



LEARNING THE NEGOTIATION DANCE BETWEEN REGIONALLY INTEGRATED STATES: THEORETICAL PROPOSITIONS INSPIRED BY THE EUROPEAN UNION

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ABSTRACT: Much can be learned from the interstate negotiations in the European Union as the most elaborated system of regional integration. When negotiating to adopt a decision jointly, EU member states usually manage to dance together in harmony, sometimes less so. But some dance better; they get more attention, satisfaction, and control over the others. The article investigates what factors may explain their better performance in interstate negotiations. It builds on these findings to offer six propositions on the success factors in negotiations taking place between states integrated economically and/or politically, beyond simply the EU. The article wonders also what happens when the states are forced to dance faster, and tensions between the states jeopardize the harmony between partners. It submits six more propositions to cope effectively with the effects of crises on customary negotiations. All findings and propositions rely on theory as well as research on negotiation and crisis bargaining. The twelve propositions submitted in total for ordinary and crisis negotiations include notably the strategy building of a chess master; the relational influence of a diplomat on a drunken counterpart; as well as the pushing and pulling technique of a martial art master.

KEYWORDS: European Union; Crisis; Bargaining; Regional Integration; Negotiation Theory.

APRENDER AS NEGOCIAÇÕES ENTRE ESTADOS INTEGRADOS REGIONALMENTE: PROPOSTAS TEÓRICAS INSPIRADAS PELA UNIÃO EUROPEIA

RESUMO: Muito se pode aprender com as negociações entre Estados membros da União Europeia, sendo o sistema mais elaborado de integração regional. Durante a negociação e para a adoção de uma decisão conjunta, os Estados membros da União Europeia costumam dançar em harmonia, mas nem sempre. Alguns, contudo, dançam melhor; obtendo assim mais atenção, mais satisfação e um controle maior sobre os outros. O artigo investiga os fatores que melhor explicam suas performances nas negociações interestatais. O artigo se baseia nesses resultados para oferecer seis propostas relativas aos fatores de sucesso das negociações entre Estados integrados economicamente e/ou politicamente, mesmo fora da União Europeia. O artigo se questiona também sobre o que ocorre quando os Estados são obrigados a dançar mais rápido, e quando as tensões entre os Estados ameaçam a harmonia entre os parceiros. São, ainda, submetidas seis propostas adicionais para lidar efetivamente com os efeitos das crises que podem intervir nas negociações corriqueiras. Todos os achados e proposições se baseiam em teoria e em pesquisa acerca de negociações e barganha em momentos de crise. As doze proposições para negociações corriqueiras e em tempos de crise incluem a construção da estratégia de um mestre de xadrez, a influência relacional de um diplomata



sobre uma contraparte embriagada, assim como a técnica do puxa/empurra usada pelos mestres de artes marciais.

PALAVRAS-CHAVE : União Europeia; Crise; Barganha, Integração Regional; Teoria da Negociação.

1. Introduction

Engaging in multilateral negotiations among European Union (EU) member states is like taking part in a group dance competition with separate juries. While one jury would appraise the collective performance of the EU as a group, and measure the quality of the result achieved jointly, 28 juries would accord marks for the individual performance of each negotiator representing a different member state in the group. The success of a negotiator will depend on the ability to emerge from the group for maximum unilateral gains, without alienating the partners in order to secure the collective result and future relationships within the group. This article explores whether some member states of the EU are more successful than others in this exercise of interstate negotiations. It aims to use possible findings and research to formulate specific propositions on performance criteria, as well as key factors of success, in integrated multilateral negotiations. The propositions should serve as recommendations to national representatives involved in interstate negotiations taking place in the framework of any economically and/or politically integrated regional organisation, beyond simply the EU. Following Druckman (2009: 434), such international negotiations can be delineated as processes combining diplomacy politics, institutional structures and cooperative regimes, a playing field for salient events, a specific international atmosphere, different cultures, and linkages between recurring negotiations.

The article further wonders about the effects of an increase in tensions within regional organizations. It investigates in particular the conditions in which a crisis or disruptive elements put pressure on the regional group; and when the increased unilateral aspirations of some partners may jeopardize the fine balance between individual and collective calculations. A 'crisis' is an utterance of medical origin, applying to the ill-functioning and critical period of a patient who can either ameliorate or drastically deteriorate (Elvert, 2009: 50). Commonly, the term alludes to a phase of



disorder in the seemingly normal development of a system, accompanied with perceived threats and uncertainty (Saurugger, 2016). In political terms, a crisis can evidently culminate in a war. The article rules however out this extreme declination of the widely accepted definitions of Hermann (1969), as revised by Brecher and Wilkenfeld (1997); mainly because of the institutional, legal or political construction regional organizations impose on their members. It retains instead specific features or symptoms in the context of Foreign Policy. A crisis bears an element of surprise, triggered on a short notice; with a limited or finite time span to act or react. It presents the decision-makers with a perceived risk, danger or threat against their priorities, basic values, or national interests; whether this risk impacts individual members alone, or the collective organization. In the case of the European Union, crises in the last decade have for example been financial, with the imperative bailouts to save the euro; humanitarian, with the movements of refugees and the related immigration issues; political, with Brexit. What is fundamentally altered by crises is the established equilibrium or routine of burden-sharing and distribution among member states; with front line or directly affected member states claiming that the conventional burden sharing should be corrected or rebalanced. The article advances a second set of propositions to specifically manage the resulting unilateralism and bargaining situations that are both multiplied and amplified during tensions and crises.

The two sets of propositions – for normal and crisis situations – rely on the results of wide research and literature on multilateral negotiations and crisis bargaining. While the research findings used originate from multiple scientific disciplines and negotiation formats, the article somehow follows the approach of policy sciences. The approach advocates for the combination of managerial and socio-psychological angles to study policy-making (Lewin and Shakun, 1975). This theoretical blend, combined with the analysis of EU interstate negotiations, enable the article to offer an original way to contemplate diplomatic processes. It basically takes up the calls made by some to better understand the role of advisors in processes of negotiation and group decision-making, and particularly the need to convey knowledge to them (Salacuse, 2015).



The first section gathers evidence on the success factors in interstate negotiations within the EU; with elements belonging essentially to what Jones and Clark (2002) describe as attitudinal patterns in a multilevel governance architecture. The second section combines them with research to formulate six propositions for states to be effective in integrated regional negotiations generally. The third section submits six additional propositions to handle the particular effects of pressure and tensions on negotiation processes, by using essentially crisis bargaining theory and techniques. The broad theoretical optic and scientific foundations of the study empower the propositions to expand beyond the sphere of regional multilateral negotiations. The article should in fact appeal to anyone interested in negotiations and crisis bargaining, whether multilateral or even bilateral.

2. Measuring Success and Finding Inspiration in European Multilateral Negotiations

One obvious indicator of success in European interstate negotiations-referred here as the internal EU diplomacy- is the bargaining satisfaction. It is measured by the final distance standing between the initial positions of an EU member state and the terms of the final agreement at the closing of negotiations with its partner member states. The studies of Arregui (2016) report varying performance results across policy domains. It is on financial issues that the author notes the highest bargaining satisfaction; it is to the benefit of Eastern EU member states. The research further notes that in negotiations on regulatory issues generally, small member states have obtained more bargaining satisfaction than larger member states.

A quite appealing follow-up question is to wonder whether being a net contributor to the EU budget helps a member state to win more cases. Can we assume that some form of automatic *quid quo pro* incites the beneficiary delegations to show natural flexibility? The answer is provided by Golub (2012) who investigated 162 legislative negotiations and their final compromise. He discovered that net budget contributors to the EU budget get little or nothing in return for their money from net receiving member states in terms of concessions or aligned votes. In other



words, there was no significant alignment between the two camps that could indicate that votes might have been bought up by the wealthier states. In their analysis of the more widespread voting records in the Council of Ministers, Bailer et al. (2015) reach however a contrasted conclusion. The authors submit that structurally weaker member states are basically 'appeased' by the subsidies granted to them during the negotiations. They speak specifically of a negotiation system subsidising member states in bargained package deals. Even if one cannot conclude at a general and systematic mechanism of buying votes, the net beneficiaries or Member States lagging behind economically (Epstein, 2014) trade at a high price their flexibility and support of the package deal. Their negotiating position is motivated by the fact they will bear the highest costs for aligning their legislation to the measure agreed collectively. The 'subsidies' fundamentally aim to compensate for the adjustment costs that include investments in new policies, as well as procedures to bring about policy change and accommodate internally the effects of political opposition to change (Arregui and Thomson, 2014: 694). The starting point of the negotiation fits into the frame of the so-called 'misfit model'; it expects that some member states try to maintain the status quo of their legislation since changes induced by EU legislation would incur material and ideational costs (Heritier 1996: 164). The policy change staged by the EU in certain policy areas such as public health or environment might be sizable considering the incentive of the other member states to upgrade the level of EU harmonisation. Knill and Duncan have for example studied specifically the environmental field. They argue that member states with already high standards have an incentive for a higher end of harmonisation because it reduces the competitive advantage of the status quo or lower level supporters (Knill and Duncan, 2007, p.102-120). These supporters are apparently able to translate their leverage into larger negotiation gains in a multilateral system that provides formal rules of distribution aiming to reduce conflict. For Schneider, such rules are supposed to allocate benefits according to the member states' needs. Need-based rules provide a stable mode of distribution and avoid repeated bargaining over the same issues. Nevertheless, international organizations do not prevent, or even fully resolve, distributional conflict. Instead, they serve as bargaining fora that help states to manage conflict effectively (Schneider, 2011). The proposals for policy change and legislative upgrade in the EU are almost the exclusive competence of the European



Commission. Arregui (2016: 1118) reveals that the closer a member state's negotiating position is from the European Commission's position, the higher its bargaining satisfaction will be. The reason lies in the fact that, when drafting its proposal, the institution anticipates the degree of support it will gather, and how much of it will remain in the final compromise text ultimately adopted by the member states. When the institution takes the initiative to put forward a proposal, it is an evidence in itself that it has an interest in the member states agreeing at the end of the decision-making process. Consequently, engaging in the early stages of this process provides an advantage and secures a bargaining satisfaction for any member state. The approach of Cross (2012) is to measure the success of member states through related criteria. He essentially recommends to gauge the degree of influence a member state derives from its engagement in the multilateral decision-taking processes. The engagement basically concentrates all the member state's efforts to make its position known over the course of negotiations. It is measured by the number of interventions of the national representatives of the member state in official meetings, its policy positions relative to other actors' positions, and the power -or resources- it derives from its size. Research by Panke (2012: 112) show that the more active member states are, the more likely they punch above their weight, if they're small. The studies of Golub (2012b) establish additionally that smaller member states do particularly well in the negotiations that involve issues bearing a salient or important interest for them. The author concludes that the consensus dominating among member states (Guggenbühl, 2013) does not prevent some member states to win largely more than others; with countries like France, Italy and Germany doing especially poorly. Analysing the decisions adopted by majority votes in the EU Council of Ministers, Van Roozendaal et al. (2012) found out that Greece, Luxembourg and Ireland are the member states having most often participated in winning coalitions. Seemingly, they were willing to sacrifice the most policy congruence to be part of the appropriate winning coalitions. In contrast, the conclusions of Panke (2012: 127) point at the limited negotiation effectiveness of the representatives of Hungary and Latvia. Engaging in the EU decision-shaping processes has even been considered as a yardstick of success by member states having previously decided to opt out of such processes. The research of Naurin and Lindahl (2010) attests for example that the representatives of member states having



opted-out of the euro have managed to maintain a good degree of positive reputation from the other representatives, despite being generally perceived as free riders. They also ranked high in terms of network capital; that is the degree to which they are mentioned as partners or contact points by the other representatives. Adler-Nissen (2009) reaches a comparable conclusion when looking behind the scenes of differentiated integration, and the fate of the British and Danish representatives as the champions of opt-outs in Justice and Home Affairs matters. The negotiators of these two 'outsiders' have kept their influence and have definitely not been pushed 'out of the door'. In fact, they have purposely participated in the preparation, deliberation and negotiation of legislative instruments their country would ultimately not be subject to. They have contributed to the process by making proposals and bridging gaps between other member states; up to the point to be assimilated to constructive insiders.

3. Propositions to Successfully Engage in Integrated Regional Negotiations

Drawing from these findings and hindsight of EU interstate negotiations, we submit that the success of a member state leans essentially on the six criteria proposed in this section. It is argued that the recipes for success presented here can equally be adapted and used by any state engaged in joint decision-making processes when regionally integrated with other states.

First, national representatives are significantly more effective in influencing the joint decision-making processes for items that have been outlined in instructions, and in a coordinated mandate of negotiation. The preparation of expert-based reasoning, as well as facts and figures, is essential for ensuring both the credibility of the negotiator and the consistency of national positions throughout reiterative negotiations. With clear instructions, the delegate can more easily signal possible moves and attach conditions before making concessions. They also help the negotiators make use of informal settings to exchange information and operate *quid pro quos*. Instructions essentially empower the negotiators to influence the negotiation process to their advantage. Effective negotiators are however those not bound by excessively strict and detailed instructions; they are left instead with a



reasonable margin of manoeuvre to individually reap the benefits of networking and socialisation activities. The decision by the member state's capital to continue defending the initial national position, or to move towards a collective compromise, should not only rely primarily on the intelligence gathered by the negotiators on the ground; it should equally be fuelled by their delegates' judgement of the situation. In other words, a national mandate prepared in a country's capital should evolve from an outbound set of clear and consistent instructions at the outset of a negotiation, into an adaptive instrument open to inbound recommendations originating from the national representatives on the battle field. The key to success lies therefore to a large extent in the hands of the national representatives, and their ability to influence and convince their capital of the advantages of the compromise that will invariably emerge from the interstate negotiation processes.

Second, the 'winners' frequently use mediation and problem-solving approaches by preparing alternative solutions and concessions; this is operated prior or in parallel to displaying any hard-line position. Delegations without salient interests in a specific dossier, or the matter under negotiation, should engage in mediation between opposing delegations or groups of delegations. Three groups of delegations traditionally mount in EU negotiations. The maximalists, or delegations favouring an ambitious legislative or political action at EU level; the minimalists, preferring a low level of harmonisation of national legislations or EU intervention; and the so called 'floating minorities', made of delegations without any vested interested, position or stake in the negotiation at hand. Neutral delegations of the third type should invest in mediation efforts essentially to secure goodwill of the other delegations in later rounds of negotiations and bargaining. Some small member states have established as a negotiation strategy to appear systematically as brokers between groups, and as supporters of compromise solutions. In doing so, their distinct objective is to legitimize their own strong bargaining stances and ultimate goal to cash in large dividends in other policy areas where some of their own determining national interests would be at stake. Offers of mediation and possible future compromises should be anticipated and prepared technically; without prejudice to the formal competence of the Presidency to ultimately table the final compromise text. Conventional technical multilateral solutions are of three broad types. A first and



popular one is the review clause; a mechanism used by parties to revise in the future the terms of the agreed compromise, with a phraseology that prevents any substantial upgrading when the deadline for review is reached. The revision then traditionally does not establish anything significantly different from a status quo. The second standard instrument to build compromises is the adjustment of the scope of the agreement; it can materialize in the exclusion of one or several economic sectors, activities, or even geographical parts of the signatory states. The third technique consists in a global package aiming to accommodate as much as possible the motivations of the parties initially resisting the agreement. A compromise on a free trade agreement may for example come to include provisions safeguarding the environment, social rights, or public health, in order to reflect the preferences of delegations having originally taken position against free trade (Guggenbühl, 2004). The strategy to offer mediation and technical expertise in building consensus is effective for two main reasons. First, the unilateral bargaining moves of helpful delegations are less noticed than their global reputation as helpful brokers. Second, they will be judged positively by the two institutional actors that have as a mission, and interest, to reach an agreement between all member states. The Presidency of the Council of Ministers and the European Commission are indeed the two institutions guiding the negotiations; and working out a final text of agreement for the very purpose of striking a compromise. While a Presidency seeks to meet as many of its priorities set for the EU as possible during its term, it also aims at being effective by advancing the EU agenda and producing the highest number of agreements among member states in the Council. In a parallel thrust, the motivation of the European Commission is to prepare the best possible grounds for the adoption of a collective measure, while achieving to meet a policy objective assigned to the EU. Additionally, one mission of the Commission is to ensure the legality, enforceability and implementation of the agreements. Because all this leads the institution to pursue broad consensus among member states during negotiations, it is often described as a defender of smaller member states; aware of their preferences, capacity, and resources. If a helpful delegation has the favours of the Presidency and the Commission as two determining driving forces of consensus building, its positions and interests are more likely to be echoed and mirrored in the compromise text than any other delegation. Even though comparable institutional actors may not have a



similar power of action and attraction in other regional organizations, engaging with them still remains a worthwhile investment to attempt influencing the multilateral procedures and processes at stake. Tangkitvanich and Rattanakhamfu (2018) see for example potential in the ASEAN Secretariat, which is the only entity to coordinate, attend and summarize a burgeoning number of meetings for the establishment of the politically agreed upon ASEAN Economic Community. Part of the utility of the EU Presidency is also somehow reflected in the institutional architecture and features of the Presidency of MERCOSUR; beyond the fact that the Presidency is also taken up by a member state on a rotational basis for a period of six months. The study of Gomez Arana (2017) shows for example how the relations between MERCOSUR and the EU have highlighted the potentials of the Latin American Presidency for agenda-setting; mediation; and coordination of the member states' interests, attitudes and negotiating positions. This has become particularly apparent when the European Commission, as the negotiating counterpart for the Free Trade Agreement, ruled out negotiating with MERCOSUR member states independently.

Third, uncooperative bargaining strategies work and payoff, provided the previous condition is fulfilled; and goodwill has indeed been demonstrated in previous negotiation rounds. The multilateral system of negotiation does support a degree of unilateral positions and red lines; they should however be motivated and not impose on others an isolated and unexpected short-term benefit. Complacency of the counterparts remains nonetheless limited; national delegations will therefore need to choose their battles because they cannot win everywhere. An effective negotiation strategy requires consequently to determine the interests that matter most, and the salience of the issues at stake. This implies to assess not only the costs the state would incur for aligning its legislation to the proposal on the table; the costs of leaving, losing or failing the negotiation would equally need to be assessed. The lower these costs, the greater the negotiating power of a delegation. Ideally, a delegation should attempt to assess these costs for other delegations; at least for delegations participating in the same coalition, so that their loyalty to the coalition and possible intention to leave the group at the eleventh hour can be anticipated. Networking is the best mechanism indicated to gather information not only on the value of alternative solutions, but also on the salience of issues and the bottom lines



for the counterparts. Two sources of information are particularly worth constantly networking with. First, the Council General Secretariat, especially the official operating as the 'desk officer' to work hand in hand with the rotating Presidency of the Council for six months. This connection provides the institutional memory of previous negotiations; it helps realize what preferences have been repeated by national delegations in the past, and whether some patterns of interests can therefore be deduced. The second source of information is the representative of the European Commission. When preparing and drafting its legislative proposal to the member states, the institution is required to assess the expected economic, financial, and administrative impacts of the legislative measure on the member states. Successful negotiators derive from this early feedback process a valuable indication on what will likely be acceptable for their counterparts during interstate negotiations.

Fourth, successful delegations increase their negotiating power by building coalitions. They take full advantage of the fact that there are almost no rules applying to coalition building. Provided the salience of the national interests at stake can be demonstrated to the other delegations, votes can be traded by linking issues; and delegations can enter or leave coalitions whenever it would suit their interests. Regardless of the level of economic and political integration of member states, and the widespread consensus building among them, interstate negotiations continue to stage national interests. Tactical coalition formation and divorcing among partners remain therefore acceptable if they aim at defending a nation state's interests. The recommendation to negotiators needing to build alliances is to turn first to the neutral delegations or 'floating minorities'. Not only can they more easily be swayed in; it would further be detrimental, and a lost opportunity, if they would be dragged into the counterparts' camp. The next contacts should be established with the opposing camp, in order to understand better the conditions under which they might be convinced to show flexibility. The friends and allies should basically come last, since no significant value can be expected from such contacts, except maybe the intangible psychological self-reassurance that the existing coalition is a strong and united front. The lucrative alliance with the Commission to help towards a compromise solution should once again be repeated here; it should be established before the interstate negotiation starts - on the basis of its legislative proposal; and



during the negotiation, when the institution informally helps the rotating Presidency to work out a compromise text between national delegations. Considering the reiterative nature of European negotiations, and the fact that the end of a negotiation only leads to the start of a new one, the benefits of a goodwill alliance with the Commission are widespread and durable.

Fifth, the key instrument to success is probably the engagement of the national representatives in socialisation actions, the informal exchange of information, and corridor diplomacy. This personal engagement considerably enhances the power of a delegation because it is a unique way to influence any negotiation process. Smaller states are usually quite aware of the potential of individual engagement; it allows them to punch above their weight, when larger states are often less sensitive to the need of making efforts to turn to others. Personal engagement in multilateral negotiations should not have as an objective to make as many friends as possible; it should be viewed instead as a strategic tool to build informal ties between professional negotiators, and possibly incite them to take distance from their negotiation mandate. Ultimately, the goal of the engagement should be to gauge the individual counterpart's margin of manoeuvre, power and influence, to convince the home base to make concessions. The longer a national delegate participates in interstate negotiations away from the home administration, the more permeable the delegate will be to arguments, information and compromise ideas shared by other delegates in informal settings. Basically, the most influential delegates spend time, before and after the formal meetings, exchanging information; creating or solidifying coalitions; lobbying the Presidency and the Commission when a compromise text is blueprinted; and bridging gaps between opposing camps or reluctant delegations.

Finally, it appears that another precious vehicle to success is a good knowledge of the rules of procedure and how the integrated joint decision-making processes work. This includes notably familiarity with the voting methodology, the referral to higher or political instances, time restrictions, or the provisions to later adopt implementation measures. A high-level diplomat representing a not so large EU member state confided for example that he could secure a comfortable influence on the negotiation process simply by showing better command of the rules of



procedure. Negotiators should not only master the official rules of interstate decision-making procedures; they should equally be cognizant of the rules and modus operandi that most negotiation caucuses develop themselves to some extent. Every such caucus has for example its own preferences and habits for the locations, frequency and type of socialisation, or formal as well as well as informal communication patterns. Experimenting and adhering to these rules is a *conditio sine qua non* for any of the above recommendations to work.

Let's assume at this juncture that a crisis situation would arise, putting pressure on the negotiators to achieve more individually and faster collectively. Admittedly, the new conditions of negotiation could change the recipes for success and require some acclimatising.

4. Theoretical Propositions to Manage Crisis Negotiations

It is argued that crises affect particularly the bargaining dynamics and the psychological variables of a negotiation. To discuss more closely how they are impacted, this section relies on the results of research in many different negotiation settings that have been collated primarily by Malhotra and Bazerman (2008), Bazerman and Chugh (2006), and Thompson (2006). These results show the normal modus operandi of negotiators, how they normally think and behave, and how they might experience the pressures and tension generated by crises. We build on these findings to offer six propositions to effectively read and accommodate the effects of crises on customary negotiations.

First, counterparts show tendencies to become more intransigent during crises (Druckman, 1994: 548-549). The mindset of the counterparts assumes that the negotiation is a fixed pie of which they should get the largest share if pressured to negotiate. They will not initially perceive the beneficial trade-offs, the compatibility between the preferences of the parties, or the possible linkage of issues. Research shows that positive conditioning can help contain or even invert these tendencies. Counterparts become indeed more concessionary if the negotiation is not presented as a competitive 'bazaar-like' haggling (Jönsson, 2002: 212); but if it is started instead as a collaborative process where mutual benefits are put forth. Cooperative



negotiators basically manage to incite more agreements designed to secure both individual and joint outcomes. Additionally, a cooperative behaviour feeds the satisfaction as well as the positive perceptions of the counterparts. These are two indispensable ingredients to sustain negotiation during a crisis. Translated in concrete terms, the proposition is essentially to enter a crisis negotiation by containing and transforming the negative mindset of the parties; by highlighting or focusing on the opportunities the situation offers to them despite appearances. If for instance a state leaves a regional organisation, it might be an impetus for its members to upgrade the level of integration in order notably to test and safeguard the regional system against such political crisis. If economic, financial, or security crises threaten the individual members or the stability of the regional organization as a whole, the solution may lie in a further transfer of national powers, jurisdiction, or competences. The purpose would be to better manage collectively policy issues where the integrated states are highly interdependent and vulnerable alone. There is a tactical advantage of psychological nature attached to this positive framing. Evidences exist that negotiators are influenced by the very first positions or perspectives taken on an issue under negotiation (Bazerman and Neale, 1993). In fact, a negotiator having planned to take a firm if not hostile stance in crisis negotiations, might feel less legitimate than initially foreseen, and more disruptive, in an environment where potentials are put forth more evidently than the risks and sources of disagreement. The research of Odell (2009) on numerous international negotiations confirm that the odds of breaking a deadlock will be greater if parties use some cooperative tactics. Negotiators in fact reach agreements more often when their counterparts exhibit flexibility following a period of no movement (Druckman, 1995: 79). Moreover, and incidentally, negotiators who tend to cooperate and offer a positive perspective to the negotiation have better objective results than those behaving in a more adversarial manner.

Second, reciprocation patterns are amplified during crisis negotiations. If a negotiator sends negative signals, counterparts will reciprocate commitment to a prior course of action, even when a rational analysis would dictate them not to. Theory attributes this course of action to the risk sentiment of losing face, or the image loss. Counterparts might even reciprocate the act when it goes against their



self-interest. If embarking on a public threat during a crisis, theory recommends to ensure that the costs of the threat are known and bearable; and that it can be supported and followed by action. Under these conditions, Tarar and Leventoğlu (2009) claim that high threats can signal that the negotiator is highly-resolved to act; they can consequently constitute a potential leverage to make the other parties yield. Rather than being resolved, the crisis may of course escalate instead. Zartman and Faure (2005) formulate three recommendations to negotiators in such instance. They should first carefully control that the other parties have the resources and ability to make the concessions requested forcefully. There should be a fair chance that the other parties are willing, and in a capacity, to submit to the requests. In any event, the long-term consequences of the agreed or forced conditions should always be taken into account. Additionally, White et al. (2004) recommend to use socialisation with the counterparts for the purpose of assessing not only their face-threat sensitivity, but also their general 'reciprocation wariness' over time. This is the negotiators' tendency to be suspicious of their counterpart's intentions and willingness to reciprocate a positive move; arguably, this tendency increases with crises. A higher wariness will inhibit the negotiators' cooperative orientation and behaviour, essentially by constraining their first offer and possible subsequent reciprocal moves (Zhang and Han, 2007). Positive reciprocation may nonetheless always be triggered by making a symbolic concession of no apparent material benefit. If of greater value for the counterpart, the symbolic concession may prove powerful enough to open the way to resolving seemingly irresolvable conflicts (Atran and Axelrod, 2008). In fact, the experiments of Malhotra (2004) show that recipients of gifts and concessions are often insensitive to the cost incurred by the giver. They are fundamentally more sensitive to a confidence building gesture that translates the willingness of a party to cooperate and solve a common problem.

Third, counterparts will also react by devaluating and downgrading any concession made to them. Hence, the challenge for negotiators will be to find the right balance between more and less generous concessions, while observing a few rules to overcome their counterparts' pattern. Giving a generous concession too soon might not be reasonable for that matter. Experiments have shown that quick concessions often lead to suboptimal agreements (Druckman, 2009: 438). Besides,



while concessions that appear excessively reasonable or generous raise the aspirations and reduce the yielding of a counterpart, moves that appear too unreasonable or demanding often backfire and produce resistance. The concessions tactic conveying a firm but reasonable impression is generally the most effective at extracting concessions from a counterpart (Heger Boyle and Lawler, 1991: 1200). The first concession offered should however be reasonably proportionate; that is not excessively distant from the initial position (Lewicki et al., 2015). Furthermore, developing a valid justification for any position elicits even more the willingness of the counterpart to react positively (Malhotra and Bazerman, 2008). All in all, standing firm on principles early in a negotiation, but showing carefully programmed flexibility on positions later, can produce more concessions from the counterparts.

Fourth, the counterparts will be unreasonably optimistic and overconfident about the likelihood that they will attain more favourable outcomes. This self-fulfilling prophecy is used by many to gain psychological strength before engaging in a battle. Mirroring such a superior perception and behaviour with excessive positions and few concessions will most likely feed the escalation into a conflict. It basically risks moving the negotiation agenda away from tangible issues. In theory, one way out of this conundrum is to secure a respectful 'relation' with the counterparts, in order to exert power on them through influence. Elfenbein et al. (2010) claim their research proves the performance of negotiators who manage to build a relation with their counterparts by showing empathy, speaking common diplomatic language, sharing information, and synchronizing non-verbally with their counterparts through coordinated physical movements. Kass (2010) concludes specifically at the power of 'playing nice' through active listening. 'Relational influence' is particularly used in crisis bargaining for hostage situations; its strength lies in the fact that it gives the impression to meet the expectation of Justice of the counterparts. Negotiating parties may in fact expect two types of Justice; either Procedural or Distributive (Albin and Druckman (2014). The former is fairness of the process and procedures that guide the negotiations; the latter is fairness in the allocation of benefits. Fundamentally, the perceptions of the other party's concern for one's own well-being are predicted to be reciprocated. The method advocated here can be usefully illustrated with the negotiation reported by Hartwell (2016); it involved a United Nations diplomat



attempting to convince a drunken guard in the final moments of the Kosovo war. For the author, the successful outcome of this crisis negotiation benefitted primarily from the investment of the diplomat in actions that are obvious steps to build relation and gain influence. He broke down communication barriers by approaching the guard with a bottle of alcohol and offering to listen to him; he focused on the guard as a person, discussed with him a common enemy, and shared emotions.

Fifth, negotiations 'at home' are more challenging because a crisis exposes the negotiation - its stakes and actors - to an increased scrutiny of the stakeholders. The arguments used to convince the counterparts will need to sway the domestic stakeholders first. Research by Yin and Jing (2014) confirm that the key to an effective strategy in times of crisis is indeed internal coordination. Essentially, negotiators should first secure their power at home and define several outcomes acceptable domestically (Goodby, 2011). Experimentation conducted by Zetik and Stuhlmacher (2002) recommends that there should be no hesitation in choosing the preferred outcome as a negotiation position. They confirm that negotiators who held optimal specific and challenging goals consistently achieved higher profits than negotiators with suboptimal or no goals. The subsequent challenge for negotiators is to ensure a dual responsiveness; it requires to monitor the other side for evidence of movement, while also monitoring one's own side for evidence of preferences and possible concessions (Druckman, 1977). This two-level bargaining - domestic and international - is obviously more complicated in times of crisis, because the representatives of each negotiating parties have a harder time helping each other satisfy their respective domestic constituencies (Sebenius, 2013). Research by Halevi (2008) confirm furthermore that teams forced to simultaneously manage internal and external conflicts perform more poorly than teams needing to manage only external conflicts. A related challenge for internal coordination is the selection of the negotiators most fitted to operate in a team and achieve the negotiating objectives. Zaun (2016) notes from her studies that EU member states with a specific regulatory tradition in a particular policy area are able to rely on expert negotiators who will leave their mark on a EU legislation under negotiation. They will do so to a larger extent than representatives of member states without such tradition. Ultimately, the last item to prepare and coordinate internally is timing. Research has



confirmed an intuitive truth that time is a valuable resource in negotiation. Negotiating teams with more time have an advantage over the counterpart; provided they both work along the same timeline during the bilateral process, and they don't dedicate excessive time to internal negotiation (Sánchez-Anguix et al., 2012). If they are pressured by time, negotiators should not fear to disclose their final time deadline to their counterparts for the sake of reaching an agreement. This is submitted by the research of Gino and Moore (2008, p. 92), based on the argument that the time resource can be managed and disclosed as a variable quite independently from other information on a party's bottom line or alternatives. After studying conflicts in 1.000 international cases, Jackson (2000) recommends to prepare a timing suitable to all parties, once they have indicated a genuine willingness to engage in negotiations.¹

Finally, when the 'time to talk' has come, the interpersonal factors are very likely to intensify during a crisis. The challenge in this respect is to anticipate a possible distortion of the negotiation processes following the amplified involvement of the heart, the personality, and the cultural backgrounds² of the individuals negotiating. Take the manifestation of emotions as an example. Since anger as an emotion is likely to be reciprocated and spiral negatively, research simply recommends to control it. Three studies have shown that negotiators form negative impressions of players who communicate anger; such players being subsequently excluded from coalitions and from obtaining a share of the joint payoffs (Van Beest et al., 2008). Research recommends also to avoid being emotionally ambivalent; that is alternating happiness and anger (Belkin and Rothman, 2017). This behaviour will most likely be judged by others as a tactical instrument to abuse them. Guggenbühl (2004) reports such evidence from the challenging personal situation of a national representative in a Fisheries Working Party of the EU Council of the Ministers, who

1. From a related angle, his studies lead Jackson (2000) to recommend to negotiate fairly late in the conflict, after the parties have experienced significant costs; but before positions have solidified and the dispute has become intractable.

2. The plural is used purposely to refer to the many environments that fuel the beliefs of negotiators; whether they are an educational major, the professional organization, personal history, or a country base. The ability to be sufficiently cognizant of these differences forges the cultural intelligence of a negotiator; it is a determining factor of success in any negotiation, especially in times of crisis (Groves et al., 2015).



could not hold tears whenever other delegates would not share her views. Belkin and Rothmans (2017) have also studied to what extent the perception of the sociability, morality, and competence of partners in negotiations is influenced by their emotional expressions; and how these expressions impact the level of trust between them. They have measured that whereas expressions of happiness are conducive to trust, expressions of anger are detrimental. Finally, experiments by Yip and Schweinsberg (2017) reveal that expressing anger is damageable because people infer that angry counterparts are selfish and more likely to exit negotiations. The obvious recommendation to safely accommodate emphasized interpersonal issues is to adopt a diplomatic behaviour in order to neutralize any personalisation of the negotiation. The challenge is that the very notion of diplomatic behaviour will be subject to cultural differences about what is the appropriate norm for acceptable communication and social interaction (Moore and Woodrow, p. 5). The cultural background of some delegates will for example incite them to remain direct and frontal, to avoid any small or smooth talk, to talk the truth, and reject any personal or emotional manifestation (Brett, 2007; Lewis, 2005). The ultimate recommendation is to acquire sufficient awareness of such differences, or become culturally intelligent, in order to anticipate the expectations and personal preferences of individual negotiators.

5. Conclusion

This article relies on widespread existing research on negotiation and crisis bargaining to make twelve propositions to successfully manage the multilateral negotiations between regionally integrated states; and cope with the tensions created by crisis situations in general. Altogether, they recommend to invest in two different capitals, made respectively of tangible and intangible assets. Tangible resources involve notably the domestic logistics to determine and arbitrate the salience of national interests; the means to gather intelligence on the counterparts' alternatives and costs of alignment; the planning of concessions to control the reciprocation of the partners; unbridled coalition building and issue-linkage; and knowledge to tactically use the rules of procedure. The intangible resources comprise *inter alia* the goodwill and confidence capitalised in prior negotiation sessions; cultural intelligence; the



network capital of individual negotiators; and their relational influence over the counterparts. Jointly, these capitals empower the negotiator to plan battles, avoid the attacks or being destabilised, and globally guide the moves of the counterparts. This objective is strikingly close to the goal and rules assigned to the players of two quite different confrontation scenes; namely chess games and judo. When a master in this martial art met with a master chess player to discuss the value of ancient rules for modern combat, he provided recommendations to perform in his sport that match methodically the propositions presented in this article (Karpov and Phelizon, 2006: 61). When the opponent launches an attack by using his strength against you, he said, you must try to bend this force by deflecting it, and dissipating its effects, before counterattacking. If your opponent tries to draw you to him, he added, you can achieve the same bending, deflecting, and dissipating effects. All you need to do is go with the movement instead of resisting it. It is also presumably the best way to enjoy a dance.

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