Analyzing Complex Negotiations

In the vast array of books and articles on the subject of negotiating, there is surprisingly little advice about how to deal with complexity and ambiguity. Much good work has been done on simple, well-structured negotiations—interactions among a few parties with fixed interests and alternatives. But there is little actionable guidance available to practitioners about how to manage multi-issue agendas, build coalitions, or prevent conflicts from escalating into damaging disputes. Yet these complications arise in most negotiations managers conduct, both inside and outside their organizations.

When negotiations are complex and ambiguous, negotiators confront challenges and opportunities that are not present in simpler negotiations. Negotiations are complex when they involve many parties and/or issues. As complexity increases, negotiators can gain advantage through strategies such as sequencing their interactions with other parties to build coalitions. Negotiations are ambiguous when the structure of the “game” is not fixed, for example, when it is unclear who will participate, what issues will be negotiated, or what interests will be evoked. As ambiguity increases, negotiators can gain advantage by shaping the structure of the situation. For example, a negotiator can work to influence who will participate in the process and what issues are on the agenda.

This note develops a framework that links structural diagnosis and strategy design in complicated (complex and ambiguous) negotiations. To develop good strategies, negotiators must rigorously diagnose the structure of their negotiating situations. In short, strategy follows structure. At the same time, negotiators must work to shape the structure in favorable ways, both before and while they are negotiating. So strategy shapes structure, too. Superior negotiation strategies therefore consist of a mix of (1) moves to bargain within the existing structure of “the game,” and (2) moves to shape that structure in favorable ways.

1 Scholars in game theory, economics, and psychology have explored the dynamics of these well-structured negotiations by building mathematical models, designing laboratory experiments, and analyzing data on large samples of transactions. They have made important discoveries concerning cooperation and conflict, escalation and deterrence, distributive and integrative negotiations, and the judgmental mistakes negotiators make.

Professor Michael Watkins prepared this note as the basis for class discussion.
Structure, Strategy, Process, and Outcomes

Negotiations can be analyzed in terms of relationships among structure, strategy, process, and outcomes (hereafter the SSPO model) as illustrated in Figure A below.²

Figure A The SSPO Model

As discussed in detail below, the structure of complex negotiations can be analyzed along seven dimensions: issues, rounds, rules, attitudes, parties, levels, and linkages. Rigorous analysis of negotiation structure yields insight into the constraints and opportunities confronting negotiators as they seek to advance their interests. Consider, for example, the difference between two-party and three-party negotiations. Outcomes in three-party negotiations may be strongly shaped by coalitional dynamics, whereas coalitions play no role in two-party negotiations. Existing coalitional alignments therefore represent constraints or opportunities for participants in multiparty negotiations, as does the potential to create new coalitions. Coalition building becomes a core focus in strategy design.

Based on analysis of negotiation structure and associated constraints and opportunities, negotiators design their strategies. Strategies consist of (1) sequences of actions intended to create and claim value within the existing structure of the negotiation, and (2) sequences of actions intended to shape the structure in favorable ways. In simpler negotiations, these strategies typically consist of sequences of moves, such as offers and concessions. In more complex negotiations, negotiators may strategize about how to shape the issue-agenda, build coalitions, and manage interactions between negotiations “inside” and “outside” their organizations.

Negotiators’ strategies interact and evolve in response to observation and adaptation. This dynamic creates an emergent process and eventually an outcome—agreement or breakdown. Outcomes in negotiations consist of jointly decided agreements—implicit or explicit understandings about the future behavior of the parties. (This may include agreements not to agree or to defer seeking agreement.)

Example: A Distributive Two-party Negotiation

To illustrate the application of the SSPO model to negotiation analysis, consider a negotiation between the owner of a used car and a potential buyer, both of whom are acting as individuals and not dealers and who are meeting for the first and last time. How does structure shape strategy in this situation? The negotiation involves just two parties bargaining over a single issue—the price of the car. This structure is defined to be a purely distributive negotiation. If a bargaining range exists, then any agreement divides a fixed “pie” of value between the parties. If a bargaining range does not exist, then the parties will not reach agreement, and the car will not be sold.

The existence and size of the bargaining range is determined by the bottom lines of the buyer and seller. The parties’ bottom lines, in turn, are defined by their respective best alternatives to a negotiated agreement, or BATNAs. The seller’s best alternative may be a take-it-or-leave-it offer from another interested potential buyer; for the buyer it may be purchasing another car. (We assume the buyer and seller cannot generate other outside options, so the structure of the negotiation is fixed.) These BATNAs get translated into bottom-line prices for both sides. If they overlap, then there is a bargaining range within which the parties negotiate; if not, then there is no possibility of agreement.

Suppose the buyer is willing to pay up to $5,000 for the car, and the seller would accept no less than $4,000. Further suppose that each negotiator is unaware of the other’s bottom line. The result, as pictured in Figure B below, is a bargaining range of $1,000. Given the size of the range, we would expect the parties to reach agreement somewhere within it.

How does this structure yield constraints and opportunities and so shape parties’ strategies? In purely distributive two-party negotiations where the parties have asymmetric information, the overriding goal of both sides is to claim value. There are feasible agreements that make both parties better off. But different agreements in that range of feasibility represent different divisions of the available $1,000 of surplus value. Unless the structure is transformed (for example by adding new issues that allow the parties to make trades), the emergent process will revolve around the parties’ efforts to claim that value.

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3 Walton and McKersie made the important distinction between distributive and integrative bargaining. See Chapters 2, 3, 4, and 5 of R. Walton and R. McKersie, A Behavioral Theory of Labor Negotiations (Ithaca, NY: ILR Press, 1965). Walton and McKersie also noted that negotiators may engage in negotiations involving a mix of distributive and integrative bargaining, which they termed “mixed-motive” (see Chapter 5). D. Lax and J. Sebenius, in The Manager as Negotiator (New York: Free Press, 1986), reconceptualized the distinction between distributive and integrative bargaining. Rather than discrete types of bargaining, they view value claiming and value creating as processes that go on in parallel in most negotiations.


5 See Lax and Sebenius, “Claiming Value,” Chapter 6 of The Manager as Negotiator.
The bargaining range defines the set of potential agreements. But what determines the outcome? There is no preordained right answer. Rather, the outcome is determined by the interacting strategies the sides employ to (1) learn about their counterpart’s bottom line, and (2) shape their counterpart’s belief of what is attainable.\(^6\)

The toolbox negotiators use to shape their counterpart’s perceptions in distributive negotiations consists of a handful of classic techniques summarized in Table A.\(^7\) Each party seeks to learn about the other side’s bottom line while shaping beliefs about its own. The interacting efforts of the parties to learn and to shape perceptions inevitably come into conflict; that is part of what makes face-to-face negotiation so compelling.

**Table A** Tactics for Claiming Value

- **Anchoring:** Early offers and counteroffers strongly influence perceptions of the bargaining range. An offer that is high (or low)—but not so extreme that it triggers a breakdown of the negotiations or dismissal of the offer—can “anchor” counterparts’ perceptions in a favorable way.
- **Patterns of concession:** Large early concessions followed by progressively smaller concessions signal increasing resistance. This tactic can be used to shape the other side’s view of one’s walk-away position.
- **Threats and warnings:** Threats are promises to do harm in the event of noncompliance. Warnings are milder than threats, so they are less likely to trigger escalation.\(^8\) Instead of threatening, “If you do that, I will punish you,” a warning says, “If you do that, bad things (not caused by me) will happen to you.”
- **Commitment:** Commitments are self-imposed costs. Negotiators commit to a course of action (perhaps by putting their reputations or credibility at stake) to convince their counterparts that their hands are tied. The risk is overcommitment and impasse. Overcommitted negotiators stand firm long after it has become obvious that their objectives are unachievable.
- **Action-forcing events:** Deadlines, meetings, and other key events can be invoked to move the process forward.

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\(^7\) These are presented in the first-year-required Negotiation course.

Diagnosing the Structure of Complex Negotiations

Structurally, the used-car negotiation is the simplest type of negotiation. It involves just two parties, a buyer and a seller, who enter the negotiation with neutral attitudes toward each other. They are negotiating over a single issue: the price of the car. The relevant rules include the law of contracts and customs about who makes the first offer, and these rules are essentially fixed. The buyer and seller negotiate in one episode or “round,” so precedents and prior relationships are not important. The negotiations occur on a single level: the parties are monolithic, and so internal negotiations within the “sides” do not complicate the process. The negotiations are not linked to any other set of negotiations (we assume, for example, the seller cannot negotiate with any other buyers).

If most negotiations were this simple, the world would be a less interesting place. For better or worse, real-world negotiations usually are much more complex. It therefore helps to have a framework for diagnosing the structure of complex negotiations and understanding how core strategic concerns shift as complexity increases.

The structure of complex negotiations can be analyzed on seven dimensions. The first four dimensions can be used to analyze two-party negotiations as well as multiparty situations:

1. **Issues**—From one issue to many issues
2. **Rounds**—From a single interaction to many rounds of negotiating among the parties
3. **Rules**—From fixed rules to negotiable rules
4. **Attitudes**—From positive preexisting attitudes among the parties to strongly negative attitudes

The remaining three dimensions concern increasingly complex multiparty negotiations:

5. **Parties**—From two parties to many parties in a single negotiation
6. **Levels**—From monolithic parties to many interacting levels of negotiation within and among organizations
7. **Linkages**—From a self-contained negotiation to a densely linked web of negotiations involving different but overlapping sets of parties

To illustrate, consider the negotiations between a potential buyer and seller of a house. This situation could be analyzed in the same way as the used-car sale: a one-time negotiation involving two parties and a few issues (price, repairs, and timing for closing). But is it that simple? In practice, negotiations over the purchase of a house tend to be much more complicated. The buyer may be considering several houses, and the seller may be dealing with multiple potential buyers. The buyer may be uncertain about what house she needs, and different houses usually represent different trade-offs. She also may be exploring several financing choices, each requiring negotiation. If the buyer needs to sell her current home and move by a certain date, linkages and deadlines may shape the process. She also may have to negotiate with her spouse about what will satisfy them both. Finally, the buyer will probably have to negotiate with a real estate agent who represents the seller but also has independent interests, such as minimizing transaction costs and preserving a good reputation.

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The process evolves through multiple episodes of negotiating. While some rules are fixed by law, there is room for entrepreneurship, for example, if the seller decides to run an auction process.

In sum, under scrutiny, even something as seemingly routine and self-contained as a house purchase turns out to be a multiparty, multi-issue negotiation characterized by internal negotiations within the parties and linkages among sets of negotiations.

If the used-car negotiation sits at the “simple” end of a spectrum of negotiation complexity, the house-purchase negotiation is somewhere in the middle. At the other end of the spectrum are very complicated negotiations, for example the multilateral trade talks that lead to new agreements under the auspices of the World Trade Organization (WTO). Arguably, multilateral trade negotiations are among the most complex negotiations ever undertaken. They involve dozens of interconnected issues, hundreds of parties each with their own internal negotiations, dense linkages to other domestic and international negotiations, and long-standing, often frayed relationships among the parties.

**From Structural Diagnosis to Strategy Design**

In the simple used-car negotiation, the structure-strategy equation is quite straightforward: *distributive structure implies value-claiming imperative*. The buyer and seller of the car each endeavors to get a bigger piece of a fixed pie. As complexity increases along any of the seven dimensions—issues, rounds, rules, attitudes, parties, levels, and linkages—negotiators confront new strategy-design challenges.

**A. Issues: From One to Many**

The move from negotiating one issue to negotiating multiple issues changes the nature of the negotiating process dramatically because now the parties have opportunities to *create value* as well as *claim value*.

If negotiators can identify complementary interests, they are able to make cross-issue trades and so can “enlarge the pie.” In fact, the agendas of complex negotiations such as international trade and corporate mergers and acquisitions (M&A) are explicitly constructed to generate potential trades across issues.

How does the move from one to multiple issues affect the parties’ strategies and the emergent process? To explore this question, imagine the potential buyer and seller of a house are bargaining over two issues: the timing of closing and the price. Suppose the seller hopes to keep the house for five more months in order to have time to search for and buy another. The prospective buyer has some flexibility but wants to close within two months, less if possible. If the buyer is willing to pay more money to get the house early and the seller is willing to accept more money and leave the house early, then the buyer and seller can make a mutually valuable trade of money for time.

The result is an *integrative negotiation* in which the parties simultaneously seek to create value and to claim value. The bargaining range in this type of negotiation is not a line, as in the purely distributive used-car negotiation discussed above, but a zone as shown in Figure C. Both sides can

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10 For a detailed discussion of differences as a potential source of joint gains, see Chapter 5 of J. Sebenius, *Negotiating the law of the sea* (Cambridge, MA: Harvard University Press, 1984), and Chapter 5 of Lax and Sebenius (1986).

11 Howard Raiffa develops the idea of the efficient frontier in the context of two-party, many-issue negotiation: “The efficient frontier—sometimes called the Pareto Optimal Frontier after economist Vilfredo Pareto—is defined as the locus of achievable joint evaluations from which no joint gains are possible.” See Raiffa, *The Art and Science of Negotiation*, p. 139.
be made better off if they are able to identify and capitalize on the potential to make mutually valuable trades (moving toward the frontier of feasible agreements). Of course, the value that gets created has to be claimed or divided between the sides (moving along the frontier).

As with single-issue negotiations, parties engaged in multi-issue negotiations seek to learn and to shape each other’s perceptions of bottom lines in order to claim value. But they also seek to influence each other’s views of their interests and the trade-offs they are willing to make across issues. Value gets created in multi-issue negotiations by identifying shared interests or complementary interests that are the basis for mutually beneficial trades. To create and claim more value, parties employ influence tactics such as framing to define “the problem” and agenda setting to influence what issues are up for negotiation.

**Figure C** The Bargaining Range in Integrative Negotiations

![Figure C](image)

“Value” means the total value for each of the parties of different (price, delivery time) combinations.

Source: Casewriter.

**Strategy-design challenge A1: managing the negotiator’s dilemma** The need to both create and claim value in multi-issue negotiations results in a fundamental tension for negotiators. To create value, the parties must gain insight into each other’s preferences. But information sharing leaves them vulnerable to being misled by the other side. The result is what David Lax and Jim Sebenius term “the negotiator’s dilemma,” a tension between cooperative efforts to enlarge the pie and competitive efforts to get the biggest share. This tension often contributes to defensive behavior that results in missed opportunities for value creation. For example, the parties may fail to share

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13 Walton and McKersie originally observed that tension often arose when negotiators engaged in mixed-motive negotiations: “At virtually every turn the negotiator finds himself in a dilemma: Should he conceal information in order to make his tactical commitment more credible, or should he reveal information in order to pursue integrative bargaining; should he bring militant constituents into the session to affirm feeling, or should he use small subcommittees in which new ideas can be quietly explored, etc.” (See Walton and McKersie, *A Behavioral Theory of Labor Negotiations*, p. 183.) Lax and Sebenius placed this strategic tension between value creating and value claiming at the heart of negotiation. (See “The Negotiator’s Dilemma,” Chapter 2 of Lax and Sebenius, *The Manager as Negotiator.*)
enough information about their true preferences or engage in strategic behavior that “leaves value on the table.”

To more explicitly link structure to strategy, negotiations can be positioned on a spectrum ranging from purely distributive bargaining (in which incentives are opposed) to purely cooperative joint problem solving (in which incentives are aligned). This spectrum is illustrated in Figure D. If a negotiation is truly distributive, then negotiators have little to gain by being open about their interests; the key is to be adept at shaping the other side’s perceptions and claiming value. If, on the other hand, both sides’ interests are largely congruent, little is lost by sharing information and jointly exploring options to create value. Integrative negotiations, with their mix of value creating and value claiming, occupy the middle ground. It is in the integrative arena that the negotiator’s dilemma is most problematic.

Figure D  From Distributive Negotiation to Joint Problem Solving

Source: Casewriter.

**Strategy-design challenge A2: setting the agenda**  The potential for value to be created and claimed is strongly influenced by how the issue-agenda of the negotiation gets constructed in the first place. If the agenda is too narrow, it may prove difficult for the parties to make trades that create enough value to make agreement possible. There is not enough grist—multiple issues across which trades can be made—to yield an agreement. When this is the case, negotiators should consider adding issues to the agenda in order to create a structure that has more value-creation potential.

Effective agenda setting centers on defining which issues will be covered in a negotiation and influencing the order in which they will be dealt with. For parties that genuinely seek an agreement, efforts at controlling the agenda focus on identifying bundles of issues that have the potential to support value-creating trades. These parties also seek to exclude or defer potentially “toxic” issues—the issues that could prevent agreement altogether. For deal spoilers, the goal is to undermine or delay decision making by transforming the negotiation into a win-lose proposition. Spoons seek to do this by narrowing the agenda or by introducing toxic issues.

**Strategy-design challenge A3: sequencing the issues**  When there is more than one issue on the agenda, negotiators must decide if they should handle these issues simultaneously or sequentially. As Fred Ikle noted in *How Nations Negotiate*:

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The order in which issues are dealt with has several implications. To increase the chances for agreement, negotiators tend to take up the less controversial issues first in the hope that the parties will become increasingly desirous of an agreement and therefore willing to make greater sacrifices in solving the hard issues. . . . More important than the ordering of issues is the linkage of separable issues into package deals and tie-ins. In a package deal, a party proposes to settle several issues that are considered part of the agreement under negotiation. In a tie-in, a party includes an issue considered extraneous by the opponent and offers to accept a certain settlement provided this extraneous issue will also be settled to its satisfaction.15

Issues can be negotiated simultaneously in packages, but they also can be negotiated sequentially. Often, a hybrid approach is employed. The parties start by negotiating a few easy issues to build confidence and momentum. But too much reliance on sequential negotiation can eliminate the potential for value creation through cross-issue trades. As discussed in the section on multiparty negotiations below, the sequence in which issues are negotiated can also influence the formation of coalitions.16

**Strategy-design challenge A4: simplifying the agenda** If the agenda for a negotiation is too broad, the process may become difficult to manage. When issue complexity is high, negotiators often seek to break down or “unbundle” the agenda into more manageable clusters of issues.17 These issue clusters can then be negotiated sequentially or delegated to subgroups for provisional negotiation. Each cluster of issues must have enough grist so value can be created and claimed, lest failure to agree in one poisons the entire process. At the same time, the results of the subnegotiations must be able to be integrated at the end of the process.

**B. Rounds: From One to Many**

Some negotiations are pure transactions among parties who have never met before and will never interact again. But many negotiations take place in the context of ongoing relationships among negotiators, who undertake multiple “rounds” of negotiating. Each round may be a discrete transaction, so that the linkage among the rounds only involves the relationship between the parties. Or it may be that “agreements” on complicated agendas are implemented through later rounds of clarifying negotiations. The parties in M&A transactions, for example, may decide to defer working out specific details on particular issues until after the deal is closed. The implication is that the gains made in the main negotiation can easily be lost in the subsequent negotiations on implementation (and vice versa). Disputes over implementation are likely addressed, in part, through further negotiations.

**Strategy-design challenge B1: managing precedents** When parties negotiate in the context of an ongoing relationship, their actions in current negotiations may be constrained by commitments or precedents set in earlier interactions. The parties also negotiate in the “shadow” of anticipated future interactions. Negotiators may therefore seek to “lock in” gains (on substance and process) early, with the intention of leveraging these gains in later rounds. Alternatively, negotiators


17 This term is due to Lax and Sebenius: “Where different interests are bundled into a negotiation, a good strategy can be to unbundle and seek creative ways to dovetail them.” See Lax and Sebenius, *The Manager as Negotiator*, p. 94. See also M. Watkins, “Toward a Theory of Modular Design in Negotiation,” *Journal of International Negotiation*, Summer 2003.
may profess (genuinely or otherwise) to be constrained by the need to avoid setting unfavorable precedents for future talks.

**Strategy design challenge B2: negotiating trades across time**  Negotiators may be able to fashion trades across time in which parties agree to concessions in one round of negotiations with the expectation that they will make up the losses in future negotiations, or vice versa. Anticipation of future interactions may also promote greater cooperation in current negotiations, increasing the potential for value creation. Future gains can therefore be held hostage to performance in meeting current commitments.

**Strategy design challenge B3: securing insecure agreements**  Agreements may not be secure, in the sense that parties may later renege or seek renegotiation of terms. In the used-car negotiation, imagine the parties trade the car for some amount of cash. Once that exchange takes place, the agreement is secure and reneging is impossible. But such happy situations are the exception. In fact, the agreements reached in many negotiations may be “insecure” in the sense that powerful parties can abrogate terms or “interpret” terms in questionable ways. The challenge for weaker parties, therefore, is not only to advance their interests in negotiations but also to increase the security of agreements by strengthening collective dispute resolution mechanisms and by negotiating monitoring and verification regimes. Approaches to securing insecure agreements are summarized in Table B.

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<thead>
<tr>
<th>Techniques for Securing Agreements</th>
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<tr>
<td><strong>Verification regimes</strong>: The parties arrange to observe each other’s actions as a way of reducing mutual uncertainty and increasing transparency.</td>
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<td><strong>Mutual deterrence</strong>: The parties make credible mutual commitments to devastating retaliation in the event of noncompliance.</td>
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<td><strong>Incrementalism</strong>: The parties proceed in a series of small and mutually verifiable steps, making future gains contingent on meeting current obligations and embedding current negotiations in a larger context to avoid end-game effects.</td>
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<td><strong>Hostage taking</strong>: Each party deposits resources (such as a large sum of money) into an escrow account supervised by an independent party, with the understanding that the proceeds will be forfeited in the event of noncompliance.</td>
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<tr>
<td><strong>Outside guarantors</strong>: The negotiators involve powerful external parties as guarantors of the agreement with the understanding that they will punish noncompliance.</td>
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**C. Rules: From Fixed to Negotiable**

The “rules of the game” for a negotiation may be fixed, negotiable, or some combination thereof. Fixed rules may range from legal strictures to the influence of market forces to the impact of customary practice or “negotiating culture.” Negotiable rules often include deadlines, decision-making processes, and other procedures governing how the process will unfold.

The buyer and seller of the used car are not in a position to change the rules of their game in any significant way. The parties are bound by the legal framework of contracts. The law specifies what terms make up a contract, how to close a deal, and what happens if a party fails to honor the terms of
the agreement. Likewise, the buyer and seller are unlikely to have much impact on societal customs, for example, about who makes the first offer. Often, the seller is expected to state an asking price.

The house-purchase negotiation offers more opportunities for parties to shape the rules of the game. The agent’s fees, for example, are fixed by custom. But in practice, they are negotiable. The seller can decide whether to negotiate sequentially and privately with potential buyers, hold an open auction, or negotiate in fixed “rounds” where a few potential buyers are asked to tender confidential offers.

In many international negotiations, such as those concerning trade agreements, the rules are very much the result of negotiation. Representatives of the participating countries engage in “pre-negotiations” to define the process, determine the criteria for ratifying agreements, and establish the timing of specific stages and myriad other aspects of the subsequent negotiations. Considerable value gets created and claimed in these early efforts to shape the rules of the game.

**Strategy-design challenge C1: negotiating the rules** The implication of the above discussion is that negotiators should assess the extent to which the rules of their negotiation are fixed or flexible. If they are flexible, then it is essential to engage early in a process to shape the rules in order to avoid having them set by others. Will the rules be established through negotiation among the parties or through unilateral moves or some combination? Also, how are other parties likely to approach shaping the rules? These assessments provide the basis for crafting a strategy to shape the rules of the negotiation.

**Strategy-design challenge C2: shopping for the right forum** Negotiators can gain or lose substantial value based on where a negotiation takes place. Vigorous jousting often occurs over the selection of a negotiating forum. The particular forum selected often influences who will take part in the negotiation, the relevant rules, and the enforcement of resulting agreements. For example, antitrust cases in the United States are handled by either the Antitrust Division of the Department of Justice (DOJ) or by the Federal Trade Commission (FTC). When new cases arise, the agencies negotiate to determine who will take them. In part, these decisions are based on history and expertise (which explains why the DOJ got the Microsoft case). However, sometimes there is room for the parties—the firms under investigation and their opponents—to “steer” the case to one agency or the other. Because the DOJ and the FTC operate in different political contexts, this can have a major impact on outcomes.

**D. Attitudes: From Positive to Negative**

In deal-making situations, such as the used-car and house-purchase negotiations, the parties likely start off with neutral attitudes toward each other. Preexisting antagonism is not an issue; the parties approach the negotiation coolly and rationally, at least at the beginning.

But in many negotiations, some or all of the parties enter the scene with intense feelings of grievance and deep hostility toward the other side. These negative emotional states vastly complicate efforts to negotiate agreement.

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19 Of course, this situation might not persist for long, as the parties take each other’s measure and form early opinions. Actions by either side, for example perceived abrogation of commitments, can easily raise the emotional temperature, even to the point of poisoning the potential for a mutually beneficial deal.
Consider, for example, lawsuit-settlement negotiations between a family whose child was killed while playing in an improperly designed and ineffectively recalled portable crib and representatives of the company that designed and made the crib. The family has suffered a terrible loss that is likely to provoke “irrational” urges to punish the other side. The family’s views of the representatives of the company are likely to be distorted in predictable ways. These “partisan perceptions” contribute to breakdowns in communication and the tendency to dismiss conciliatory gestures by the other side. The resulting psychological barriers to negotiated agreement may preclude the possibility of a settlement that would be in the best long-term interests of both sides.

Strategy-design challenge D1: defining relationship goals When parties have strongly negative preexisting attitudes, the relationship between the parties is itself often an issue in the negotiation. One key strategy-design question therefore concerns whether the ultimate goal is divorce, conflict suppression, repair, or reconciliation. Do the parties have the option to negotiate an agreement that allows them to go their separate ways, as in the case of the product negligence lawsuit-settlement negotiation described above? If not, is the objective to resolve the conflict and reconcile? Or should the parties first work to repair the relationship so cooperation is possible? The parties may also consider trying to suppress the potential for future conflict to the greatest degree possible.

Strategy-design challenge D2: involving third parties Anytime strongly negative attitudes create barriers to agreement, negotiators should consider involving a third party. Third parties can help promote communication, absorb anger, construct creative solutions, and otherwise help the parties to craft agreements that they could not reach on their own. Of course, careful attention must be devoted to determining who is invited to help mediate. Often the selection of a third party is itself the result of negotiation.

The dimensions of structural complexity discussed so far—issues, rounds, rules, and preexisting attitudes—apply to two-party or multiparty negotiations. The remaining three dimensions—parties, levels, and linkages—apply structure-strategy analysis to increasingly complicated multiparty negotiations.

E. Parties: From Two to Many

How do negotiation strategies and the emergent process change as the number of parties increases? As Howard Raiffa, one of the founders of the field of negotiation analysis, noted, “Significant conceptual complexities arise when even a single new party is added to two-party negotiations: coalitions . . . can now form.” If negotiations involve more than two parties and none can unilaterally impose (or veto) the outcome, coalitions can markedly alter the parties’ views of their bargaining power. Success in building a winning coalition allows that group of parties to better

21 For more detail on these biases, see M. Bazerman and M. Neale, Negotiating Rationally (New York: Free Press, 1992).
23 Raiffa, p. 257.
achieve their desired outcomes, but if a blocking coalition forms, even the plans of the most powerful individual player may be frustrated.24

Coalition building involves identifying groups with complementary goals, building alliances among them, and focusing this collective energy to shape a particular negotiation process. In essence, effective coalition building is about identifying and exploiting alignments of interests. Coalitions are not always founded on shared goals and long-standing relationships; they may be “marriages of convenience” based on mutually useful trades of support. It therefore is imperative to identify existing and potential parties, assess existing coalitional alignments, and figure out whose support is critical. What is a winning coalition, and how can it be built? What potential blocking coalitions might form, and how can this be avoided?

**Strategy-design challenge E1: using summits and shuttles** When negotiations involve more than two parties, negotiators have to decide whether to interact with the other participants simultaneously or sequentially. (In international diplomacy, these modes are termed summits and shuttles, respectively.) A simultaneous meeting of all the parties is a good setting for making final concessions and sealing agreements in public. But if the process is not ripe, a summit can help catalyze the formation of blocking coalitions or trigger the withdrawal of parties with veto power. In either case, the negotiations break down.

Sequential meetings are productive settings for learning about other parties’ positions, shaping their views by providing private information, and negotiating (potentially secret) side deals. But in general, parties will not be willing to make their final concessions unless they are sitting eyeball to eyeball with the rest of the participants.

**Strategy-design challenge E2: sequencing interactions** The particular sequence in which negotiators meet with other parties can powerfully influence the outcome of a multiparty negotiation.25 Success or failure in early efforts to recruit allies influences the success or failure of subsequent efforts. Once one powerful ally is on board, it becomes easier to recruit others. As more allies are recruited, the negotiator’s base of support grows and the likelihood of prevailing increases, making it easier to recruit still more. Eventually, sequencing transforms uncommitted parties’ perceptions of their BATNAs. Before a coalition is built, their choice is to get on board early or do nothing and preserve the status quo. Once there is a critical mass of support, however, they face a different choice: join the coalition or be left behind. In this way, the capacity to act unilaterally can help to drive multilateral action.

Negotiators enmeshed in multiparty interactions should therefore plan the sequence in which they will interact with other parties. In part, such sequencing is about exploiting patterns of deference.26 Decision makers often defer to the opinions of those they respect on a given set of issues. In order to enact an effective sequencing strategy, it is essential to analyze influence networks in complex negotiations. Who defers to whom on important issues?27


26 See Lax and Sebenius, “Thinking Coalitionally.”

Of course, other negotiators will simultaneously be trying to build or buttress their own coalitions. Negotiators’ sequencing plans may thus interact, resulting in competition for the support of pivotal people. First-mover advantage is an important source of power in multiparty negotiation. Skilled coalition builders anticipate the moves of others and get there first.

**Strategy-design challenge E3: maintaining coalitions** Questions of coalitional sustainability also loom large in multiparty negotiations. How do you ensure that allies remain on board? It is never enough simply to elicit support because that support can slip away in the night. Negotiators must therefore devote energy to buttressing and deepening their supporters’ commitments and to expanding their own persuasive reach. In the words of Owen Harries: “Preaching to the converted, far from being a superfluous activity, is vital. Preachers do it every Sunday. The strengthening of the commitment, intellectual performance, and morale of those already on your side is an essential task, both in order to bind them more securely to the cause and to make them more effective exponents of it.”

**Strategy-design challenge E4: simplifying the structure** Finally, the sheer number of the parties in some negotiations can powerfully complicate the process. As the number of parties increases, so too does the challenge of reaching a mutually acceptable agreement—especially under a consensus-decision rule. Therefore, multiparty negotiations often get divided into subnegotiations where subsets of parties negotiate subsets of issues.

A related simplification strategy involves getting some parties to agree to be represented by others. As illustrated in Figure E, this transforms a multiparty negotiation into a multilevel negotiation that may be simpler to manage.

**Figure E**  Simplifying the Structure

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**F. Levels: From One to Many**

In the used-car negotiation, the two parties are individuals and so are assumed to be monolithic or “of one mind.” But what happens when negotiations take place among groups, organizations, or nations? The answer is that negotiation takes place within the parties as well as among them. The
negotiations within the parties can interact strongly with the negotiations among the parties resulting, as illustrated in Figure F, below, in what Robert Putnam termed “the two-level game.”  

In the house-purchase negotiation, for example, the “buyer” is really a couple, with one partner negotiating for both of them externally but needing to get buy-in internally. On the other side, the “seller” consists of the person who owns the house (the principal) and the agent who is representing him.

**Figure F** A Two-level Negotiation

![Diagram of two-level negotiation](image)

Source: Casewriter.

Internal negotiations on both sides may be complicated because of differing interests among the “insiders” and asymmetric access to information by agents and principals. On the buyer side in the house negotiation, the spouses may have different goals. On the seller side, the principal and the agent have different interests. The principal, or homeowner, wants to maximize his utility, which may include nonmonetary factors such as timing for the closing. The agent cares about the selling price but also may want to minimize her transaction costs and get the sale closed as soon as possible. The agent also may be concerned about preserving reputation or generating future business. On both sides, the people doing the negotiating have an information advantage over the ones who have to approve any deal. This can be an advantage for the negotiators or a problem if it spurs distrust or defensiveness on the part of those who must ratify the agreement.

As with increasingly complex issues and party structure, the move from monolithic parties to a two-level game creates constraints and opportunities for the negotiators, shaping their strategies and the evolution of the negotiating process. In the two-level game, any bargain between two sides

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involves three separate agreements: one across the table and one within each side. More precisely, agreement between the parties calls for building a critical mass of support—in other words, a sufficiently powerful coalition—within each side.

Playing the two-level game means negotiators must coordinate the various internal and external “tables” at which negotiation is taking place so the agreement is accepted at all of them. Negotiators must both vigorously seek to advance the interests of their party and “sell” agreements within their party. Ambiguity in drafting agreements is one tool for doing this. By crafting ambiguous language, negotiators open the possibility for “selling” differing interpretations of the agreement to their respective constituencies. Of course, such ambiguity can create major problems in implementation and later efforts at dispute resolution.

**Strategy-design challenge F1: achieving synchronization** Coordinating internal and external negotiations involves a delicate balancing act because such efforts can interact in ways that restrict negotiators’ tactical flexibility. Consider, for example, a bitter labor dispute. By displaying inflexibility in negotiations with company management, a union leader may bolster his internal political support. However, such behavior may lock him into an untenable position with management. Later retreat from the initial position may prove impossible for the union leader because it will result in an unacceptable loss of face with the union. On the other hand, if he exhibits willingness to make concessions in external negotiations, it can easily become grist for internal political struggles if union members believe he is not being tough enough. The result of these problematic interactions can be failure to reach a mutually beneficial agreement.

Success in synchronizing multilevel negotiations rests, in part, on the capacity of negotiators to understand how decision making works within the other sides, as well as in their own side. It also means paying close attention to how positions taken at the “outside” table will influence “inside” negotiations on both sides. As one experienced diplomat put it:

> You can do things that help you to progress in relationship to your external partner . . . but they would have created problems for you on the home front. The gap between those who are leading the negotiations and all those people who have to come afterward would grow, beyond the point where it could be bridged. But if you walked too slowly, you might stay close to your constituents, but you would have been very far away from the other side.

**Strategy-design challenge F2: sequencing movement between “inside” and “outside”** Finally, negotiators must strategically sequence their moves between the “outside” and the “inside.” This could mean, for example, securing an internal mandate, then engaging in early external discussions, then returning for internal consultations, and so on. A related issue concerns information control: what information should the negotiator share externally and internally, and when should she do it? As one negotiator described:

> The traditional model [of the negotiation process] is that the leadership sets the goals, and then from those goals [the lead negotiator] can make decisions regarding strategy, tactics, and then produce instructions for the team. But that scenario doesn’t represent real life, as far as I understand it or experience it, because the goal and the strategy are changing constantly. There is a dynamic throughout the process. And the leadership is not fully in control of it because that dynamic is the product of the interaction between you and the other party, and sometimes more than one party. . . . And since things are changing, then you can have an impact whatever your position in the loop. You can have a big impact if you handle it cleverly and effectively.

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Acting as a bridge between internal decision making and external negotiating, and reconciling the divergent interests of fractious constituencies, demands leadership grounded in credibility and skill rather than authority. Negotiators who participate in shaping their mandates, who have a clear and unwavering vision of what they want to achieve, and who work to shape internal and external perceptions maximize their ability to advance their sides’ interests—and their own.

G. Linkages: From Self-contained Negotiations to Linked Systems

The final dimension of negotiation structure concerns linkages among discrete sets of negotiations, not all of which involve the same parties. Self-contained negotiations are surprisingly rare. Even a seemingly simple negotiation such as the house purchase can be strongly influenced by these linkages. If the prospective seller gets another offer for his house, or if the prospective buyer finds another attractive property, the dynamics of the negotiation can shift dramatically.

Therefore, it is essential to extend the analysis of negotiation systems beyond the immediate negotiation to analyze the linked system in which it is embedded. 32 A set of discrete (or separable) negotiations \( \{N_1, N_2, N_3, \ldots, N_m\} \) is a linked system when:

- Each negotiation in the system is linked to at least one other negotiation
- The behavior of at least one negotiator is materially influenced by the simple existence of the other negotiation, or by events or outcomes in other negotiations
- Linkages between negotiations are either enacted by the parties within the system or imposed on them by forces external to the system such as laws, customs, organizational procedures, preexisting relationships, and resource constraints

The map in Figure G illustrates key linkages among negotiation from the point of view of a couple that is simultaneously negotiating to buy a new house and sell their old house. The couple agreed that Spouse “A” will manage the process of selling the old house in concert with an agent. Spouse “B” will manage the process of buying a new house (with internal consultation/approval on key decisions in both processes). Note that there are at least eight linked negotiations that could have a material impact on the eventual outcome.

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Strategy-design challenge G1: leveraging linkages  Linkages can be analyzed in terms of the distinct types of relationships among sets of negotiation that create constraints and opportunities. Consider, for example, two distinct types of linkages—competitive and reciprocal—and their implications for strategy design.

- A linkage is *competitive* when one party negotiates with two or more others but only one negotiation can reach fruition. When a house seller negotiates with multiple potential buyers or a buyer negotiates with multiple potential sellers, they are leveraging competitive linkages among negotiations. The party creating this linkage seeks to play the others off one another in order to improve her BATNA and weaken their’s.

- A linkage is *reciprocal* when one party negotiates separately with two or more others and all negotiations must reach fruition for an overall deal to occur. To buy a house, for example, a buyer must negotiate deals both with the existing owner and with a source of mortgage financing, as well as sell the existing house. All three of these negotiations are reciprocally linked.

Negotiators can seek to neutralize disadvantageous linkages and create advantageous new ones. At the same time, negotiators can anticipate and block attempts by others to advance their interests through linkage, unless such attempts promise to result in joint gains. To assess opportunities for advancing her interests, a negotiator should ask the following questions:

- Are there opportunities to create competitive linkages that advance my interests? Can I short-circuit others’ competitive linkages through “collusion”?

- Will the creation of reciprocal linkages give me access to important resources and/or improve my bargaining position? Can I find ways to eliminate constraining reciprocal linkages? Can I block others’ efforts to advance their interests at my expense by entangling them in reciprocally linked negotiations with other interested parties?
Strategy-design challenge G2: sequencing among linked negotiations. Anytime negotiators are dealing with linked sets of negotiations, the sequencing of moves among the various discrete negotiations is important. When negotiators serve as the “bridges” or “link-pins” between sets of negotiations, they potentially are able to influence the flow of information among them. Negotiators also can use a sequencing strategy to strengthen their bargaining positions. If, for example, the house seller is able to create a competitive linkage between her negotiations with two potential buyers, she should be able to cycle back and forth between them in some sequence. In this way, she can extract more value than she could if she were just negotiating with either party individually.

Negotiators who represent their groups or organizations can also be thought of as bridges between reciprocally linked outside and inside negotiations. (These are reciprocally linked because the external and internal negotiations must be synchronized for a deal to be reached.) This position affords representatives with unique access to information and influence over internal and external perceptions of interests and alternatives.

Designing Negotiation Strategies

Within the boundaries established by the structure, there always is scope for negotiators to be entrepreneurial in their efforts to create and claim value. Like a good soccer match, the structure of a negotiation constrains and focuses competition among players but by no means lessens the importance of crafting and executing good plays. There are no preordained “answers” in negotiation.

With a thorough diagnosis of the structure and its implications, the next step is to design a negotiation strategy. The detailed specifics of strategy development are beyond the scope of this note, but three fundamental strategy-design principles should be kept in mind.

Design Principle #1. There is no one “best way” to negotiate: strategy follows structure.

As summarized in Table C below, diagnosis of the structure has implications for the design of strategies.
### Table C  Linking Structural Diagnosis to Strategy Design

<table>
<thead>
<tr>
<th>Diagnosis of Structure</th>
<th>Design of Strategy</th>
</tr>
</thead>
</table>
| Issues: How many issues and how aligned are interests? (distributive vs. integrative)   | • Relative emphasis on claiming and creating value  
• Degree to which the negotiator’s dilemma will pose a challenge  
• Importance of managing agenda setting and issue sequencing |
| Rounds: How will the process unfold? (single episode vs. many rounds)                   | • Importance of maintaining/building relationships  
• Degree of attention to building momentum through multiple interactions/structuring the process in stages |
| Rules: How will the rules of the game be established? (fixed vs. negotiable)            | • Relative emphasis on understanding the rules and negotiating the rules  
• Extent of focus on agenda setting |
| Attitudes: What are the preexisting attitudes of the parties toward each other? (positive/neutral vs. negative) | • Extent of focus on the relationship  
• Assessment of relationship goals going forward (divorce vs. repair)  
• Need for use of conflict management techniques, including third-party intervention |
| Parties: Who will play a role in this negotiation and what are their sources of power? (two-party vs. multiparty negotiations) | • Extent of attention to analyzing influence networks and coalition building  
• Analysis of winning and blocking coalitions  
• Importance of developing a sequencing strategy  
• Degree of attention to observing and managing interactions among parties |
| Levels: How will “internal” negotiations interact with “external” interactions? (monolithic parties vs. multilevel negotiation) | • Extent of attention to clarifying roles and mandates  
• Importance of anticipating impact of actions on all levels of the game  
• Extent of attention to educating internal constituencies, building coalitions, and “selling” agreements |
| Linkages: How are current negotiations linked to other negotiations? (self-contained negotiation vs. linked system) | • Need to assess the impact of existing linkages—synergistic and antagonistic, competitive and reciprocal  
• Importance of sequencing strategy for moving among linked negotiations  
• Assessment of potential for linking or delinking negotiations |

Source: Casewriter.
Design Principle #2. Good strategies combine moves at and away from the table.

In negotiation, strategies consist of sequences of moves that are made both “at the table”—that is, with other parties in established negotiating forums—and “away from the table”—to prepare for “at the table” talks.33 At the negotiating table, parties seek to create and claim value by identifying complementary interests, proposing mutually valuable trades, making persuasive arguments, and committing themselves to favorable positions. Away from the negotiating table, they work to analyze the negotiation, prepare positions, organize the team, and assign roles. In this way, negotiation is like soccer: performance on the field is very much a product of conditioning, play development, and practice—all of which are done off the field.

Design Principle #3. Good strategies shape the structure.

Of course negotiations differ from soccer games in fundamental ways. One difference concerns who fixes the structure of the game. In soccer, the rules are predetermined and enforced by referees who are vested with authority to “make the calls.” But in negotiations, the rules are influenced by the actions of the participants themselves. The parties also shape other elements of the negotiation structure. Who participates, what is on the issue-agenda, and who acts as “referee” are all potentially subject to influence. This means that negotiators can shape the game, as well as play it. Put another way, negotiation structure shapes strategy, but strategy can also influence structure. The outcomes of complex negotiations are often strongly influenced, for example, by prenegotiation moves to influence the agenda, determine the forum in which negotiations will take place, or settle procedural ground rules.

Negotiators should therefore evaluate the potential to influence any of the dimensions of negotiation structure discussed earlier, including:

A. Setting the agenda—Adding or removing issues from the agenda, dividing the larger agenda into modules for parallel negotiations, and fixing some high-level features for the deal

B. Managing conflict—Deciding to involve a mediator or other third party to help overcome the psychological barriers created by strongly negative attitudes

C. Negotiating the rules—Gaining early agreement about key aspects of the process, including location, timing, deadlines, and approval

D. Staging the process—Designing a process that builds momentum through a series of interactions

E. Creating coalitions—Identifying potential winning and blocking coalitions and devising plans for building coalitions

F. Synchronizing the levels—Clarifying mandates and carefully setting expectations in both internal and external negotiations

G. Leveraging linkages—Linking and delinking issues or sets of negotiations to create and claim value

Negotiation Strategy Matrix

Strategies may therefore consist of elements in some or all of the cells of the Negotiation Strategy Matrix pictured in Figure H. The horizontal dimension distinguishes between moves parties make within the established structure of the negotiation and moves they make to shape the structure, for example by setting the agenda, creating a deadline, or influencing who participates. The vertical dimension distinguishes between moves parties make at the negotiating table and moves they make away from the negotiating table. Superior negotiation strategies consist of a combination of these elements.

Figure H  The Negotiation Strategy Matrix

<table>
<thead>
<tr>
<th>Working within the Structure</th>
<th>Shaping the Structure</th>
</tr>
</thead>
<tbody>
<tr>
<td>At the table</td>
<td>Consensually Negotiating Changes –</td>
</tr>
<tr>
<td>Bargaining –</td>
<td>Agreeing to add or subtract parties, alter the agenda, and set deadlines</td>
</tr>
<tr>
<td>Creating and claiming value by exchanging information and making offers and concessions</td>
<td></td>
</tr>
<tr>
<td>Away from the table</td>
<td>Unilaterally Imposing Changes –</td>
</tr>
<tr>
<td>Preparing –</td>
<td>Initiating linked negotiations, creating action-forcing events, and setting preconditions</td>
</tr>
<tr>
<td>Organizing the team, gathering and analyzing data, and preparing offers and concessions</td>
<td></td>
</tr>
</tbody>
</table>

Source: Casewriter.

Summary

Negotiation can be analyzed as systems in which structure shapes strategies, yielding an emergent process and outcome. The structure of negotiation systems is diagnosed along dimensions of issues, attitudes, rules, rounds, parties, levels, and linkages. Different structures present negotiators with distinct challenges and opportunities and so require them to grapple with different choices for strategy design. Multi-issue negotiations stimulate cross-issue trading, often making the negotiator’s dilemma an issue. However, the negotiator’s dilemma is not a concern in single-issue negotiations. The parties in multiround negotiations usually pay more attention to relationships and precedents than those in one-round interactions, for good or ill. Multiparty negotiations promote coalition-building behavior, which makes no sense in two-party negotiations. Negotiators in multilevel situations craft their strategies with an eye on how their actions will be perceived on all levels of the game, while negotiators in two-party situations focus only on sending clear messages to each other.

Good negotiation strategies are based on a thorough analysis of structure. These strategies combine actions at and away from the table. While taking structure into account, negotiators also seek to shape it in favorable ways.