International negotiations in a hybrid diplomatic arena: new actors, new tools - a practitioners' contribution

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International negotiations in a hybrid diplomatic arena: new actors, new tools – a practitioners’ contribution

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Abstract: The diplomatic arena has become hybrid arena with actors of a diverse set of backgrounds: next to the traditional diplomats there are international business representatives, representatives of international Non-Governmental Organisations (NGOs), civil society organisations and local communications. They have all been accepted and given access to the diplomatic arena since in the current global governance arena, governments need these new actors in order to deal with global challenges. Negotiation competences are key for diplomats, representatives of businesses, NGOs, civil society organisations or governments alike, to get things done’ in the global diplomatic arena. This is not new and the literature on negotiations is vast. However, much of the literature is derived from or based on theory, or lacks an empirical basis to demonstrate that the negotiation tools as proposed actually work. In this paper, we introduce three negotiation tools that are built on extensive experience in international diplomatic negotiations, build on practice.

Keywords: international negotiations; business diplomacy; commercial diplomacy; diplomacy practice.


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1 Introduction

The diplomatic arena was for a long time the arena where appointed diplomats representing their home countries met, communicated and maintained peaceful relationships. However, the past decade this arena turned into a hybrid arena, where appointed diplomats meet state actors and non-state actors. Multinational Corporations (MNCs), Non-Governmental Organisations (NGOs), civil society organisations, local communities, these actors all claim or take their positions. And they can take their positions since governments of many countries have experienced a pluralisation, increased vocalisation and the rise in number of large international business players without whom governments cannot deal without on important issues. How we should judge this development is something that history may tell us. But it is a fact that has to be dealt with by ‘traditional’ diplomats as well as these new diplomats representing MNCs, NGOs, civil society and local communities. This makes international negotiations more complicated and challenging. The diplomatic arena has become hybrid arena with actors of a diverse set of backgrounds. They have all been accepted and given access to the diplomatic arena since in the current global governance arena, governments need these new actors in order to deal with global challenges.

Negotiation competences are key for diplomats, whether they represent governments, MNCs, NGOs, civil society organisations or local communities, to ‘get things done’ in the global diplomatic arena. This is not new and the literature on negotiations is vast (e.g., Fisher et al., 2011). However, much of the literature is derived from or based on theory, or lacks an empirical basis to demonstrate that the negotiation tools as proposed work.

In this paper, we introduce three negotiation tools that are build on extensive experience in international diplomatic negotiations, build on practice. Three tools are being introduced, abbreviated as DATE, DEAL and TRUST. These tools contribute to the existing literature as they may be more appealing to real-life negotiations in the global diplomatic arena than the established tools.

The remainder of this paper is as following: first we will review briefly existing literature on negotiations, then we will introduce the three tools DATE, DEAL, TRUST and explain them. In the third part we will apply them to a real-life case, Hungary’s position in case of the global corporate tax proposal that was made by the USA and agreed upon by a large group of countries around the world in 2021. In the third and final part we will briefly reflect on this application and propose a research agenda.
2 International negotiations: a brief review of the literature

What actually is meant when we discuss international negotiations? Multiple definitions are available but in general they boil down to defining it as a process between two or more parties or actors who try to persuade each other to combine and blend their interests and preferences with the aim to reach a joint decision or agreement (e.g., Rittberger, 1998; Avenhaus and Zartman, 2007).

Negotiations always take place in a context and this context affects the process of negotiations. This complex combination of process, interests, preferences and context makes international negotiations very hard to predict in terms of the outcomes. The literature on negotiations is vast and influential and highly cited work on negotiation skills, tactics, strategies, processes, structures and analysis comes from Fisher et al. (2011); Raiffa (1982); Lax and Sebenius (1987); Walton and McKersie (1991); Pruitt (2013) and Rubin and Brown (2013). Fisher et al. (2011) presented four principles of effective negotiations, which are: separating the people from the problem, focus on interest rather than positions, generate a variety of options before settling on an agreement and insist that the agreement is based on objective criteria. Most of this widely used work on negotiations is in line with Fisher et al.’s work, namely providing principles, guidelines based on insights from social psychology and are not empirically tested as such. While not derived from practice, they are also no really academically grounded so to speak. This is different from the work of Helmond et al. (2020) who introduce a so-called industry proven concept of negotiations. Similar type of academic work is from Zartman (2007) or Grobe (2010). For example, Zartman analytically distinguishes three phases in negotiations: problem diagnosis, invention of the bridging formula and negotiations on the details. Besides the more generic international or multilateral negotiations literature there is respectable amount of literature that focuses on nice-issues such as small-state negotiations (e.g., Panke, 2012) or the EU and the Paris Agreement on climate change negotiations (e.g., Oberthür and Groen, 2018).

Besides the literature on negotiation as such there is a rich amount of scholarly work on topics such as persuasion (e.g., Watkins, 2001) and on bargaining (e.g., Shapiro, 2000). Watkins (2001) introduces a framework that helps to understand and enact the process of persuasion in organisations (p.115). The emphasis is put ‘on the ways leaders shape perceptions of interests and alternatives, as well as how they persuade one-on-one and from a distance’ (Watkins, 2001, p.115). Shapiro (2000) presented a new way of looking at negotiations. The dominant paradigm is bargaining, despite its relatively poor track record when it comes to success. As an alternative he introduces interest-based negotiations, which does not focus on the positions or the proposals that are on the table, but on the interests of the negotiation partners. If the interests that are at stake are not harmed (e.g., losing face at home) than negotiation partners may very well be able to make ‘moves’ regarding the positions or proposals.

Then there is scholarly work on particular aspects of negotiations such as how to negotiate with liars (e.g., Adler, 2007) and how to open negotiations (e.g., Wheeler, 2004). This work is very useful for digging deeper in understanding and learning the finesses of negotiations.

If to summarise the literature on negotiation then we can distinguish four categories: (1) Professional, managerial type of literature that presents guidelines, principles, skills, models and concepts on the conduct of negotiations (the ‘how to’ literature),
(2) Academic, research-based literature that derives models based on theories (such as game theory (rationalism) or constructivism), (3) Academic literature that empirically tests or describes negotiations processes or models and (4) Scholarly literature on specific aspects of negotiations (persuasion, bargaining, dealing with liars and opening negotiations).

What is missing though is literature that provides negotiation models and concepts that are purely derived from extensive practical experience. Rather than derived from theory or conceptual analysis (deductive), there is room for insights from international negotiations experts. This type of literature can be more appealing for diplomats, government representatives and international business leaders and other types of international negotiators than the existing literature, since it may appear more hands-on and less complex. This paper aims to contribute to the existing literature and insights on international negotiations by introducing and explaining three concepts that are purely derived from practical international negotiations experience: DATE-DEAL-TRUST.

3 DATE-DEAL-TRUST: new negotiation tools

International negotiations are a complex phenomenon and therefore hard to predict in terms of outcomes and perhaps impossible to ever predict them. Therefore, practical and practice-based insights are needed in order to provide international negotiators with the most useful insights on the conduct of international negotiations. Three concepts that are practice and experienced based are: DATE-DEAL-TRUST.

3.1 The DATE concept

The DATE concept consists of the following four steps: Distinguish, Adapt, Tolerate, Establish. The DATE concept is very useful as a tool that can help to prepare for international negotiations. It helps to oversee the entire negotiations process and results in an overarching approach for a particular negotiations process.

The first step, distinguish, involves defining the unique of the party that the negotiator represents. The key question to be answered for the negotiator is: what are the key features of the party to be represented that make this party stand out among other parties that are similar to the represented party? Answering this question helps to makes a negotiating party to become (more) attractive and more distinguished as a negotiating party.

The second step, adapt, involves the party that the negotiator represents to prepare its position in advance towards the other party. The key question that needs to be answered in this stage is: how can a negotiating party make its position as strong as possible given the context and the strength of the negotiating party?

The third step, tolerate, involves a ‘reality check’ of the party to be represented in terms of what it will have to and perhaps as a maximum can accept from the opposing negotiating party. If this party is a more powerful party then it is realistic to let it ‘sink in’ that not all that is on the ‘wish list’ can be achieved. If the party is a weaker party, it is helpful to be realistic in terms of not abusing this position and therefore realise what one is willing to give in not to offend the opposing party and damage the relationship. The key question to be answered in this step is: how much and what as a maximum can the party to be represented in a negotiation process ‘give in’ or tolerate from the opposing negotiation party given the position of that party?
The final and fourth step of the DATE concept is establish. This involves building relationships with supportive partners in the negotiation process. These supportive partners can be parties that yet may not dare or want to negotiate about a given topic but do support the position of the party to be represented. The key question to be answered in this step is: with whom can the party to be represented build or strengthen relationships to find support in the negotiation process?

How these four steps of the DATE concept work is illustrated in Table 1. As an example, I used the case of the US proposal for a minimum corporate tax rate by countries. Hungary has one of the lowest corporate tax rates and considers the proposal of the USA as very harmful for the Hungarian economy. How can Hungary prepare for a negotiation with the USA on the US proposal?

Table 1  The DATE concept applied

<table>
<thead>
<tr>
<th>DATE concept step</th>
<th>Key question to be answered</th>
<th>Example (Hungary and the Global Corporate Tax Agreement)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Distinguish</td>
<td>What are the key features of the party to be represented that make this party stand out among other parties that are similar to the represented party?</td>
<td>Hungary distinguishes itself from the majority of OECD and European countries for its low corporate taxation. So the country gained a good reputation for being investment and business-friendly. Hungary should leverage this position to lead its negotiations with the support of multinational companies, which have decided to conduct their businesses into the country.</td>
</tr>
<tr>
<td>ADAPT</td>
<td>How can a negotiating party make its position as strong as possible given the context and the strength of the negotiating party?</td>
<td>Hungary should adapt its position to the context of being a small country negotiating with a superpower, like the USA. So it cannot adopt a ‘jujitsu type’ of negotiating strategy, but it should firstly focus on establishing good relationships with the USA and the other OECD countries, which sustain the proposal. In this way, they could perceive Hungary as being a collaborative negotiator.</td>
</tr>
<tr>
<td>TOLERATE</td>
<td>How much and what as a maximum can the party to be represented in a negotiation process ‘give in’ or tolerate from the opposing negotiation party given the position of that party?</td>
<td>Hungary should be able to accept that it cannot have a very big say in the OECD context, and tolerate the fact that some countries ‘count’ more when dealing with policy setting in multinational environments. Nonetheless this is not a reason for the country to leave the tables of discussion.</td>
</tr>
<tr>
<td>ESTABLISH</td>
<td>With whom can the party to be represented build or strengthen relationships to find support in the negotiation process?</td>
<td>A proper strategy for Hungary could be to try to establish as more connections as possible with countries which have a similar economic model of attracting capital, in particular the Visegrad countries, which are its closest partners. Hungary should not isolate itself from the European members which are in favour of the global minimum corporate tax, but looking for common interests: for example an increased role of the European Union as a multinational political actor.</td>
</tr>
</tbody>
</table>
3.2 The DEAL concept

A second concept that we propose in preparing for international negotiations is DEAL, which is an abbreviation of the following four steps: Do, Enhance, Anticipate, Leverage. The first step, Do, involves pro-active pre-negotiations actions that provide a solid basis for the position taken in a negotiation process. The key question to be answered here is: what needs to be done to build and defend the chosen position or proposal in a negotiation process?

The Enhance-step entails activities to ‘push the envelope’ so to speak with the outcome of step 1 (Do). Once a strong argument has been built based on solid information then this can be used to convince partners or collaborative networks or platforms to strengthen the position in the negotiation process. The key question to work on in the Enhance step is: how can the solid argument build in the DO-step be used to build wider support for the position in the negotiation process?

The Anticipate-step in a pre-negotiation phase is about identifying and creating awareness regarding the arguments and the supporting partners of the negotiation partner. This is important since it reduces the risk of being surprised during the process by the negotiation partner as well as being better prepared for the negotiation space, the room to manoeuvre and possibly how far the negotiation partner might be willing to give in. The key question in this step is: what needs to be known regarding the arguments, the background and supporting partners of the negotiation partner?

The fourth and final step, Leverage, involves considering, collecting and bringing to the table all the ‘weight’ that can be brought in such as rankings, economic performance, and unique features or competitive advantages. The guiding key question to be answered for this step is: what aspects can be brought to the negotiation table that will help to increase our ‘weight’ as a negotiation partner?

Table 2 illustrates how the four steps of the DEAL – concept work using the global corporate tax example as in the previous concept.

<table>
<thead>
<tr>
<th>DEAL concept step</th>
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<th>Example (Hungary and the Global Corporate Tax Agreement)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do</td>
<td>What needs to be done to build and defend the chosen position or proposal in a negotiation process?</td>
<td>Hungarian economists and policy makers should provide solid economic arguments in support to not change the corporate taxation system, or at least to not set a too high rate.</td>
</tr>
<tr>
<td>Enhance</td>
<td>How can the solid argument build in the DO-step be used to build wider support for the position in the negotiation process?</td>
<td>(1) Hungary should enhance the fact that OECD countries should move into a direction of strengthening their economic position, to the detriment of arising competing powers. (2) Another common aspect to enhance could be the damage that all these economies have suffered because of the pandemic. This represents a good motif to postpone the decision on the global minimum corporate tax, and shifting the multilateral discussion about the promotion of global interventions to help the economic recovery, and common strategies for the vaccination campaigns.</td>
</tr>
</tbody>
</table>
Table 2  The DEAL concept applied (continued)

<table>
<thead>
<tr>
<th>DEAL concept step</th>
<th>Key question to be answered</th>
<th>Example (Hungary and the Global Corporate Tax Agreement)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anticipate</td>
<td>What needs to be known regarding the arguments, the background and supporting partners of the negotiation partner?</td>
<td>Hungary should be aware of the fact that the most influencing powers of the OECD (USA, Germany, France, UK) seem in favour of approving the proposal. So Hungary should rely on a BATNA (Best alternative to a negotiated agreement): if the proposed minimum rate will be above 15%, Hungary will not adopt the minimum corporate tax and, instead, will promote bilateral trade agreements with Russia and China. In this way it will move its economic interests outside the influence of Western powers.</td>
</tr>
<tr>
<td>Leverage</td>
<td>What aspects can be brought to the negotiation table that will help to increase our ‘weight’ as a negotiation partner?</td>
<td>Hungary should leverage its good economic relationships with European countries, since 75% of its imports and 82% of its exports come from intra-EU trade. Hungary also has good trade relations with the USA, ranking at the 50th position as a US trade partner. Hungary’s strategic location in Europe, access to EU markets, highly skilled and educated workforce, sound infrastructure, lower business taxation and lower wages have led numerous multinational companies to locate their facilities there.</td>
</tr>
</tbody>
</table>

3.3  The TRUST concept

The third concept that can be used in preparing for international negotiations is TRUST. This abbreviates the following five steps: Trust, Rehearse, Underline, Share, Tackle. The first step, Trust, entails the attitude of having trust in the negotiation partner and in the partners that are supporting you in the process. Without trust in the process and the parties involved, a negotiation process is very likely to fail. Distrust feeds suspicion and as a result in loss of focus on the negotiation process. The key question to be answered is: how can we ensure ourselves that we enter the negotiation process with trust in the negotiation partner, its partners and in the process ahead?

Rehearse, the second step, is important since rehearsing the negotiation process and the strategy to follow increases the likelihood of success enormously. This step involves therefore setting up andreserving sufficient time for practicing the negotiations ahead for example by a role play and serious gaming. The key question therefore is: how can the negotiation process ahead be rehearsed with sufficient time and in as close as possible similar setting as the negotiation process ahead?

Underline, the third step, involves the tactic to put emphasis on a constructive and engaging process rather then working in terms of a ‘no’ against any proposal that does not match the own proposal. The goal is to get into a positive dialogue, not entering a process in which only positions will be announced and stressed. It is smart to stress the existing relationship and bond that the negotiation partners already had before the process started. The key question in this step is: how can the negotiations process be turned into a constructive dialogue rather than stating and repeating the own position?

Share, the fourth step, entails preparing and considering the best alternative to a negotiated agreement (BATNA) ahead of the negotiations. In a final move in the negotiation process, the BATNA could be shared (put on the table) with the negotiation
partner during the process. The key question therefore to be answered for this step is: what is the best alternative to a negotiated agreement (what is the second best end result if the wished for end-result may seem a step too far for the negotiation partner?)

The final step, tackle, involves finding partners that support the position taken in the negotiation process. In the case of international negotiations this can be other countries, partners in international networks, businesses, non-governmental organisations and civil society groups. Bringing this supporting partners directly or indirectly to the negotiation table strengthens the position and therefore the likelihood of getting what is wanted. The key question to be answered for this step therefore is: which parties and partners can be identified and invited to support and use their influence in order to increase the chances of reaching an agreement as wished for?

Table 3 will summarise the five steps and will illustrate how they can be applied using the global corporate tax negotiations as an example.

Table 3  The TRUST concept applied

<table>
<thead>
<tr>
<th>TRUST concept step</th>
<th>Key question to be answered</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Trust</td>
<td>How can we ensure ourselves that we enter the negotiation process with trust in the negotiation partner, its partners and in the process ahead?</td>
<td>Hungary should have trust on the support of other parties (like OECD countries that would be damaged by the approval of the 21% rate global minimum corporate tax and multinational companies that would have to pay higher taxes), but also on the willingness of the Biden administration and of the pro-countries to find a common solution, without engaging into a positional negotiation.</td>
</tr>
<tr>
<td>Rehearse</td>
<td>How can the negotiation process ahead be rehearsed with sufficient time and in as close as possible similar setting as the negotiation process ahead?</td>
<td>The negotiators representing Hungary’s point of view should be well prepared and rehearse before the negotiation. In particular the minister of Foreign Affairs and Trade and the minister of Finance should prepare a negotiation strategy to discuss the proposal with their counterparts, from other OECD countries.</td>
</tr>
<tr>
<td>Underline</td>
<td>How can the negotiations process be turned into a constructive dialogue rather than stating and repeating the own position?</td>
<td>Instead of entrench with a strict ‘no’ to the proposal, Hungary should engage itself into a constructive discussion about the global minimum corporate tax, underlining its disadvantages for small and medium OECD economies. But, it should also underlines the common economic interests of attracting investments.</td>
</tr>
<tr>
<td>Share</td>
<td>What is the best alternative to a negotiated agreement (what is the second best end result if the wished for end-result may seem a step too far for the negotiation partner?)</td>
<td>Hungary should eventually share its BATNA, since its bargaining power is limited with respect to the countries most in favour of the proposal (G20).</td>
</tr>
</tbody>
</table>
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Table 3 The TRUST concept applied (continued)

<table>
<thead>
<tr>
<th>TRUST concept step</th>
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<th>Example (Hungary and the Global Corporate Tax Agreement)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tackle</td>
<td>Which parties and partners can be identified and invited to support and use their influence in order to increase the chances of reaching an agreement as wished for?</td>
<td>Hungary could obtain greater bargaining power if it would be able to take on its side powerful multinational corporations. There is a strong presence of large companies in the country. According to the European Foundation for the Improvement of Living and Working Conditions, in Hungary MNCs employ 35% of the private sector workforce and produce 60% of the GDP and 65% to the export of the country. Hungary ranks second in the EU for the presence of large enterprises (according to the percentage of gross valued added)</td>
</tr>
</tbody>
</table>

Now that we have explained the three concepts we will move on to reflect on their application and usefulness in international negotiations. Furthermore, we will lay out a short agenda for research on these concepts.

4 Conclusion, reflection and research agenda

In this paper, we introduced and explained three concepts for international negotiations: DATE, DEAL and TRUST. These concepts are entirely practice based, that means that we developed them based on our own experience in international negotiations. The purpose is to provide tools for international negotiators, e.g., diplomats, government leaders, international business leaders, to prepare in the best possible way in order to ensure the highest chance of success. And success in international negotiations means getting (as close as possible) what is wished for plus still maintaining a good relationship with the negotiation partner. If one negotiation partner gets exactly what it wants while breaking or damaging the relationship with the negotiation partner, it may backfire in a later stadium, in other settings or in future negotiations.

But when to use which concept? The three concepts, DATE, DEAL and TRUST, can be used interchangeably and based on personal preference. All of them comprise the same elements that are key for a good preparation for international negotiations, however, in a different sequence and with slightly different angles. That is the strength of the concepts provided: they cover the same key components though each of them with a different touch, so to speak, up to the negotiating party’s preference. However, if these concepts are used in combination, then this may be the very best preparation for international negotiations.

One of the major issues in international negotiations is national culture differences. There is a vast amount of literature on the concept of national culture, but Geert Hofstede is for sure the most cited and well-known scholar on this phenomenon. His work makes it insightful and understandable how cultures differ from each other and as a result how these differences impact international (read: cross-cultural) collaboration and negotiations (e.g., Hofstede, 2011). For example, one of Hofstede’s key insights is that national cultures differ regarding the role of power and hierarchy and the perceived
distance between those in higher and lower ranks and positions. In cultures that score high on power distance, as Hofstede’s work would explain, negotiation partners would need to show more respect, use more formal interpersonal communication styles than in cultures that score low on power distance. Overlooking these differences may make a negotiation process to fail right from the start.

The concepts introduced in this paper do not explicitly refer to national culture differences, however while working along the steps and answering the key questions, respecting and incorporating national culture differences will be dealt with. It would be highly relevant that new research would be initiated with these concepts as introduced in this paper. They are grounded in practice, we believe that they work, but that is obviously our biased view. Therefore, with the help of well-established research designs the practical effectiveness can be tested and the concepts can be improved, refined and enriched. Research questions such as which of the concepts works best in what kind of situation, how do national culture differences impact the effectiveness of the concepts and how can the concepts be combined in order to achieve a maximum preparation for international negotiations are highly interesting, relevant and would contribute to a better understanding of this very complex and dynamic phenomenon called international negotiations.

References

