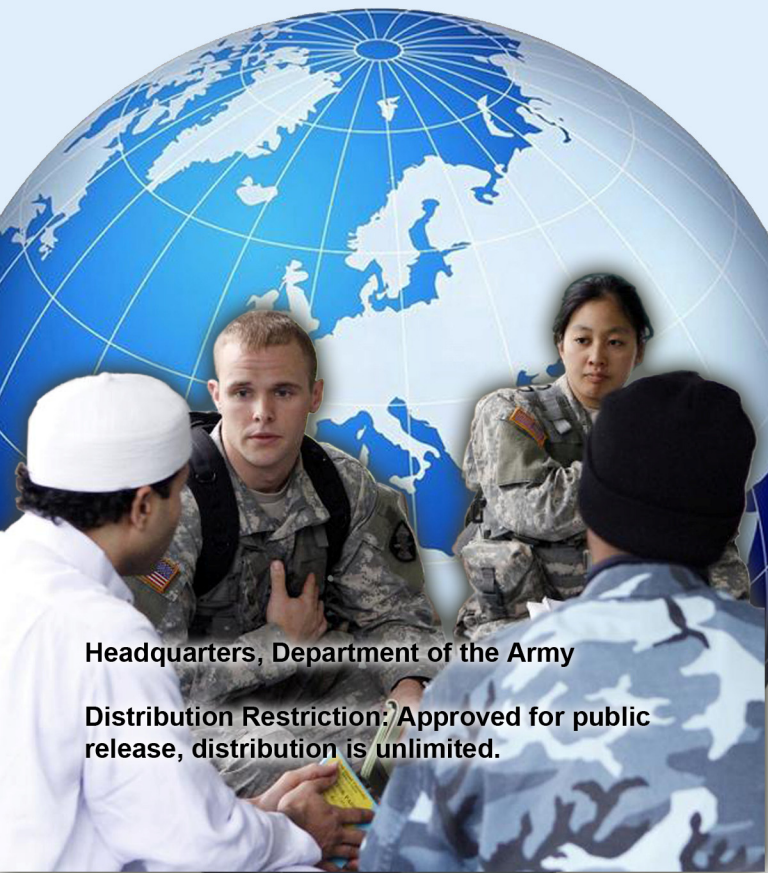


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# NEGOTIATIONS



**Headquarters, Department of the Army**

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This GTA is designed so that each section can be taken out of your ACU pocket and read between tasks, when waiting for the next training to begin, or during free time. Each lesson stands alone and can be understood independently of the others or read as a series of connected lessons.

## **Why Negotiations?**

Formal and informal negotiations arise constantly during deployments and are critical to 21<sup>st</sup> century conflicts. Cultural knowledge is the bedrock of good negotiations across cultures. Military personnel who have a superficial or distorted picture of a host culture can make mistakes or create enemies for the U.S. Each Soldier must be a culturally literate ambassador, aware and observant of local cultural beliefs, values, behaviors, and norms. This aids rapport building and working with local nationals to solve problems that ultimately benefit the military mission and the local nationals. We must constantly remind ourselves of the importance of cultural awareness. Understanding local culture improves planning and decision making through an enhanced and holistic picture of the operational environment.

Good negotiation skills are critical to building and maintaining productive, collaborative working relationships with individuals and groups. Cross-cultural negotiations, key leader engagements, and conflict management are significant roles of the deployed leader. It is essential that leaders have a cultural understanding of their host nation when negotiating for the following reasons:

- Cultural awareness reduces friction with local nationals and allows for a higher quality of

communication based on a relationship that can negotiate substantive issues.

- Cultural awareness allows better prediction and tracking of second and third order effects, helping to avoid unforeseen or unintended consequences.
- Cultural understanding of local history and culture allows leaders to recognize and effectively counter the threat's propaganda that may be based upon a misrepresentation of history.
- Cultural understanding allows for improved negotiations operational planning, and decision making.

***“It is now common during civil-military and combat operations for Soldiers of all ranks to become involved in negotiations, dispute resolution, or bargaining for individual or collective advantages. This is particularly true during sudden, unexpected confrontations”.***

*(COL William Wunderle's article "How to Negotiate in the Middle East", Military Review, Vol 87 (2) March 2007.)*

## **What Are Negotiations?**

“Negotiating is the process by which two or more parties seek to satisfy certain of their respective interests by attempting to come to some mutual agreement” (Hughes, et al. 2008). Negotiations can resolve a conflict of interest, either real or perceived, through conversation and agreements.

Soldiers are challenged every day to persuade wary local leaders in Afghanistan and elsewhere to provide valuable information about the local insurgencies taking place in their areas of operation (AOs). While trying to distinguish friend from foe, a Soldier must balance the need to protect troops along with the necessity to build indigenous support for America’s regional and global interests.

## **Human Relations Are Negotiations**

Negotiation is a normal part of life. As humans living in a group, we are constantly negotiating our needs and wants with others. We negotiate basic human needs such as:

- Food and water.
- Shelter and security.

- Control over our lives.
- Belonging and recognition.
- Respect and honor.

Negotiations aid in resolving a conflict of interest, either real or perceived, through conversation and agreements. Negotiation implies the willingness to compromise between one party's maximum goal and its minimum terms of agreement.

Military personnel negotiate in the field as they interact with one another and foreign nationals. One day they may “strike a deal” with their roommate on when to study languages or something as minor as who will go to the showers first. Another day they may be haggling over prices for rugs at the local bazaar. The next day they may be drinking *chai* with the local elders while deciding who to hire to build a new combat outpost, or how to convince the villagers to think of the U.S. troops as their friends and allies.

Being culturally aware will help you and the other side (TOS) when working in a stressful negotiation environment. You will have a greater chance of success if you are aware of the possibility of different approaches and styles of negotiating. Studies have shown that as little as three hours of negotiation training



sufficiently increases the novice negotiator's knowledge level. (Durlach, et.al. 2008)

As you read further, you will see that culture influences how people think, communicate, and behave. It will also affect how they work and negotiate with you.

## **Culture and Negotiations**

Cultures differ in the amount and type of preparation they do for a negotiation. Some cultures put a premium on finishing a negotiation as soon as possible. Others see the relationship between the negotiating parties as more important than the time expended. In many parts of the world, male children learn negotiations by observing their fathers and other male relatives. Some cultures must find consensus among a larger number of people to agree, whereas in the U.S. a lead negotiator will frequently have the final say on an agreement.

## **What Is Culture?**

Culture is the way of life for an entire society. The Officer's Military Education Policy (OPMEP) states that culture is "The distinctive and deeply rooted beliefs, values, ideology, historic traditions, social forms, and behavioral patterns of a group, organization, or society that evolves, is learned, and transmitted to succeeding Generations."

Culture is:

- Learned as a child.
- Shared by a group.
- Adaptive and responsive to environmental changes.
- Integrated or holistic in that if one part changes, all

the other parts react.

- Based on symbols, meanings, and perceptions expressed through language, music, art, and other forms of symbolic expression.
- How people see and think about the world.
- Deeply embedded and regarded as normal or natural.
- Our heads acting as the hardware with culture acting as the software.

Humans are biologically equipped to create and use culture. Culture tells us how to behave, what is valued and what is not. It influences not only the way we act, but also what we think and how we perceive the world around us. The ability to be cultural is what makes us human. Culture is all the things we learn and share within a group. Yet, it exists as an abstraction. Culture is nothing concrete; it is an interconnected set of shared attitudes, values, practices, and so forth. It is all the information and knowledge passed on between generations through language, writing, mathematics, and behavior.

Culture can be divided into symbolic culture and material culture. *Symbolic culture* is all of a group's ideas, symbols, and languages. *Material culture* is tools, clothing, houses, and other things that people make or

use. Culture encompasses all human inventions—from stone tools to spacecraft.

**[Critical thinking: What features of culture do we take for granted in everyday life?]**



## **What Are the Cultural Dimensions of Any Operating Environment?**

Culture includes a society's values, beliefs, behaviors, and norms (VBBN). It includes a peoples' history and religion, their use of body language and personal space, power distance between superiors and subordinates, time orientation, individualism, formality, perceptions, use of reason, and belief in cause and effect versus fate.

Culture encompasses all of these and other variables.

Values, beliefs, behaviors, and norms provide a framework that tells us how to deal with others within our society as well as societies around the world. Without this framework each day would be a new challenge, forcing us to relearn the rules for interacting with others. This framework eliminates some of the uncertainty when interacting with others. With a common set of rules (both formal and informal), we often know what to expect in a given situation. In fact, if we observe others objectively and thoroughly, we can use culture to help us create strategies for relating with them, thus enabling us to better interact with those around us.

When deployed outside the U.S., try to understand the local differences in values and beliefs within the context in which you observe others. Look for patterns and

behaviors that do not fit the “normal” activities in an area of operation (AO).

**[Critical thinking: What influences *your* thoughts of “right” or “wrong”?]**



## SEARCH

Society, Environment, Authority, Religion and beliefs, Communication, and History (SEARCH) provide a framework that organizes the basic dimensions of culture into a map that can be as simple or as complex as needed. One must think of all these factors working together to create a culture of how people perceive their world. Use SEARCH as a memory aid to examine any culture. SEARCH enables us to better understand, influence, and achieve mission success. SEARCH is defined as follows—

- **Society.** Family and kinship, tribal/lineage/clan ties, sex and gender roles, health, learning, aesthetics and recreation.
- **Environment and economy.** Weather, geography, natural resources, production, distribution, consumption, and technology.
- **Authority.** Politics, patron-client relationships, religious, and military aspects.
- **Religion and beliefs.** Ideology, codes of conduct, sacred books and stories, cultural assumptions, time and space perceptions.
- **Communication.** Language, media, body language, and gestures.
- **History.** Knowledge, previous events, myth, and folk tales.

Culture is patterned (things fit together), changeable, and arbitrary. It influences how people make judgments about what is right or wrong, what is important and unimportant, and what attitudes and behaviors are appropriate. As we study the different cultures of the world, keep in mind the climate, the geographic location of the culture, and the historical experience of the culture. Look for patterns and relationships.

**[Critical thinking: Can you see the different influences geography and climate has on U.S. culture between the Northern U.S. and the Southern U.S.?)**



## **What Is Enculturation?**

Learning one's culture is called *enculturation*. All humans are enculturated into their group's culture. We learn from the culture in which we grow up what is expected from us. We learn most cultural rules unconsciously and assume these rules are natural instead of culturally constructed. What we are taught at an early age becomes part of our thoughts and feelings often resulting in an unquestioning acceptance of cultural assumptions. Culture gives us beliefs that are the foundation for our values; values lead to the norms in any society and those norms influence the behavior of us all. We learn the proper way to do things from a very young age while growing up in a particular culture. All human children are taught by parents, relatives, teachers, and friends the right way to behave and accomplish basic activities. Today the Internet, movies, and television provide new channels for enculturation.

Children in any culture are taught the way things are; that is: what to eat, how to eat, what is good, who the gods and goddesses are, proper etiquette and behavior, and so on. Children absorb the information that their parents, relatives, peers, and the media give them. We perceive our culture as "the way things are." We are like fish swimming in water. We swim in a sea of culture without realizing that it supports all we think and do.

Culture gives us beliefs that are the foundation for our values; values lead to the norms in any society and those norms influence the behavior of us all. Culture tells us what we are supposed to do or not do in any given situation.

**[Critical thinking: As you have matured, have you come to question old ways of thinking and behaving or has life strengthened your early convictions?]**

## What Is Cultural Ethnocentrism?

*Ethnocentrism* is the assumption that the behaviors and values we learned while growing up in our families are the correct and natural way of things. Ethnocentrism is a human characteristic of seeing the world through the filter of our own culture. We **assume** that the way we were raised is the best way and that the values and norms of **our** culture are superior to others. Because we are raised to understand that our tribe's way of thinking and behaving are correct, all humans are, to some extent, ethnocentric.

If you are disrespectful or ignore local nationals and their culture, they will notice your lack of respect and be less willing to help you with your mission.

Ethnocentrism and thinking of the other culture as primitive can lead us to underestimate adversaries.

**[Critical thinking: Analyze this statement: “The English drive on the wrong side of the road.”]**



## Culture Awareness Aids in Negotiations

You will be a successful negotiator if you are culturally literate and adapt your strategy to the host country's environment. According to Jeswald Salacuse (Tufts Magazine, Winter 2010), who has done numerous studies on negotiation, there are 10 major negotiation elements that vary across cultures. They are (see Table 1) —

1. **Negotiating goal.** Transaction or relationship? In some negotiations the goal is an explicit transaction — a signed contract. For others, it is intended to create a relationship between two or more parties. In many cultures, relationships are the most important aspect of the negotiation.
2. **Negotiating attitude.** Win-win or win-lose? Negotiations can be seen as a collaborative process where both sides can win or a contest in which one side “wins” and one side “loses.”
3. **Personal style.** Informal or formal? In negotiating with others, what style does one use? Does the negotiator address TOS by their titles, avoid personal anecdotes, or do they call one another by first names and discuss family life, sports, and other topics?
4. **Communication.** Direct or indirect? While some

cultures use direct, clear statements, other cultures depend on more indirect communication such as body language or indirect ideas.

5. **Sensitivity to time.** High or low? Time is measured in different contexts in differing cultures. While some cultures value punctuality, others are not as “clock-conscious.”
6. **Emotionalism.** High or low? Some cultures are highly emotional; others show low emotion in different situations.
7. **Form of agreement.** General or specific? How will the negotiation be culminated — with a written agreement or with general statements of agreement? Cultural expectations differ.
8. **Building an agreement.** Bottom up or top down? While some cultures prefer to begin with an understanding of broad-based ideas and work toward the more specific details. Others want to begin with the specific ideas and work outward.
9. **Team organization.** One leader or group consensus? While some cultures prefer a team to build a consensus, others will select a leader to make the final decision.
10. **Risk taking.** High or low? Acceptable risks vary

with different cultures. While some cultures have a higher risk level, others may be *risk averse* (unwilling to take risks).

**Table 1. Negotiation Elements**

<b>Negotiating Factor</b>	<b>The range of influence from a lower to higher context could be from:</b>
Goal	Contract to a relationship
Attitude	Collaborative to competitive
Personal styles	Egalitarian to hierarchical
Communications style	Facts to stories (Direct to indirect)
Regards to time	Viewed as a resource to use or a gift to share
Emotion	Expressed to suppressed
Agreement form	Detail-oriented to vague/general
Agreement building and processes	Inductive to deductive (From bottom up to top down; from simple to complex)
Team	Consensus-builder(s) to empowered decision maker(s)
Risk taking	High to low
Horizon	Immediate to long-term
Control	Deterministic to fatalistic
Face and honor	Important to critical and central
Identity	Nationalistic to tribal; may be multiple identities at play
Success means...	Finality to progress

*(TRADOC Culture Center)*



## **Deeper Cultural Factors**

As has been seen above, cultures provide humans with a range of acceptable behavior. Individuals adapt this behavior into their negotiation style reflecting those personal experiences and values. Cultural trends and norms can give us some predictability of how negotiations will be conducted; however, it is possible to encounter a range of individual goals, emotions, and values within a single culture.

**[Critical thinking: What influences your thoughts of “right” or “wrong”?]**

## **Culture and Negotiating Factors**

Cultural awareness can save lives.

Relationships are instrumental in much of the world. Building good relationships takes time. Trust is not built in a single encounter. During initial negotiations it is important to emphasize discussions about sports, history, the overall status of your families (in Islamic cultures avoid specific mention of women), food, and other topics mentioned by TOS. When negotiating, unless the situation is dire, do not make demands.

- Expect less detail in the (written) agreement to which we in the West are accustomed to since general documents are often preferred elsewhere. A contract is often seen as a general agreement of principles, and the relationship is seen as a way to implement the agreement. In the U.S. and much of Europe, the contract is generally seen as more important than the relationship.
- If you create a good relationship based on mutual respect and trust, issues that may arise later may be easier to resolve. Rapport building and a good relationship with TOS may not change their position, but it may help identify common interests and make face-saving proposals that mesh with

TOS's values and perceptions. On the other hand, just because TOS likes you does not mean they will change their policies or agree with your position.

## **Preparation for Negotiating**

Answer the following questions to prepare for negotiating:

- What is the goal of this negotiation — relationship building or discrete outcome?
- How quickly do I need a decision or outcome?
- How important is it to maintain a positive relationship with my counterpart? (Weighed against the severity of the issue, what are the security/safety concerns.)
- What style do I think my counterpart will use?
- What's an appropriate style to help counter their style?

*(TRADOC Culture Center)*

## **In the Beginning, Interests Come First**

Interests are essential during negotiations. Begin by addressing possible problems and avoid inflexible positions. As negotiations progress, keep the following in mind:

- Explore and acknowledge the other parties' interests.
- What are your interests?

- Is there a problem you can both solve?
- Agree on the problem.
- Discuss possible concrete but flexible solutions.
- Don't forget that interests and positions are often influenced by RELATIONSHIPS.

## **Styles of Negotiation**

There are many approaches to and styles of negotiation. Consider the key negotiation elements and the consequences of overuse and underuse of each of the styles respecting the needs of the situation. Be aware that, although we may choose a style at a particular moment, we are not obligated to this style. As situations shift, so must our tactics. Be prepared for TOS to change their tactics as well. This is especially important in the military context, where potentially dangerous situations may arise at any moment, requiring the use of a competitive style. These styles are not correct or incorrect, but rather a series of tools to help you achieve your military objectives.

### **1. Positional bargaining (adversarial)**

Most negotiations either begin or end as positional bargaining. This style focuses on offers and counteroffers. It is often slow, inefficient, and discourages creativity. Buying a house is usually based on the owner setting a price that is too high

and a buyer making an offer that is too low. Offer and counteroffers are made, and if the parties do not meet somewhere in the middle, there is no deal. This style of negotiation is not suited to multiparty negotiations.

2. **Bargaining (planned concessions)**

The negotiator slowly compromises in small increments so TOS believes they are getting a better deal (such as when bargaining to buy a new car.) Another bargaining concession is when the negotiator gives up minor points to protect and perhaps disguise his major interest.

3. **Trading favors (reciprocity)**

The negotiator gives up more now in order to get a “favor” later. This is often the case with long-term relationships. Environments and personalities may change. In the mind of the receiving side, the magnitude of the favor can diminish over time.

4. **Brinkmanship (very risky)**

“Take my proposal or else.” This attitude is easy and feels good if you have no respect for TOS. Hard on relationships! Many will walk away from this approach feeling angry and powerless. In some cultures their honor/face\* will have been damaged and revenge is necessary.

**\*“Face” has to do with a person’s reputation and the respect in which he/she is regarded; an embarrassment. Face and other concepts of shame and honor are important in the Middle East.**

The West Point Negotiation Project draws on several sources including the Harvard Negotiation Project, Vantage, LLC, and *Getting to Yes*, to utilize seven key elements in their model of conducting negotiations. These seven elements, which are discussed below, are interests, legitimacy, relationships, alternatives, options, commitments, and communication.

In negotiations a good outcome is defined as an agreement that satisfies—

- Our interests well.
- Their interests and is acceptable to them.
- Other’s interests, at least tolerably.
- Better than our best alternative to a negotiated agreement (BATNA).
- Conciseness, no-waste solution among the best of many options.
- Legitimacy for all—no one feels as though they have been cheated; the outcome feels appropriate and justifiable for all.
- A well-planned, realistic, operational, and durable

commitments.

- Results from a process that helps build good relationships.
- Results from a process that is efficient and is a product of effective communication.

(Vantage Partners, LLC, 2003)

Be aware that a major disadvantage to principled negotiations is that TOS may perceive openness for weakness.



## Seven Key Elements of Negotiation

Seven key elements of negotiation that have been developed by Vantage Partners, LLC and used by the West Point Negotiations Project are detailed below:

1. Interests are not positions. Interests are fundamental needs and goals. Positions are propositions to meet your goals. One should focus on interests and not positions. Do not ask “What do you need?” because you will get a position.
  - Think about sharing your interests first.
  - Ask “why” to draw out their interests.
  - Use interests to produce options.
  - Look for important differences in interests to create value, produced through good communication, and a respectful working relationship. (See “Circle of Value” diagram.)
2. Legitimacy (objective standards, criteria, fair process, and so forth) is crucial to create a lasting outcome. Outcomes must be perceived by all parties as reasonable and fair or the agreement will fall apart.
  - Appeal to objective standards. This helps you and TOS defend the outcome and TOS will feel as though they are being treated fairly.
  - Use objective standards to evaluate all options.

- Avoid using biased standards.
  - Avoid positional debates by being open to persuasion.
  - If you do compromise, base it on your values.
3. Relationships based on rapport, trust, and mutual respect improves the likelihood of success in negotiations. The more you believe TOS's interactions are legitimate and honest, the more you will trust them. The opposite is also true. If you perceive TOS as being deceitful and hostile, negotiations will suffer also. These emotions make success difficult or impossible. Remember that the quality of the working relationship is tied to the ability to create value. You don't have to *like* TOS but for best negotiation strategy you have to *respect* TOS. Do the following during negotiations—
- Separate relationship from substance; focus on both.
  - Address relationship issues before other issues.
  - Avoid trying to fix relationships with unacceptable concessions.
4. Alternatives, or your **BATNA**, is the course of action that you will follow if there is no negotiated settlement. It is NOT the “bottom line.” *This is the*

*alternative if you do not wish to agree to a “bottom line.”* Your BATNA is subject to change throughout the negotiation. **Remember TOS also has a BATNA.** During negotiations—

- Disclose your BATNA only if it is a strong alternative.
  - Be wary of discussing your BATNA.
  - Do a reality check on YOUR BATNA.
  - Do a reality check on THEIR BATNA.
  - Never agree to anything worse than your BATNA.
5. Options are possible agreements or at least segments of agreements or procedures that might meet both parties’ interests. Options are not offers—they are possibilities. Do the following when negotiating:
- Brainstorm multiple options.
  - Link options to specific interests.
  - Base best options on mutual gains for both sides.
  - If an impasse occurs, return to the underlying interests.

6. Commitments are actual agreements or decisions and are clear offers or promises. Do the following when negotiating with the TOS:
  - Consider your BATNA before committing to anything.
  - Make all commitments clear, concise, and realistic.
  - If reasonable commitments are not possible, consider ongoing negotiation process commitments.
  
7. According to Vantage Partners, LLC (2003), effective communication is critical to negotiation success, and it should be aimed at developing understanding between the parties as they explore perceptions, interests, possible solutions, and so forth. During negotiations—
  - Focus on two-way communication.
  - Negotiate the process first (set agenda, clarify goals).
  - Listen first, speak second.
  - Summarize your understanding of what they are saying frequently.
  - Explain your thoughts and what they are based on.

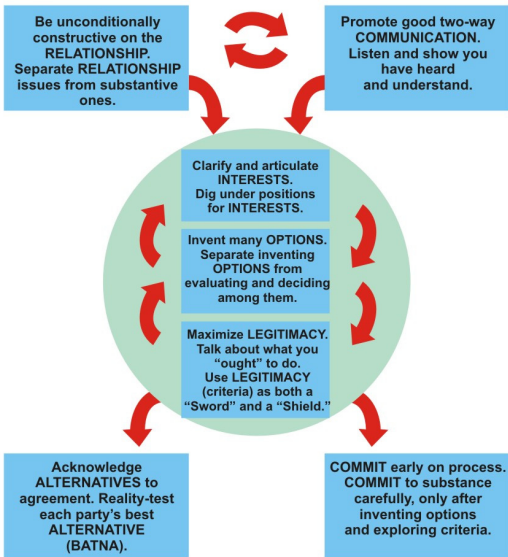
The seven elements of negotiation are used together in the principled negotiation style mentioned above.

Vantage Partners summarizes this approach to negotiation in the diagram below, The Circle of Value. Negotiators get into the circle through managing the elements of communication and relationship; they then optimize their time in the circle developing value as they discuss interests, options, and legitimacy. This leads the negotiators, at the end of the negotiation, to choose between committing to a negotiated solution (the best of one of the options) or their best alternative, whichever most satisfies their interests.

## The Circle of Value

The Circle of Value is a model for joint problem solving that emphasizes the importance of first **creating** value, and then **distributing** value based on objective standards, rather than through coercion.

### Using the Circle of Value



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**Figure 1. The Circle of Value**

## Phases of Negotiations

There are six phases of negotiations: the planning and fact-finding phase, the opening phase, the discussion phase, the proposal phase, the exploration phase, and the closing phase. Each phase is described in detail below:

1. **Planning and fact-finding phase.** This includes information and fact-finding about TOS. The more information you have, the bigger your advantage will be in future negotiations. Identify all issues—this includes every issue that *could* arise for both sides during negotiations. Adopt a win-win, interest-based approach. Be ***culturally literate*** and adapt negotiating strategies to the host country environment.

Prioritize the issues for both sides. This is an estimate of TOS's priorities. Think about TOS's needs. Establish a zone of possible agreement (ZOPA) such as:

- The agreement you want under ideal conditions.
  - The agreement you really want.
  - The agreement you will accept.
  - The point where you should walk away.
2. **Opening phase.** This phase is important because it provides an opportunity for you to influence

the direction the negotiation will go and helps you gain control of the discussion. Use language that is simple and ask lots of questions, then listen carefully.

Use polite titles, such as Dr., Mr., Engineer. Using titles gives TOS status. Dignity, honor, and reputation are critical in many cultures. Avoid anything that might embarrass TOS. Not knowing the answer to a question or criticism is often taken to be destructive and humiliating. At the same time, do not compromise your values or be passive.

3. **Discussion phase.** This allows each side to present its case without interruption or prejudice. This requires you to ask good, perceptive questions so that you understand your opponent's position and interests. Create options and brainstorm. Listen patiently!
4. **Proposal phase.** Allow your counterpart to make offers/proposals first, assessing their strength and challenging their position if necessary. Get them to speak first. If they present a position (a want) ask them why they think that position is the answer. "Why" questions can help you learn what their true interests are. Base your proposals on objective



criteria such as standards, for example blue book value, customary tribal law, international law, how a nearby village or tribe handled a similar situation, international prices, or standard practices. Listen! Be patient!

5. **Exploration phase.** Consider TOS's main objectives and if they can be surmounted. This is the time to invent options for mutual gain resulting in a win-win outcome. The following actions should be considered when negotiating with TOS:
  - Focus on common interests.
  - Focus on process.
  - Brainstorm and consider different options.
  - Elicit genuine buy-in from TOS.
6. **Closing phase.** Summarize what has been decided, rephrase and clarify so there will be no disputing what was agreed upon in the future.

Remember to follow up! Use this as an opportunity for relationship building. Remember, in many cultures the contract is not as binding as the quality of the relationship (*Ury, 1993*).

## **Negotiating Advice From West Point and Vantage Partners**

The words we use in negotiations can make all the difference. When we ask our counterpart what they want, they will give us their position, and when we ask them what they would like, they will ordinarily say they want as much as possible. These simple questions and the reactions they produce often lead to the breakdown of negotiations. Instead, asking what they want or asking what standards we might best use to evaluate a fair outcome for both parties can produce a very effective negotiation. Consider the following advice from two of the directors of the West Point Negotiation Project writing about how best to conduct “extreme negotiations” (high-risk, high-stakes negotiations).

### **Get the big picture by doing the following:**

Avoid:

- Assuming you have all the facts: “Look, it’s obvious that...”
- Assuming the other side is biased: “But you’re not...”
- Assuming the other side’s motivations and intentions are obvious—and probably malicious.

Instead:

- Be curious: “Help me understand how you see the situation.”
- Be humble: “What do I have wrong?”
- Be open-minded: “Is there another way to explain this?”

Options:

Brainstorm before you make a decision and avoid a “single best” answer. Your interests may be met by many different options. Do not get fixated on one position.

Avoid:

A two-dimensional approach. Think of the problem in terms of a multidimensional pie expansion—no pie is fixed unless one side is not negotiating in good faith. Do everything you can to keep TOS from feeling humiliated or defeated. The outcome should be such that no one feels taken advantage of and the solution is seen as legitimate by everyone.

## **Look for win-win options by doing the following:**

Uncover and collaborate.

### **Avoid:**

- Making open-ended offers such as, “What do you want?” They will state their position, not their interest!
- Making unilateral offers such as, “I’d be willing to....”
- Simply agreeing to (or refusing) the other side’s demands.

### **Instead:**

- Ask, “Why is that important to you?”
- Propose solutions for critique, “Here’s a possibility.” or “What may be wrong with that plan?”
- Elicit genuine buy-in.

### **Avoid:**

- Threats, “You’d better agree or else...”
- Arbitrariness, “I want it because I want it.”
- Close-mindedness, “Under no circumstances...”

**Instead:**

- Appeal to fairness, “What should we do?”
- Appeal to logic and legitimacy, “I think this makes sense because...”
- Consider constituent perspectives, “How can each of us explain this agreement to colleagues?”
- Build trust first.

**Avoid:**

- Trying to “buy” a good relationship.
- Offering concessions to repair breaches of trust, whether actual or perceived.

**Instead:**

- Explore how a breakdown in trust may have occurred and how to remedy it.
- Make concessions only if they are a legitimate method of compensating for losses owing to your nonperformance or broken commitments.
- Treat counterparts with respect, and act in ways that will command theirs.
- Focus on process.

**Avoid:**

- Acting without gauging how your actions will be perceived and what their response will be.
- Ignoring the consequences of a given action for future as well as current negotiations.

**Instead:**

- Talk about the negotiation **PROCESS**, not just the **ISSUES**. “We seem to be at an impasse; maybe we should spend some more time exploring our objectives and restraints.”
- Slow down the pace. “I’m not ready to agree, but I’d prefer not to walk away either. I think this calls for further exploration.”
- Issue warnings without making threats. “Unless you’re willing to work with me toward a mutually acceptable outcome, I can’t afford to spend more time negotiating.”

**Remember empathizing with TOS’s interests does not mean that you agree with it.**

(Weiss, et al., 2010).

## **What Is Your BATNA?**

You need to know what you will do if negotiations fail and you decide to walk away. Your BATNA is the standard any proposed agreement should be measured against. This standard will protect you from accepting terms that are too unfavorable and will keep you from rejecting terms that are not in your best interest. Your BATNA will help you to be flexible, because it will force you to explore imaginative solutions as you compare a proposal with your BATNA to determine whether it satisfies your interests. This is one of the most important aspects of negotiating. Determine your BATNA well before negotiations begin. The better your BATNA, the stronger your negotiating position. ALWAYS know and protect your BATNA if this is the only thing you have time to do! You should try to evaluate their BATNA as well.

When an agreement cannot be reached, use your BATNA to—

- Invent a list of actions to take.
- Improve the best ideas and convert them into practical alternatives.
- Select, provisionally, the one alternative that seems best.

**Do not forget that TOS has a BATNA as well!**  
*(Fisher, et al, 1991).*

**When TOS is THE Problem, use Negotiations  
Jujitsu: If pushed — pull; If pulled — push!**

TOS may be under severe pressure to get a certain result or to appear not to be a puppet of the U.S. Showing weakness might even lead to their assassination. TOS may act unreasonable, unreliable, or extreme from our viewpoint.

If TOS is untruthful, if TOS asserts a position you do not like and will not back down, or if TOS criticizes your proposal, do not push back. Instead, sidestep the attack and deflect it against the problem. Avoid pitting your strength directly against TOS. Relationships can help bridge differences. Use the following strategies when TOS is the problem:

- Reframe and ensure you understand TOS's interests; "Let me see if this is what you are saying."
- Be hard on the substantive issues but soft on the other side.
- Maximize your interests/minimize their pain.



## Changing the Game

(Based on works by Vantage Partners, LLC)

Some negotiators, if frustrated, will try to change the rules or they will change the game. See the problem from a different angle to deflect their attack. Diagnose their behavior, and if nothing else works, ask them why they have changed the game. When TOS has changed the game do the following:

- Step back; avoid reacting.
- Recognize their interests.
- Ask “Why?” Dig for TOS’s **interests** underneath their **position**.
- Invent multiple options.
- Apply fairness for both interests.
- Add an element they are not using.
- Take an element they are using and use it in a different way.
- Call TOS on their game and negotiate a new approach.
- Push for interests, work with TOS for options.

If necessary—

- Play their game.
- Go to your BATNA.

Avoid overreacting by taking a step back, seeing the problem from a different angle, and deflecting their attack.

- Even if they are acting emotionally, balance emotion with reason.
- Even if they misunderstand, try to understand them.
- Even if they don't listen, consult before deciding and listen to them.
- Even if they try to deceive, be reliable and honest.
- Even if they try to coerce, be open to persuasion and try to persuade them with facts and criteria.
- Even if they reject you, *treat them as worthy and honorable*.

If necessary—

- Play their game.
- Go to your BATNA.

Commit with care only after ensuring the proposal is better than your BATNA.

***In all you do, maintain your integrity!***

(Ury, 1993; Acuff, 2011; Fisher, et al., 1991, Vantage Partners, LLC, 2011).

## **Main Elements of Cross-Cultural Negotiations (Negotiating With a Foreign Culture)**

A negotiation becomes cross-cultural when the participants do not share common values, beliefs, and behavior patterns. TOS may see reality quite differently than an American captain or brigade commander. Cross-cultural negotiations and conflict management are significant roles of the deployed leader. In counterinsurgency and stability operations, build and maintain productive, collaborative working relationships with individuals and groups. The following factors may come into play in cross-cultural negotiations:

- Players and their relative situations and histories.
- Styles of decision making (group versus individual).
- Cross-cultural/national character aspects.
- Translator's knowledge, skill, and character.
- Relationships between players.
- Degree of formality and use of titles.
- Physical proximity.
- Eye contact.
- Time perspective.
- Direct or indirect communication style.
- Nature of agreements.

*(Hughes, 2008)*

## **Local National Negotiations**

In many countries daily negotiations are key processes in establishing and maintaining power and status. The ability to negotiate, arbitrate, mediate, and settle disputes is often the role of a secular or religious leader.

Local power dynamics are often in flux. Groups and individuals may try to manipulate external forces for personal advantage, which can exacerbate local conflicts and lead to mid- to long-term instability. Divulging and discussing local disputes with an outsider may be considered shameful in many communities.

In some cases the formal justice system is seen as too adversarial and corrupt. Judges may be bribed and verdicts are sometimes viewed as the causes of feuds actually perpetuating enmity over generations spiraling into further sources of violent conflict.

The Army, the State Department, the United States Agency for International Development and nongovernmental organizations are often involved in constant negotiations with these cultures but have limited ability to influence local legitimacy. Sometimes the best intervention is *no engagement at all by outside actors*.

What is often needed is a secure space for indigenous systems to reemerge. This may appear to contradict our “state-building” mission in the short run. Insurgent “shadow” courts or other law systems may fill the gap between the official central government justice system and what is seen as legitimate in the eyes of local peoples. For example, in Pushtun areas of Afghanistan many disputes are settled by local *Jirgas*.

### **Negotiations Using a Translator**

When using a translator, do the following:

- Select your translator with the utmost care.
- Brief the translator prior to the start of negotiations.
- Review the terms you will be using, along with your major points and questions, ensuring you are using culturally appropriate language.
- Do not look at the translator. Keep contact with the other negotiator(s) speaking slowly and clearly, avoiding slang and military acronyms.
- Ask questions, listen carefully, and summarize your understanding of TOS’s position often.
- Avoid jokes unless you already have a strong relationship with TOS.

It is best to negotiate in a comfortable, secure location.

If negotiating outside, keep situational awareness of potential threats. It is common for bystanders to wander by and listen to your conversation. They may be curious or they may be “bad guys.”

**[Critical Thinking: It is important to brief your translator prior to a negotiation. How might you know if the translator is interpreting correctly and he is not personally aggravating the other side?]**

## **Negotiations With Arabs**

In some Arab cultures, negotiations are indirect and complex. Rapport and relationships are often more important than positions. Greetings, small talk, and pleasantries, along with drinking tea, are important. When negotiating with Arabs, pay close attention to body language, eye movement, and hand gestures. The following are basic relationship fundamentals:

- Shake hands with the right hand and use the left hand to grasp the other person's elbow (after the first meeting an air kiss on the cheek is often useful). Placing your right hand on your heart with a light bow is a sign of respect along with "Salam aleykum (Peace be upon you)."
- If in doubt as to who is senior, address the most elderly in the room. They may not be senior, but it shows your good manners and respect for the elderly.

Following are culture points to know when communicating with members of Afghan and Arab culture:

- Arabs often show emotions to show their sincerity. However, in the Afghan Pushtun culture, showing emotions is seen as a sign of weakness.
- Communications may be subtle and indirect.

- In the legalistic American culture, signing a contract is often seen as a goal. Many Arabs prefer to leave things vague and seek sustainable relationships more than contracts. They favor consensus-based decision making and avoid quick decisions.

Face-saving is important and compromises must allow the Arab or Afghan to maintain dignity and prestige so that they do not appear weak. Honor and shame are critical in these cultures.



## **Key Leader Engagements in Afghanistan**

Key leader engagements (KLEs) are intentional, focused, face-to-face meetings with local leaders to expand communication and cooperation with the local population. These talks build rapport prior to negotiations and should be a vital part of every operation. They create trust between both parties and build peace nonviolently. The ability to do this, and to do it well, is possibly one of the most important assets any Soldier can possess. The KLE can be used as a tool to—

- Present an opportunity to influence a local population.
- Afford a legitimate and socially acceptable reason to enter a village.
- Confirm your role as a coalition force leader who is responsible for and interested in the area.

Key leader engagements should be approached like any other negotiation. Know the culture and dynamics of your audience and be prepared to listen to their positions and demands. Ensure the conversation stays on track avoiding sidebar comments. Make certain that you have a clear objective and BATNA. Use the standard approach in finding a fair solution to their interests and your objective.

Identifying the true key leaders is one of the most difficult parts of these negotiations. This can sometimes be accomplished by attending village *shuras* or by talking with multiple villagers and determining if they all identify the same person as leader of the village. Make good use of your human terrain team (HTT) or female engagement team (FET) as you prepare.

Prepare your team to execute a successful KLE by having clearly defined objectives and good intelligence/cultural preparation. Although time-consuming, looking at what effects will occur during/after the negotiation takes place includes:

- Identifying audience/conditions required to achieve your objectives.
- Maintaining clear objectives, “What do you want to achieve in this meeting?”
- Determining what you can offer and your BATNA.
- Understanding of TOS’s situation and BATNA.
- Identifying roles during negotiations, such as a photographer and notetaker, while conducting standard mission planning.

Cultural preparation of the battlefield includes:

- Identification of real key leaders and reports of previous meetings with them.
- Their cultural, ethnic, tribal, religious, political associations, and alliances.

- Their agenda and interests.

Prepare for the KLE by reading the protocols of previous meetings. Do a “background check” to know as much as possible about the key leader and other participants. Create or study the agenda before the meeting. Prepare in advance by rehearsing the KLE, making sure to include all advisors that will be present. In addition, know what can be promised or done, and what cannot be promised.

Make the objective a shared objective, reassuring TOS that it is not just “your” problem, but “our” problem.

As you execute a KLE, follow the general guidance for negotiations including mutual respect, etiquette, patience, and listening. Begin the meeting with praise for those in attendance, even if this is confined to acknowledging the tribes/leaders for their previous efforts, dedication, and perseverance. This initial formality sometimes sets the conditions that allow subsequent negotiations. Keep your composure during a KLE. Many times during a KLE, there will be heated discussions with elders or village members becoming angry and vocal. Be prepared to meet this outburst with patience and tolerance. *This does not mean giving into them.*

Promise only what you can deliver and focus on solutions to problems that work through local ownership.

Continually reengage key leaders even if this communication is only a periodic call to their cell phone by your interpreter. A phone call to TOS updating the current status on an issue or project not only demonstrates your concern and commitment to the project but also shows respect to TOS.

## **Interests Come First**

Interests come first during a KLE. Interests are often influenced by relationships. Remember to—

- Ask questions; dig underneath TOS's interests.
- Clarify their intentions, "I'm hearing you say \_\_\_\_."
- Ask yourself, "Is there a problem we can both solve?"
- Keep things simple and clear.
- Agree on the problem.
- Discuss possible concrete but flexible solutions.

When engaged in KLEs with Afghans—

- Listen more than you talk. Focus on their words and body language!
- Show respect. Remember and pronounce their names correctly. Always try to get a photo at the end of a meeting or encounter.
- Remember seniors first! *Chai* and cookies go to the seniors first.

- Talk to the real power brokers—this is difficult. Use your human terrain team/cultural advisor before negotiating!
- Take every opportunity to engage. For example, when stopped on the road, use an interpreter and talk to whoever is around. Ask “who are the famous men in this \_\_\_\_\_.” Leave them a newspaper or government information.
- Remember that Afghans are often more soft spoken in private and louder, more emotional, and aggressive in public. They want peers/followers to see that they forcefully made their points.
- Phone call follow-ups are important.
- Do not break wind or blow your nose during a meeting or show the soles of your feet.
- Never talk down to anyone.
- Do not rush to end a meeting or check your watch every few minutes.
- Thank the elders/leaders for the opportunity to participate in the KLE.
- Do leave quickly after the KLE.

**[Critical thinking: You have been tasked to provide security and arrange a contract to build a girl’s school in a Pushtun village that has never educated their girls before. The local Taliban has issued night letters warning that such a school will**

**be targeted. How would you get buy-in from the local village elders and arrange for locals to help with construction and security for the students, teachers, and buildings?]**



## FREQUENTLY USED TERMS

<b>BATNA</b>	Best Alternative to a Negotiated Agreement
<b>HTT</b>	Human Terrain Team
<b>FET</b>	Female Engagement Team
<b>KLE</b>	key leader engagement
<b>SEARCH</b>	society, environment, authority, religion and beliefs, communication, and history
<b>TOS</b>	the other side
<b>VBBN</b>	values, beliefs, behaviors, and norms
<b>Win-win</b>	both parties win
<b>Win-lose</b>	One party wins; one party loses
<b>ZOPA</b>	zone of possible agreement

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## Notes

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