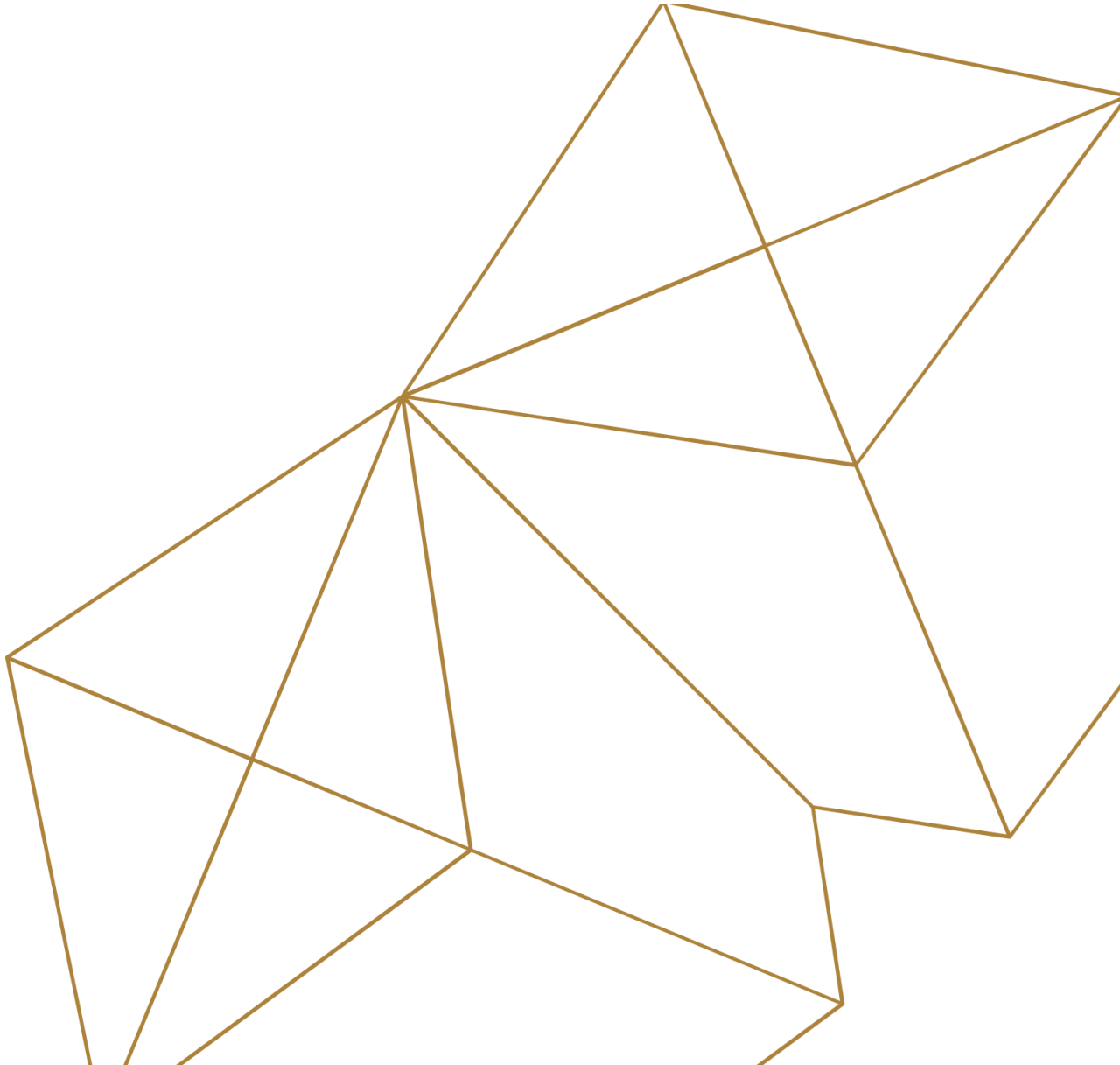
- China is known for its limited and gradual approach to trade negotiations, that often lacks formal policy conditionality in its international agreements
- China's trade agreements are characterized by lower coverage and depth of liberalization, reflecting a gradualist approach with lower legal obligations
- Guided by the Chinese trade policy that is more centralized and less subject to lobbying pressures
- Beijing categorizes its trade agreements into two types: (1) regional partners following the 'neighboring country relations strategy'; (2) countries with resources that China seeks to access more easily
- In negotiations with regional partners like ASEAN, China initially focused on narrow agreements with limited liberalization
 - It later expanded and balanced terms in subsequent rounds to increase economic dependence and bargaining leverage
 - Example - Initially, the ASEAN-China agreement focused on goods liberalization. Concerned about an influx of competitive Chinese goods, ASEAN nations negotiated an 'Early Harvest Program' (EHP) with China, safeguarding their agricultural sectors during the agreement's implementation period.

Strategy to Ensure Successful Negotiations

Create the right environment

- Decide on who you are and your negotiating partner is
- Open the negotiations
- Talk and listen
- Make Proposals
- Summarize
- Close and confirm

Negotiation Strategies and Tactics



Negotiating Strategy – Team Composition

- The negotiating team takes charge of strategic planning, offering advice and addressing capacity constraints
- Recruitment of ‘heavyweight’ lead negotiators with experience in international relations and trade, communication and negotiations
- The negotiating team should be inclusive of the various levels of government that will be impacted by the agreement and will also be involved in implementing it
- However, sub-national governments’ involvement in international trade negotiations varies between countries and between subnational governments themselves
 - A key factor is whether negotiations include policy fields in which subnational governments have competences

Example – EU-Canada Trade Agreement (CETA)

- The EU insisted that Canadian provinces were involved in the CETA negotiations because its ability to access government procurement and agriculture markets needed buy-in from provincial governments
 - For the first time, Canadian provinces and territories fully participated in international trade negotiations that would impact them directly and engender important economic benefits
- In the context of provincial government's participation in trade negotiations, Quebec invested in a high-profile lead negotiator and used its economic standing as the second largest province in Canada (in terms of population and GDP)

Negotiating Strategy - Setting Agenda and Brief - I

- An important element of the negotiating strategy is to set an agenda for each negotiating session
 - It sets out the sequence of issues to be negotiated
 - It ensure that all FTA Negotiating Parties agree on the composition and order in which items are to be discussed
 - In case of disagreement on the order, one solution is to agree to negotiate the terms in any order on the basis that: "Nothing is agreed until everything is agreed"
- Once the agenda is agreed upon, a negotiating brief provides a guide to the negotiators for each session, it includes:
 - An agenda of issues to discuss
 - Objectives expressed in terms of parameters
 - Questions to ask FTA Partner to assess the Partner's position

Negotiating Strategy - Setting the Agenda and Brief - II

- Establish Priorities
 - Rank issues based on importance
 - Less Important/More Important
 - Estimated Weight (assign relevant weights)
 - For each negotiating issue
 - Set the preliminary level of commitment in the opening position
 - Decide on the reservation outcome which would be the bottom line
 - Alternative outcome for each issue
 - Assess the consequences of inability to achieve agreement
 - Assess value of trade-offs

Negotiating Strategies for LDCs

- LDCs need to carefully consider the kinds of requests they table and concession they receive in trade negotiations with their developed-country counterparts
- Prioritise which type of concessions are beneficial
 - Provisions aimed at increasing trade opportunities
 - Provisions that require WTO members to safeguard the interests of developing country members
 - Flexibility of commitments
 - Transitional time periods
 - Technical assistance
 - Trade and Infrastructure
 - Transport and physical infrastructure
 - Testing and certification infrastructure
 - Information and communications network infrastructure

Negotiating Strategy: General Considerations - I

- What parts of the Free Trade Agreement are legally binding?
 - Main clauses and commitment, annexes and any other notes that is identified as legally binding
- Can the Agreement be terminated?
 - If agreed upon, Party(ies) can agree to terminate the agreement
- Can the Agreement be reviewed and amended?
 - Generally, an FTA can be amended at any time by agreement between the Parties
- While drafting the legal text, it should be ensured that a level of clarity must be maintained for easy interpretation
- Attention should be given to the availability of time and resources to assess the potential timeline to conclude the negotiations and drafting
 - Countries vary in terms of their financial, human and time resources available
 - Some FTAs are concluded swiftly while some go on for years
 - Example: India-UAE FTA concluded in 88 days where as India-EU negotiations began in 2007 and are still ongoing. The depth and ambition of an FTA can be one of the critical reasons.

Negotiating Strategy: General Considerations - II

- **Negotiating Multiple Deals:**
 - In complex negotiations involving multiple sectors, cross linking of concessions is commonly seen
 - Resistance on one particular item can impede progress which necessitates devising linking strategies
- **Persuasion for Progress:**
 - Emphasizes that everything is negotiable, requiring persuasion to make progress on issues with partner inhibitions
 - Linking issues showcases flexibility and a broader perspective in negotiations
- **Encouraging Flexibility:**
 - Negotiators may become more flexible near the negotiation's end, even on issues they resisted earlier
 - The strategic summary creates an environment conducive to reconsideration and compromise

Types of Negotiating Strategies - I

- Competitive Strategy:
 - Present compelling arguments to stimulate concessions
 - Firmly commit to demands to reinforce negotiating positions
 - Refrain from divulging or sharing information strategically
 - Employ delays or deliberate misinterpretation as tactics
 - Firmly reject demands from the opposing party
 - Withhold concessions to maintain negotiating leverage
 - Decline to exchange offers as a strategic move
 - Introduce the prospect of walking out or retaliation as a potential consequence

Types of Negotiating Strategies - II

- **Cooperative Strategy**
 - Engage in problem-solving to identify solutions that benefit both parties
 - Clearly signal the desire for an agreement to foster collaboration
 - Share information about your needs and priorities to enhance understanding
 - Brainstorm potential options collaboratively
 - Jointly assess the needs and priorities of both parties for a comprehensive understanding
 - If the other party adopts a cooperative strategy in response to your competitive tactics, reciprocate by shifting to a cooperative strategy
 - However, maintain this cooperative stance only for as long as the other party remains cooperative.

Types of Negotiating Strategies - III

- Persuasion

- Formulate persuasive arguments to encourage the other party to reconsider its positions
- Express firm commitment to your own positions, while allowing room for potential adjustments
- Challenge the legitimacy of the other party's demands if necessary
- Strategically withhold or delay concessions to strengthen your negotiating stance

Example – USMCA (I)

The United States-Mexico-Canada Agreement (USMCA)

With Mexico's strategy for USMCA as a case study, it can worth highlighting how developing countries can negotiate effectively with developed countries. The agreement entered in force in 2020. Mexico's negotiating strategy included:

1. Composition of Mexican Negotiating Team:

- Mexico capitalized on institutional memory for USMCA talks as it included many leading members of the team of negotiators who were part of the original NAFTA negotiation
- Young and new negotiators participated actively
- Mexico employed a multidisciplinary approach in selecting the profile of suitable negotiators consisting of trade lawyers, seasoned economists, international relations experts and political scientists

2. The First-Stepper Addressers' Approach:

- Mexico advanced with easily negotiable chapters i.e. advancing on the less problematic areas and leaving the more contentious issues for latter rounds
- Mexican negotiators began with easier issues in USMCA (NAFTA renegotiation) to establish trust with the US
- Later, they took a firm stance on challenging issues, used counter-offers and delayed contentious matters to potentially increase sunk costs

Example – USMCA (II)

3. Working Hand-in-Hand with Industries:

- Public-Private consultations in Mexico is carried out with the help of an institutionalized mechanism known as “Cuarto de Junto” (“The Room Next Door”)
- Industries affected by NAFTA renegotiation formed "Cuarto de Junto," mirroring Mexico's negotiating team structure
- Each lead negotiator had an industry counterpart to foster close collaboration between government and industry.
- Industry counterparts provided advice, technical information, and research inputs to government negotiators. This ensured alignment and effective defense of the affected industries' interests during negotiations

4. Research-Led Approach:

- Mexico undertook an ‘information-led’ bargaining
- Undertook extensive data analysis and presented all its findings in state-wise reports
 - These reports focused on the losses several industries in states would incur if USMCA did not go through
- A thorough assessment allowed Mexico to anticipate and categorize potential claims from other FTA partners during the negotiations & distinguish non-negotiable issues from those open to discussion.

Example – USMCA (III)

5. Inter-Ministerial Coordination and Preparation of Transition Plan

- Negotiators conducted consultation meetings with government agencies, presenting proposals and revisions for each chapter under negotiation
- The obligation was placed on negotiators to ensure public stakeholders' agreement with the accepted or proposed texts by Mexico
- Close interaction and constant communication among various government departments were maintained to facilitate effective negotiation conduct
- The inter-ministerial coordination strategy enhanced the credibility and comprehensiveness of the new agreement.

Example – ASEAN FTA Negotiations

- ASEAN's Free Trade Agreement (FTA) negotiations adopted a **sectoral approach**, initially focusing on trade in goods before addressing trade in services and investment liberalization
- The negotiation structure involved partners **negotiating with ASEAN as a whole on regional objectives**.
- They also undertook **bilateral negotiations between each ASEAN member country** and their respective ASEAN partner
 - Bilateral negotiations were crucial for determining modalities and coverage of FTAs, especially concerning provisions on sensitive sectors
- However, this negotiation process was prolonged as negotiators grappled with the challenge of balancing national versus regional objectives, making consensus difficult to achieve

Negotiation Tactics

Negotiation Tactics: The Approach

- Often the “offer and request” approach is used in line with GATT style negotiations
- While requests are usually presented in the form of a letter, an offer normally consists of a draft schedule of commitments
- Under this approach, requests and offers are made for trade liberalization and increased market access by the parties of the negotiation
- These proposals/offers include concessions with respect to goods, services and other areas of interest (e.g. sensitive sectors, defensive and offensive interests)
- These concessions are aligned with the national objectives of each Party and the overall FTA objectives enshrined in the mandate
- With provisional offers, participants enter a decisive stage of the negotiating and drafting final concessions

Example – GATS Negotiations

- Under the WTO's General Agreement on Trade in Services (GATS), negotiations follow distinct dynamics regarding commitments and rules for trade in services
- Bilateral negotiations involve specific national commitments where the negotiators undertake a bargaining process through **requests and offers** between involved parties
- Simultaneously, there are multilateral negotiations focused on establishing governing rules
 - This process requires building consensus among member countries on broad principles that guide trade in services
- The negotiation steps under GATS include:
 - Develop requests using the request or offer procedure within the WTO
 - Formulate negotiating proposals regarding rules within the GATS negotiation framework
 - Engage in negotiations for sectoral and functional agreements to address specific aspects of trade in services

Negotiation Tactics: Making Concessions - I

- Concession Making

- Concessions are a valuable tool for progression in the negotiating process
- Concessions are strategically reserved and used to be introduced at different stages
- Consider initiating concessions starting with the least crucial items
- Make concessions at a pace that corresponds to the concession rate of the other party
- Align the pace with the needs and priorities identified earlier for a balanced negotiation process

Negotiation Tactics: Making Concessions - II

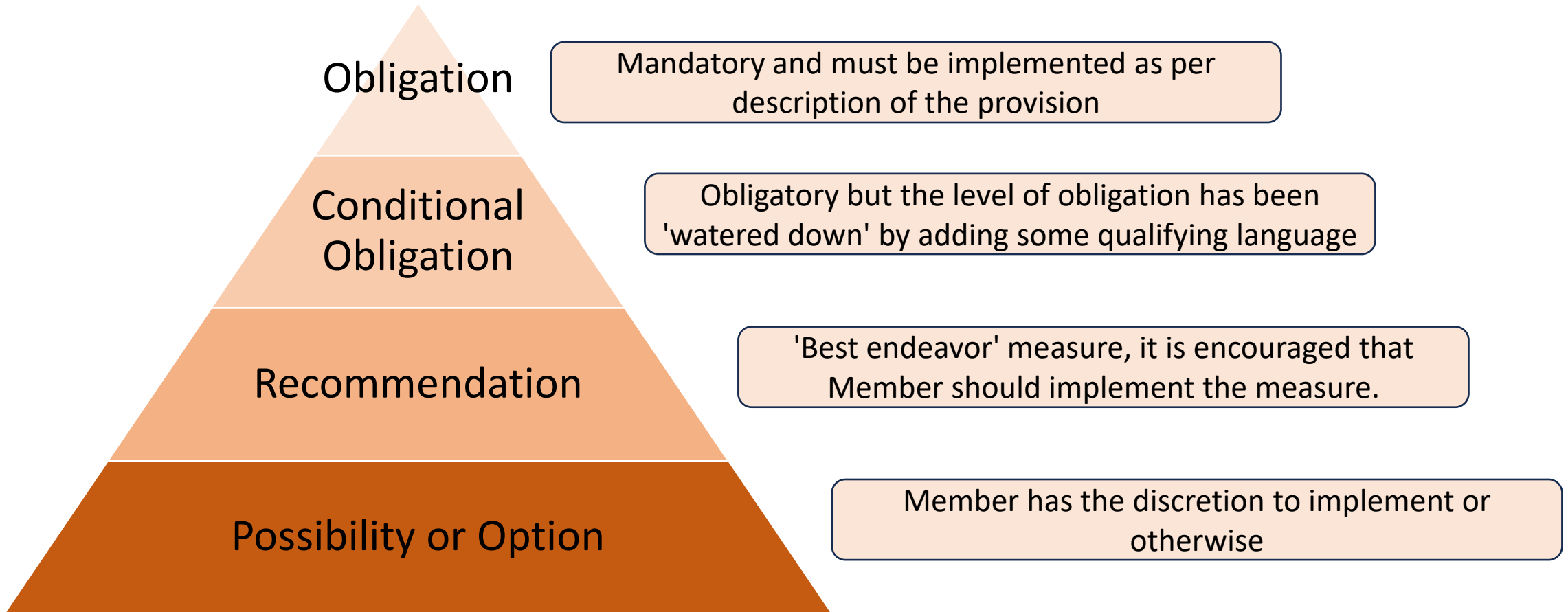
- Leveraging Concessions

- Connect concessions in the current negotiation with concessions in other related areas
- Utilize concessions made in other negotiations as leverage to extract reciprocating concessions in the current negotiation
- Recognizes negotiations often involve separate issues or objectives
- Rather than viewing each item in isolation, linking one issue with another can facilitate movement on challenging issues
- Offers a strategic approach to navigate resistance on specific items

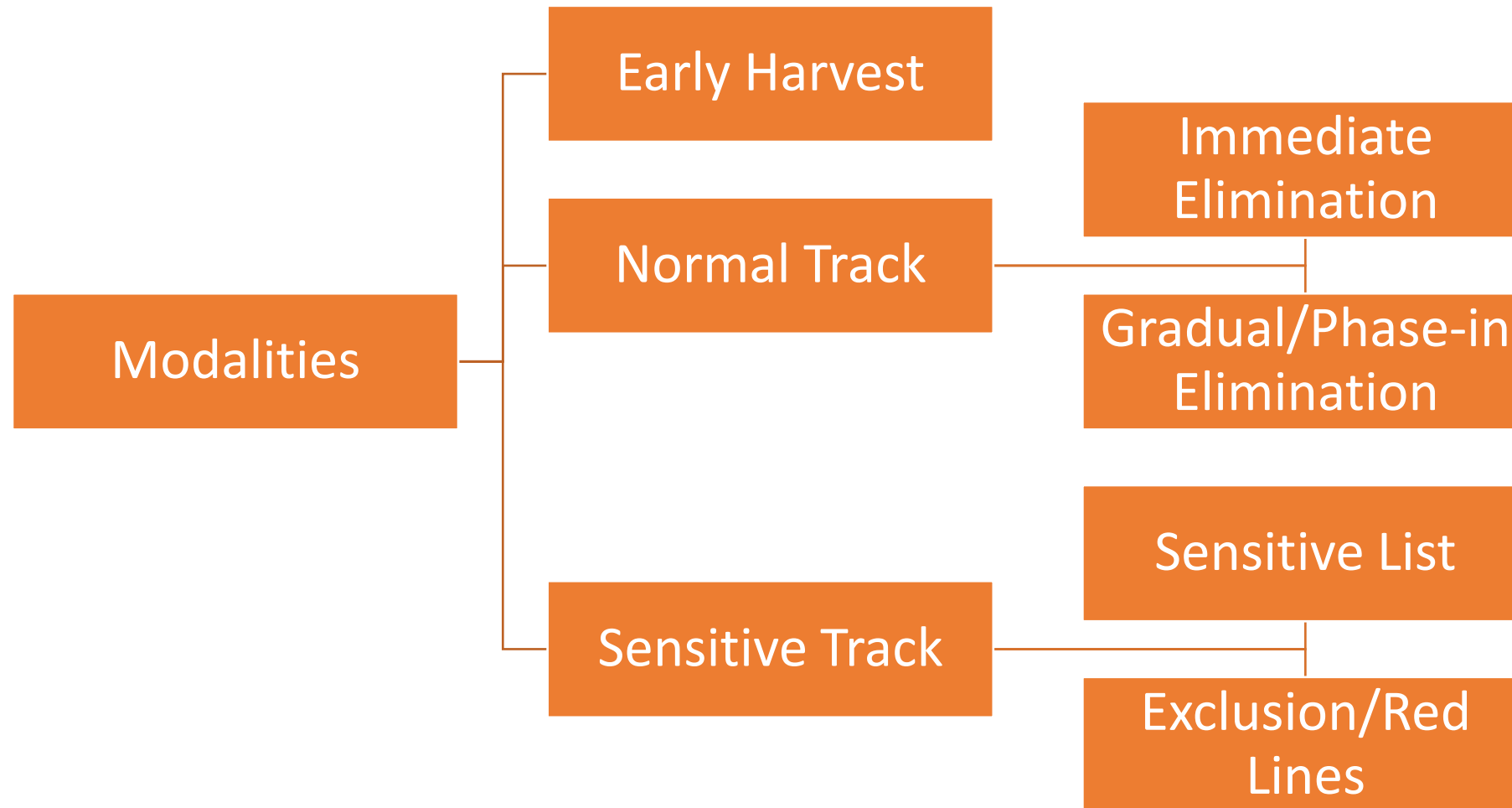
Negotiation Tactics: Making Concessions - III

- Tracking Concessions:
 - The strategic summary strategically introduces concessions, enticing flexibility from the negotiating partner
 - Concessions, when presented thoughtfully, can motivate the partner to reevaluate sticking points from the beginning of the negotiation
- Avoid Stalemate
 - Focus on improving your own benefits while simultaneously diminishing the utility of the other party to break the deadlock
 - Seek and propose new and innovative solutions that address the interests of both parties, finding common ground to move past the impasse

Negotiation Tactics - Prioritizing Provisions



Negotiation Tactics - Modalities for Liberalization



Source: [ADB Study, 2008](#)

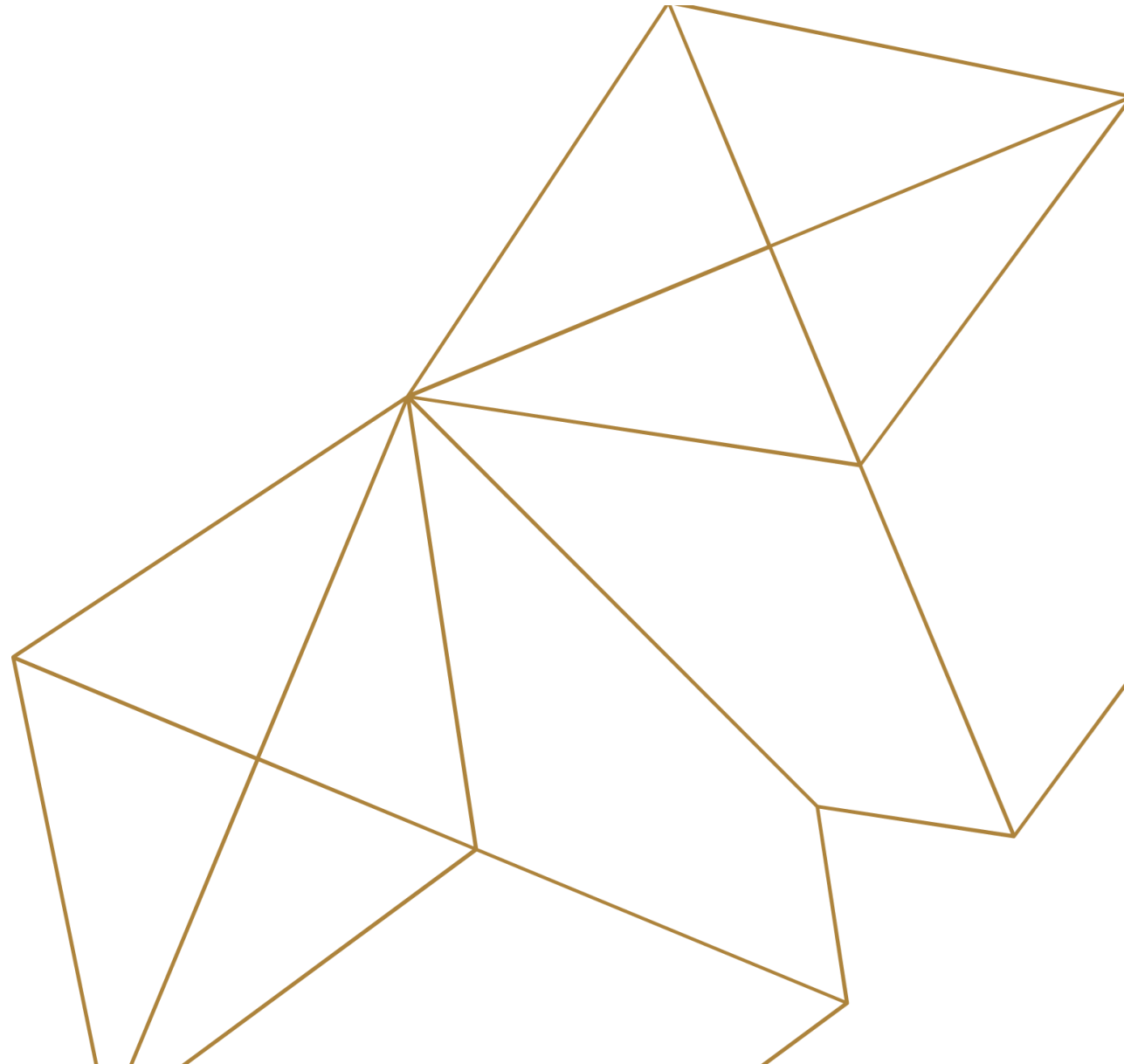
Negotiation Tactics - Tracking Progress

- After several rounds of negotiations, consensus is developed on the proposals which ultimately make up the negotiating text
- Prepare Strategic Summary during Negotiations:
 - Serves as a concluding strategy, providing a final chance to address unresolved issues
 - Capitalizes on the psychological shift towards flexibility as the end of negotiations approaches
 - Allows for revisiting items where progress was previously stagnant
- Presentation of Case:
 - A well-presented case during the summary reinforces key points and highlights the rationale behind proposals
 - Clarity in communication can positively influence the negotiating partner's perspective

Negotiation Tactics - Docking the Text

- Often the text of the agreement is based on previously signed agreements to which one of the FTA Partners is a party to.
- This process, called “docking”
- This process saves time, as negotiators no longer need to renegotiate areas that do not present any material issue to either side.
- Docking may even result in more consistent or harmonized FTA agreements lessening the so-called “spaghetti bowl effect” of FTA proliferation

Effective Communication



What is Effective Communication?

- Effective communication encompasses the dynamic exchange of information, intention, and emotion.
 - This process revolves around the precise articulation of a message and the subsequent reception of acknowledgment, confirming that the intended audience comprehends and acknowledges the conveyed information.
- Furthermore, effective communication entails actively providing acknowledgment to others, fostering an environment where individuals feel genuinely heard and understood.
 - This dual acknowledgment mechanism is essential in cultivating successful interactions and relationships.
- It plays a pivotal role in ensuring messages are conveyed with clarity and sensitivity, contributing to a more harmonious and understanding interpersonal dynamic.

Why is Effective Communication Needed?

- Communication in negotiation is the means by which negotiators can achieve objectives, build relationships, and resolve disputes
- Negotiators confront a variety of obstacles like unfamiliar laws, ideologies, and governments
- Effective communication can help in navigating uncertainty by:
 - building rapport and trust
 - clarifying intentions and expectations
 - navigating emotional undercurrents
 - facilitating problem-solving
 - strengthen persuasion and influence
- Thus, establishing effective channels of communication with diverse interest groups before and during negotiations becomes crucial

Forms of Effective Communication - I

1. Verbal Communication

- Verbal communication involves spoken interaction, occurring in various settings like face-to-face conversations, telephone calls, Skype, or Zoom
- It ranges from informal chats to formal meetings
- It requiring consideration of word choice, structure, and intonation
- In face-to-face communication, the significance of words is intertwined with non-verbal cues

Forms of Effective Communication - II

2. Non-Verbal Communication

- Non-verbal cues (facial expressions, posture, eye contact, etc.) convey significant information alongside spoken words
- In negotiations, it is important to pay attention to both verbal and non-verbal signals
- Even if verbally supportive, conflicting non-verbal cues may indicate reservations or differing sentiments
- Visual Communication also forms a part of non-verbal communication which uses photographs, art, drawings, sketches, charts and graphs to convey information
 - Often used as an aid during presentations to provide helpful context
 - Because people have different learning styles, visual communication might be more helpful for some to consume ideas and information

Forms of Effective Communication - III

3. Written Communication

- Written communication, be it an email, memo, proposals, report, social media post, or contract, shares the common goal of conveying information clearly and concisely
- Poor writing skills can lead to confusion, embarrassment, and even legal issues
 - Prioritize good writing to avoid negative perceptions
 - Ensure the message aligns with long-term goals as it may persist indefinitely

4. Listening

- Active listening is vital for effective engagement as it plays a key role in assessing the wants and needs of other Parties
- In negotiations, understanding the opposition's perspective is essential for achieving a mutually beneficial outcome

Interpersonal Communication and Negotiations - I

- There are two primary styles of communication that can be followed:
 - The Extrovert Style
 - The Inductive Styles
- The Extrovert Style:
 - The extrovert style is about our attempts to persuade a person to do something by giving lots of information- in effect, seeking to persuade by 'pushing' your negotiating partner into a position
 - This style will be most successful, in the short-term, when negotiators are working from a powerful angle (i.e. power is on their side) and in a competitive environment
 - However, if the relationship is dependent on goodwill for its continuing success, there may be a greater likelihood of bruised feelings resulting from the negotiation

Interpersonal Communication and Negotiations - II

- The Inductive Style

- The inductive style is about trying to encourage your negotiating partner to do something, by 'pulling' him or her towards that position
- Clearly, this approach is more about manipulation and is more subtle than the extrovert style
- This style tends to be rather less predictable than the extrovert style
- Its relative success is based on the principle that the more one is able to test out the attitudes and arguments of the negotiating partners, the more likely one will be able to pinpoint weaknesses in their arguments
 - This will enable to induce the partner to move towards the other country's position.

Negotiating Skills and Habits - I

- **Active Listening:**
 - Place information provided by other negotiators in the proper context.
 - Confirm understanding by seeking clarification when in doubt
- **Asking Questions:**
 - Utilize the negotiation setting as an opportunity to learn about counterpart interests.
 - Determine potential areas for trade-offs or compromise through thoughtful questioning
- **Tactical and Timely Use of Silence:**
 - Leverage strategic pauses to encourage the disclosure of information or compromise from the other party
- **Taking Breaks:**
 - "Go to the balcony" to review proposals, formulate responses, and regain composure
 - Important for maintaining clarity and focus during negotiations

Negotiating Skills and Habits - II

- **Organizing Brainstorming Sessions:**

- Elicit reactions, ideas, and counterproposals through brainstorming
- Pose "What if" questions to empower the team or counterparts with choices

- **Using Objective Criteria:**

- Introduce fair standards supported by evidence from independent experts
- Persuade the other party to support arguments or proposals based on these criteria

- **Practicing Role Reversal:**

- Discuss and understand what would work for the other party and why
- Gain insights into their bargaining position through role reversal

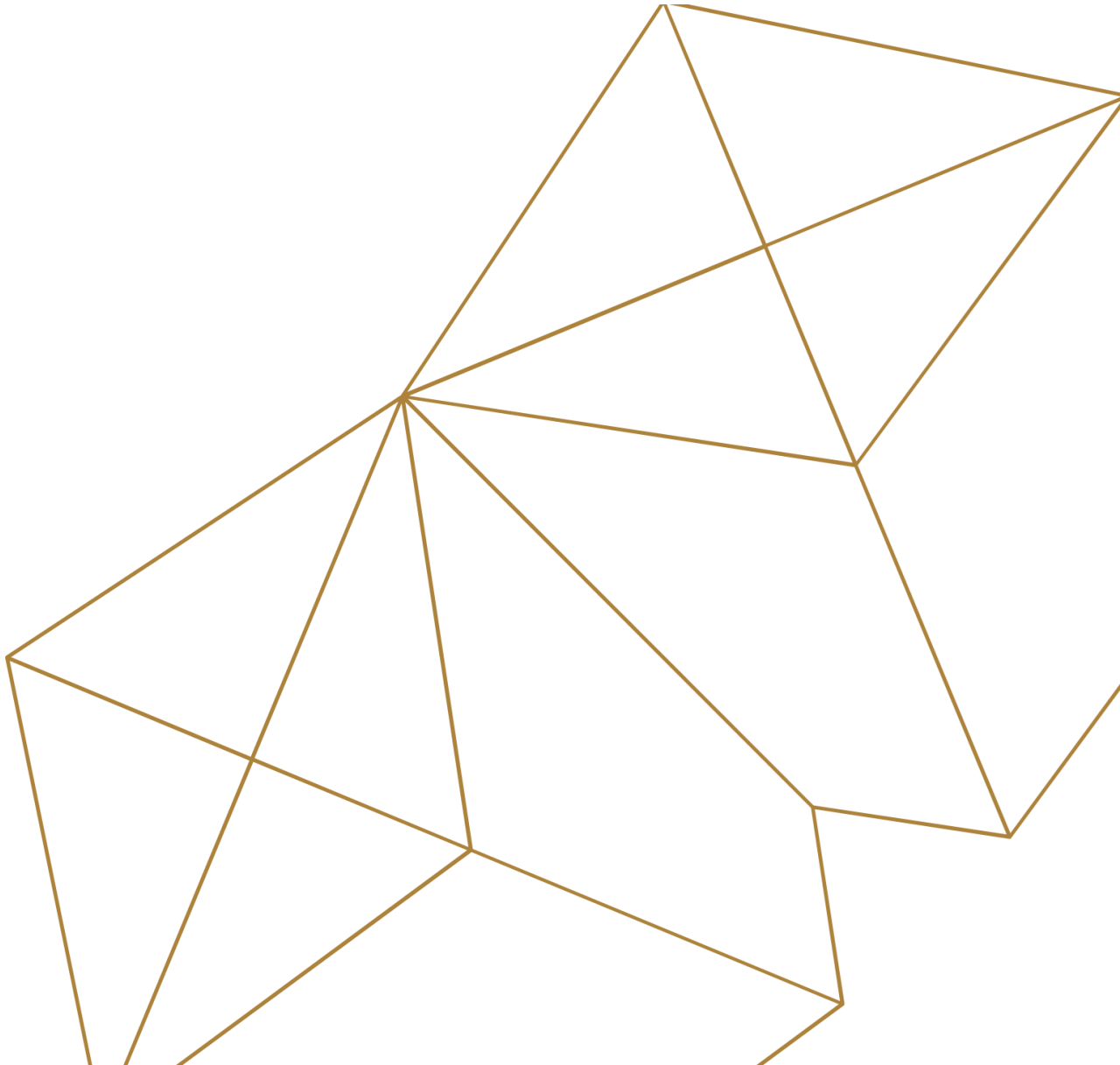
Negotiating Skills and Habits - III

- **Listening and Recording Proposed Options:**
 - Preserve proposals for ongoing review by creating a comprehensive record of negotiation sessions
- **Sensitivity to Cross-Cultural Dynamics:**
 - Be aware of cross-cultural nuances, gender considerations, and language differences.
 - Diplomacy and careful language use contribute to negotiation success
- **Building a Reputation:**
 - Develop rapport and foster good working relationships with counterparts for long-term benefits
- **Creating a Win-Win Mentality:**
 - Strive to achieve a mutually acceptable agreement where both sides feel they have gained, fostering a win-win outcome

Negotiating Skills and Habits – Summing Up

- Opt for assertive communication over threats to maintain a more constructive atmosphere
- Uphold the importance of honoring commitments to build trust and credibility
- Foster collaboration by steering clear of confrontational attitudes and adopting a more cooperative approach
- Maintain composure and professionalism, avoiding the expression of anger or belligerence that can escalate tensions
- Demonstrate respect and professionalism at all times to cultivate a positive and productive negotiation environment

Impasse and Conflict Resolution



Overcoming Impasse and Conflict Resolution - I

- As negotiations proceed, Parties sometimes reach an impasse - often not due to overt conflict, but rather due to resistance to workable solutions or simply exhaustion of creativity
- Following steps can be taken:
 - **Take a Break:**
 - Step away temporarily as perspectives may change upon returning
 - **Set the Issue Aside:**
 - Propose temporarily moving to a different, preferably easier issue

Overcoming Impasse and Conflict Resolution - II

- **Explore Perspectives:**

- Encourage the parties to articulate their viewpoints on the deadlock

- **Prompt Decision-Making:**

- Ask, "What would you like to do next?" to shift responsibility for resolving the impasse

- **Address Fears:**

- Ask each party to express their fears, fostering open communication

- **Global Summary:**

- Summarize both sides to provide context, making the impasse seem less significant

Overcoming Impasse and Conflict Resolution - III

- **Highlight Agreements:**

- Reiterate areas of agreement, commend progress, and emphasize the value achieved so far

- **Focus on the Ideal Future:**

- Prompt parties to envision their ideal outcome and inquire about the steps to reach it.

- **Suggest Trial Period or Plan:**

- Propose a trial period for a specific approach to gauge its effectiveness.

Overcoming Impasse and Conflict Resolution - IV

- **Define Acceptable Outcome:**

- Assist in developing criteria for an acceptable outcome before focusing on the result

- **Be a Catalyst:**

- Introduce a slightly unconventional "what if" scenario to gauge reactions

- **Offer a Model:**

- Present a model or framework adopted in similar disputes

Overcoming Impasse and Conflict Resolution - V

- **Role-Reversal:**

- Ask parties to consider the other's perspective or argue against their own position

- **Devil's Advocate:**

- Have parties play the devil's advocate and argue against their own stance

- **Communication Exercise:**

- Propose an exercise where each party states their position, the other party repeats, and clarity is sought through accurate repetition

From Adoption to Entry into Force - I

Adoption

(Signature by
Parties)

- Adoption is the formal establishment of a treaty's form and content by the negotiating parties
- It involves a specific act expressing the will of States and international organizations, such as voting, initialing, or signing.
- This formal expression solidifies commitment to the agreed-upon treaty terms
- Adoption methods include voting on the text, initialing, signing, or other formal actions indicating party endorsement

Authentication

(Legal
Scrubbing)

- Authentication is the procedure whereby the text of a treaty is established as authentic and definitive
- Once a treaty has been authenticated, its provisions cannot be modified except by formal amendment

From Adoption to Entry into Force - II

Expression of Interest (Ratification)

- A State expresses its consent to be bound by a treaty under international law by some formal act, i.e., definitive signature, ratification, acceptance, approval or accession

Entry into Force

- As per the conditions set in the FTA
- Example: UK-Singapore FTA 2020: This Agreement **shall enter into force** on the first day of the second month following the later of the Parties' written notifications certifying that they have completed their respective applicable legal requirements and procedures for the entry into force of this Agreement. The Parties may agree on another date, provided such date occurs after the completion of the exchange of notifications referred to above.