Teaching International Business Negotiation: Reflections on Three Decades of Experience

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Abstract
The author has taught international business negotiation in a wide variety of university courses and executive training programs throughout the world during the last three decades. He has taught international business negotiation both as an end in itself and as a means to teach law, an approach that he calls “the law in the shadow of negotiation.” This article examines three fundamental dimensions of that experience: pedagogical goals, course content and teaching methods. His principal pedagogical goals in international business negotiation courses have been three-fold: better negotiation analysis, improved negotiation skills, and increased international business knowledge. Depending on the time available, the content of his international business negotiation courses covers three broad areas: the fundamentals of conflict analysis and the negotiation process, basic themes in international negotiation, such as the importance of negotiation, preparation and the management of internal negotiations, and the special obstacles faced in international business negotiation, such as cultural differences among the parties, the actual or potential role of governments in the negotiation process, and challenges to the stability of negotiated agreements. The author’s teaching relies heavily on experiential methods and materials, such as exercises, simulations and cases, although more didactic methods also have a role.

Keywords
International business negotiation; transactions; simulations; debriefing; culture; contracts; relationships; deal making; pedagogy; experiential learning preparation; contractual instability; arbitration; dispute settlement

I have taught international business negotiation in law schools, business schools, graduate schools of international relations and executive training programs in the United States, Europe, Latin America, Asia and Africa for thirty years. My

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teaching has taken place in academic courses within university degree programs, as well as in various types of executive training modules, including those offered by continuing education providers, such as the Program on Negotiation at Harvard Law School, the American Bar Association, and the Center for American and International Law, ad-hoc courses sponsored by international organizations, such as the World Bank and United Nations agencies, and in-house programs exclusively created for and delivered to employees of specific companies and law firms. The purpose of this article is to reflect on that experience and to draw from it lessons that others engaged in teaching international business negotiation might find useful. The article will examine three aspects of that experience: pedagogical goals, course content, and teaching methods.

Pedagogical Goals

The courses and programs in which I have taught international business negotiation divide themselves into two basic categories: 1) those in which I taught international business negotiation as a means to teach another subject, rather than as an end in itself; and 2) those in which I taught international business negotiation as an end in itself. The pedagogic goals of each type of course are different, although by no means totally separate and distinct, so I will consider each of them individually.

Teaching International Business Negotiation as a Means: Law in the Shadow of Negotiation

As a teacher of legal subjects in schools of law, business, and international relations, as well as in special programs for lawyers, my principal task has been to explain the complexities and significance of various types of international legal transactions and institutions, from joint ventures between companies to investment treaties between states. In teaching similar material, law professors have traditionally employed analysis of legal rules, using related jurisprudence and doctrinal commentary. The result, in my judgment, has often been a law course that is static in nature and does not fully reveal the dynamic quality of these legal transactions and institutions, neither with respect to the way they come into existence nor the way that they function in reality.

International legal arrangements, institutions, and transactions are usually the product of a negotiation, and their application to complex and sometimes unanticipated situations in real life is often the result of a negotiation between affected parties. For example, a project financing contract to build an power plant in India requires a complex set of negotiations among the project sponsor, construction contractors, banks, governments, and community groups, and the
implementation of that contract will also require countless negotiations if the power plant is actually to come into existence and deliver electricity.

Beginning in the late 1970's, in addition to traditional doctrinal approaches to teaching international law, I began to use negotiation analysis and concepts as a means to explain such transactions, and I also developed simulations and other types of experiential teaching materials that involved law students in negotiation as a way to learn the subject matter. Negotiation thus became a lens through which students and professor examined a wide variety of legal arrangements in different law courses. Negotiation scholars have for some years written about “negotiating in the shadow of the law” (e.g. Mnookin and Kornhauser 1979; Cooter, Marks, and Mnookin 1982), the idea that the legal rights of the parties affect their negotiation outcomes. My approach has been to teach law in the shadow of negotiation, the notion that negotiation strongly affects the content of legal arrangements and their implementation.

An illustration of this approach is a simulation that I developed for my courses on International Investment Law, International Business Transactions, and Law and Development. In those courses, I normally discussed the role of bilateral investment treaties, commonly known as BITs (Salacuse 1990; Salacuse and Sullivan 2005), some three thousand of which now influence international capital flows. To teach this subject, I wrote a simulated BIT negotiation between two fictitious countries, Industralia, a developed European country, and Agraria, a poor developing nation. In this simulation, students are organized into negotiating teams representing the governments of each country, are given background information on the political and economic situation and policies of the two countries, and confidential negotiating instructions from their respective governments. They are then asked to negotiate a BIT based on Industralia’s model, adapted from the model BIT used by the United States government in its own BIT negotiations.

The exercise usually takes place over a period of a week and two class sessions. An initial class session discusses the legal nature of BITs and their role in international relations, after which students are given their assignments and asked to negotiate a BIT during the ensuing week. At the conclusion of negotiations, each team submits a memorandum to their respective governments explaining the advantages and disadvantages of the negotiated treaty text and how and why they made it. If they did not reach agreement, their memorandum is to explain why they failed. The second class session is devoted to debriefing the students’ negotiation experience, examining such issues as how they prepared for the negotiation, their opening moves, the nature of the parties’ interests, the various trade-offs they had engaged in, foreseeable problems of implementation, and whether or not their governments would actually approve the treaty texts they had agreed upon, among other things. The result of the exercise is that students
learn important issues of substantiative international law, such as treaty provisions on expropriation and monetary transfers, but they also gain a relatively sophisticated understanding of the process of negotiating treaties between countries, a process that many of them will actually engage in during their careers as diplomats, international lawyers, and government officials. I have also used the approach of teaching law in the shadow of negotiation to teach about a wide variety of other legal arrangement and transactions, such as international sales contracts, distributorship agreements, arbitration clauses, and joint ventures.

The use of negotiation analysis and techniques to teach international law and international relations enriched the study of those subjects in several ways. First, it conveys more clearly to students the reality and dynamic quality of legal institutions and transactions than does a traditional course which often portrays them as static and theoretical. Second, it enables students to understand graphically the process by which legal transactions and institutions come into existence, a topic rarely touched upon in traditional law courses. They see clearly that international transactions and arrangements, such as sales contracts and investment treaties, are not pre-established, fixed forms, but rather are the product of complex bargaining and tradeoffs among the parties. That understanding leads to insights as to why particular rules and provisions set down in such arrangements are the way they are. They also learn that legal rules and institutions, once established on paper, do not automatically affect human behavior in the ways originally contemplated, but that afterwards additional negotiations are often required before governments conform their actions to treaty provisions and corporations implement contractual clauses.

Third, the negotiation process, particularly through simulations, confronts students with the need to understand the legal and business details of international transactions and thus educate themselves in a new way on issues that they had only studied in legal cases and in scholarly commentary. They cannot effectively negotiate a legal arrangement unless they know the applicable law. For example, for students to negotiate financing, delivery, and dispute settlement clauses in an international sales contract, they first need to understand the nature and significance of the rules governing letters of credit, documentary sales, and the enforceability of arbitration agreements.

Fourth, one of the basic goals of all schools of law, business, and international relations, as institutions of professional training, is to give their students skills that they will need to carry out future professional tasks. Negotiation skills are clearly indispensable to the professional activities that lawyers, international executives, diplomats and other international professionals will carry out. Using negotiation to teach about international legal and institutional arrangements is a way to introduce students to those skills. And finally, the use of simulations and role plays, common in teaching international negotiation, creates a more active learning environment that engages students more intellectually, meaningfully,
and emotionally with the material to be taught than does a traditional lecture or classroom discussion setting.

One may argue that pursuing these goals in a traditional law course has a cost in that it reduces the time and space that a law teacher should devote to orthodox considerations of important legal concepts and doctrine. Time is indeed a scarce commodity in any course; spending precious class time on negotiation principles and simulation exercises must mean that other important material cannot be taught. Critics would therefore say that using negotiation to teach law or international relations shortchanges students of other things that they need to learn. Certainly, introducing international negotiation into traditional law and business courses poses that danger. Nonetheless, my own experience has taught that with careful planning, instructors can manage both to teach their subject matter and use international negotiations to enrich it. What is gained in the process is well worth whatever is lost in traditional content.

In addition to employing negotiation to teach law, I have also used it to teach leadership in executive training programs as negotiation is the fundamental means by which leaders carry out their tasks.¹

Teaching International Business Negotiation as an End in Itself: The Search for Negotiating Effectiveness

Most of my international business negotiation teaching during the last three decades has taken place in courses whose purpose is to teach negotiation as an end in itself. The basic goal of those courses has been to increase the negotiation effectiveness of students. That goal has been strongly reinforced by the personal goals of the students who have taken those courses. Generally, the goals of my students over the years have been fairly consistent: to study negotiation in order to become better negotiators. Their goals have thus been pragmatic and career-related.

Virtually all of the students in my negotiation courses have either been practicing professionals or persons studying to be professionals. The range of these professional occupations has included lawyers, business executives, engineers, diplomats, military officers, and civil servants. They have taken courses on international negotiation out of a belief that what they learned would make them more effective negotiators in the professions they pursued.

While my students have not been uninterested in the theories of and academic literature on negotiation and conflict resolution, their interest in the theoretical domain of the subject has been driven essentially by a desire to enhance their own professional effectiveness. I have consistently tried to satisfy their pragmatic educational goals in my teaching for two reasons. First, these student goals

¹ I develop this approach in Jeswald W. Salacuse, Leading Leaders: How to Manage Smart, Talented, Rich, and Powerful People (AMACOM 2006).
are perfectly legitimate. To assist present and future lawyers, business executives, and diplomats to become better negotiators is a worthy and socially useful endeavor. Second, persons learn best what they want to learn. This insight holds particularly true for professional and pre-professional students who demand to see a link between what they learn and their future career activities. Any teacher, to be effective, should therefore try to capitalize on students’ own educational goals. At the same time, students’ professional orientation places a special obligation on the teacher to demonstrate constantly how negotiation and conflict resolution theory and concepts may helpfully apply in the situations that students will face in their careers.

In order to begin to meet these student goals as I perceived them, I had to answer a further question: What does it mean to be a “better international business negotiator?” The short answer to that question is: the ability to better achieve the goals and interests of the persons and organizations on whose behalf they negotiate.

What then will make students better international business negotiators? A consideration of this question led me to define the pedagogical goals for my international business negotiation courses. Three pedagogical goals emerged: 1) better negotiation analysis; 2) improved negotiation skills; and 3) increased knowledge of the substance of international business.

**Better Negotiation Analysis**

In order to enhance their negotiation effectiveness, students first of all need the ability to analyze the negotiation situations and challenges with which they may be confronted as professionals. An essential capacity that any good negotiator must develop, effective negotiation analysis is the ability to understand the challenges and opportunities, the constraints and obstacles, as well as the forces and factors creating them, which parties encounter in seeking to negotiate transactions and relationships that will advance their interests. An analysis of these factors leads to insights and knowledge about the strategies and tactics that international business negotiators should adopt to achieve their goals. It also leads to an understanding of the means to maximize the opportunities and minimize the obstacles in a negotiation. In short, negotiation analysis is the ability to think productively and creatively about the negotiation that one is confronted with. The desire to heighten students’ capacity in this domain has driven the content and teaching method of my negotiation courses.

**Improved Negotiation Skills**

The second basic pedagogical goal is to give students the skills – beyond the skills of negotiation analysis – to actually conduct negotiations more effectively. Such skills cover a broad range of activities and capacities, both intellectual and
personal. They include, among others, preparing to negotiate, planning and executing strategies and tactics, listening actively to other persons, building productive working relationships between the parties, communicating persuasively with other persons, devising creative solutions to problems, and developing and maintaining relationships that undergird any negotiated agreement.

My own research and observations indicate that the effectiveness of international business negotiators is not only explained by their intellectual attributes but by their personal qualities as well. A business negotiation, no matter how complicated, is an intensely personal activity. My teaching of international business negotiation skills has, in addition to the analytical and intellectual skills necessary for effective negotiating, also sought to teach students the personal, psychological, and emotional factors that can influence a negotiation positively or negatively – a point of emphasis that is often overlooked or minimized in other courses in professional schools.

Among the personal qualities to which I have attached importance in my teaching are the abilities to listen actively and empathetically to other persons, to control one’s emotions, to communicate persuasively, to work effectively in teams, to build relationships with other persons, to evaluate critically one’s own actions in a negotiation, and to be sensitive as to how a negotiator’s behavior affects and is perceived by other persons. In stressing the importance of observing and listening, I sometimes compare a good negotiator to a director in a television studio who must focus constantly on three different monitors showing the set from three different angles: Negotiators need to focus simultaneously on the words and actions of the other side, on their own words and actions, and on the impact of their words and actions on the other side. These personal qualities become particularly important in cross-cultural negotiations, which characterize nearly all international business dealings. Self-awareness by students of their own tendencies, biases, and prejudices contributes to heightened negotiation effectiveness and is thus another important goal of my courses.

Increased International Business Knowledge

The pedagogical goals of better negotiation analysis and improved skills relate primarily to negotiation as process. But negotiation effectiveness is equally about substance. All other things being equal, negotiators who have a command of the substantive business issues – for example the implications of currency risk in long-term concession contracts or the impact of depreciation rules on tax liabilities – are certain to be more effective at negotiating in the interests of their companies than negotiators who do not. Moreover, approaching a difficult substantive issue with knowledge increases negotiators’ confidence and makes them more willing to explore innovative solutions than negotiators without that knowledge, who tend to compensate by employing risk avoidance tactics and strategies.
For these reasons, a final pedagogical goal in my international business negotiation courses is to teach students relevant information about the substance of international business. Just as I use negotiation to teach law in my law courses, I use negotiation to teach the subject of international business to students in my international business negotiation courses. Although negotiation teachers, in emphasizing process, often downplay substance, experienced negotiators recognize that mastery of the subject matter of a negotiation is essential for negotiation effectiveness (Weiss 2008). Context profoundly affects the course of any negotiation, from arms control talks in Geneva to merger discussions in Detroit. The more a negotiator knows about the context, the more effective that negotiator will be.

Course Content

The specific content of a particular international business negotiation course varies according to the nature of the student body, the academic program in which it is embedded, and the time allotted for its delivery. Nonetheless, the content of courses that I have taught has generally covered three main topic areas to a greater or lesser extent: 1) the fundamentals of conflict analysis and the negotiation process; 2) general themes in international business negotiation; and 3) the special challenges and obstacles encountered in international business negotiations.

The Fundamentals of Conflict Analysis and the Negotiation Process

Since international business negotiation is after all a type of negotiation, my courses usually devote an early portion to the fundamentals of conflict analysis and negotiation. The amount of time spent on this material depends on the nature of the course, its length, and the background of the students. In a semester-long university course with students who have had little prior instruction in negotiation, I will devote two or three weeks to this topic; on the other hand, if students have already taken a course in negotiation, I usually cover this material quickly. In an executive seminar with experienced negotiators, I may summarize briefly or skip the topic entirely.

I normally begin by considering the nature of conflict, the ways of analyzing conflict, the social functions of conflict, the notion of conflict ripeness, and the various strategies that people use in dealing with conflict. Drawing on the work of social psychologists (e.g. Pruitt and Kim 2004), this portion of the course sometimes employs the “dual concerns model,” which reflects an individual’s desire to assert one’s own interests and the desire to cooperate in order to satisfy one’s interests, resulting in five distinct strategies or “modes” for dealing with conflict: assertion, yielding, compromise, avoidance, or accommodation. In connection with this conceptual background about conflict and strategies for deal-
ing with it, I often show students a three-minute video, *Hans Brandt*, which I wrote and produced. The video presents a dramatized problem that arises in a software development company. The viewer of the film is placed in the position of the leader of a software development team consisting primarily of relatively young, American workers. The team leader has worked hard to create a sense of cohesion among the group through a variety of means, including social events and staff meetings twice a week. Recently, as a result of an acquisition of another corporation, an older German software engineer, Hans Brandt, was assigned to the team, but he seems not to be an integrated member of the team nor does he participate in staff meetings. As the film ends, in a private meeting in the leader’s office, after being told that his new project has just been approved for funding, Hans declares to the team leader (the viewer) that he has decided not to attend staff meetings any longer since he needs the time to work on the new project. Thus, the leader is faced with the problem of how to deal with Hans.

At the end of the film, I immediately ask students what they would do about Hans if they were the team leader. I force them to make a decision by giving them a sheet outlining five approaches that reflect five basic strategies for facing conflict (i.e. assertion, yielding, compromise, avoidance, and accommodation) and ask them choose one. The class then analyzes the potential conflict between Hans and the team leader, probing its causes, evaluating its importance, and discussing approaches to solving it. I next take a quick poll among the students as to their initial choices for dealing with Hans, listing the results on a flipchart or overhead projector slide. Student choices are always dispersed among all five choices, and I ask the reasons that led them to choose a particular strategy over the others.

The class discussion then turns to a consideration of, among other things, the role of negotiation within organizations and, because of Hans’s German nationality, an introduction to the effect of cultural differences – an issue that will figure more prominently later in the course. At the end of the discussion of the nature of conflict and strategies for dealing with it, I sometimes administer the Thomas-Kilmann instrument (Thomas and Kilmann 1974) to students so that they may evaluate their own tendency to use a particular “mode” or strategy in dealing with conflict, thus underscoring the need for negotiators to critically examine their own actions and to understand their own tendencies in handling conflict, one of the pedagogical goals of my negotiation teaching.

If time permits, I may also discuss in class a short case setting out a particular conflict and consider possible ways of solving it. For example, “The Case of the Burial Ground on the Beach,” which I wrote, involves an agreement by a London-based developer, local partners, and the central government of Alba, an

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2) *Hans Brandt* (2003) is available from the Clearinghouse of the Program on Negotiation, pon.org. The film is accompanied by a long teaching note suggesting questions and approaches for using it in the classroom.
archipelago nation in the South Pacific, to build a large resort on a beach and surrounding area of a remote island. As construction begins, the project encounters significant protests and threats from nearby villagers because the beach is an ancient burial ground for their ancestors. The discussion first seeks to determine the identity of the parties to the conflict, and the students see that there may be many more parties with many more diverse interests than they first perceived: the foreign developer, the banks financing the projects, the local partners, various central and local government authorities and agencies, the leaders of the village, the young people hoping for jobs in the hotels, and other ethnic groups on the island and in the country. I sometimes designate individual students to assume the role of these parties and to express their interests and points of view. The discussion also leads to a further consideration of cultural differences and the role of non-governmental, non-business organizations in an international business negotiation.

Having covered the nature, causes, and analysis of conflict, I then consider the negotiation process and its application to international business. I often begin by asking students: “When you hear the word ‘negotiation,’ what immediately comes to mind?” Invariably, I receive many different responses, which I write on a flipchart or blackboard. “Compromise,” “conflict,” “struggle,” and “domination” are a few examples that emerge. I then suggest that the variety of answers indicates that students may already have formed a particular model about the nature of the negotiation process in their minds.

Drawing on various texts on negotiation (e.g. Fisher, Ury, and Patton 1991; Lax and Sebenius 2006; 1986; Lewicki, Saunders, and Barry 2005), the class then discusses models of negotiation, the difference between integrative and distributitional bargaining, the nature of roles and positions, interests, options, objective criteria, framing and reframing, and negotiating power in the negotiation process. To enable students to gain an understanding of the application of these principles, they engage in one or more simulated negotiation exercise that illustrates them. Relatively little of the content at this point in the course is exclusively international, but its purpose is to lay a foundation for material that comes later. Depending on the nature of the student body and the specific course, I begin to introduce the role of cultural differences into the negotiation process, a topic raised earlier by the Hans Brandt video and “The Case of Burial Grounds on the Beach,” by asking not only of how culture may influence negotiation, but whether the very concept of “negotiation” is culturally based, whether the literature on negotiation is ethnocentric, and indeed whether the emphasis that western schools and universities place on teaching negotiation and conflict resolution is after all just a product of western culture and values packaged in supposedly universal concepts.3 Through this discussion, I hope to provoke stu-

students to question their own assumptions about negotiation and conflict resolution and further prepare the ground for a consideration of culture in international business that will come later in the course.

**General Themes**

My international negotiation courses have been based on certain fundamental themes about the nature and role of negotiation in international business. I make these themes explicit to students throughout each international business negotiation course and show how they are present in various forms and guises in the material and exercises that are taught. Many of these themes apply equally to purely domestic business negotiations. They include the following:

**The Pervasiveness of Negotiation**

The first theme is that negotiation is a pervasive, ongoing process in all of international business and is fundamental to any international business activity; consequently, those persons who would engage in international business have to use negotiation on a day-to-day basis to carry out their activities.

Invoking specific examples, I underscore this point by showing how negotiation is a basic, continuing process throughout the life of any international deal or relationship. All international transactions are of course the product of a negotiation – the result of *deal making*. Although some people believe that negotiations end when the participants agree on all the details and sign the contract, this view hardly ever reflects reality. In truth, an international deal is a *continuing negotiation* between the parties to the transaction as they seek to apply the provisions of their agreement to unforeseen situations and to adjust their relationship to a changing international environment. No contract, particularly in a long-term transaction, can predict all eventualities that the parties may encounter, nor can any negotiation achieve perfect understanding between the parties, especially when they come from different cultures. If the two sides do encounter changes in circumstances, misunderstandings, or problems not contemplated by their contract – for example, how much to spend on advertising in a joint venture in China – they will need to resort to negotiation, at least at first, to handle their difficulties. In short, negotiation is a fundamental tool for *managing* their deal.

And when the parties to a deal become embroiled in genuine conflict – for example, the cancellation of a resort hotel project in Egypt or the demand by London banks for premature loan repayment – negotiation may be the only realistic tool to resolve the controversy, particularly if the parties want to preserve their business relationship. In times of severe conflict, negotiation becomes a means to *mend* a broken deal.

In the life of any international deal, one may therefore identify three distinct stages when executives must rely on negotiation to achieve their goals: *deal making, deal managing*, and *deal mending* (Salacuse 2003). This view of international
business transactions and relationships that stresses their fluidity and the constant need to manage them through negotiation is distinct from the traditional view among lawyers and others that contracts once signed are fixed and immutable (Salacuse 2001).

The Importance of Internal Negotiations

This tripartite typology only reflects the external negotiations conducted by international companies and organizations. A second important foundation to my teaching of international business negotiation is that all of the various external negotiations relating to a deal or relationship are the product of, or at least influenced by, a multiplicity of internal negotiations that go on simultaneously within each of the organizations that are parties to that deal or relationship. Students need to recognize that in their professional capacities they will almost always be negotiating on behalf of someone else – their companies, clients, organization, or governments. To conduct those external negotiations successfully, they must also understand that they will have to conduct multiple internal negotiations with numerous power centers within their own organizations – such as the engineering, marketing, and legal departments. This topic often leads to a discussion of the realities and complexities of corporate organization in international business.

Negotiating on behalf of another person or organization raises distinct challenges and problems that one does not face when negotiating only for oneself (Mnookin and Susskind 1999). My teaching of international business negotiation seeks to give students a grasp of the complexities of negotiating on behalf of others, including the challenges of determining fully their goals and interests, of communicating with them effectively, of recognizing and dealing with potential conflicts of interests, of managing their expectations, and of obtaining and retaining authority to negotiate for them. A fundamental issue in this respect is that the business negotiator throughout the negotiation must manage the tensions between the demands of their organizations, the demands of their negotiating counterparts across the table, and their own interests and judgments about what is possible and desirable to attain in a negotiation. To drive the point home, I sometimes ask students in debriefing certain simulated negotiations whether as negotiators they saw themselves as “soldiers,” who are merely carrying out the orders of a superior, or “architects,” who are designing a deal to meet their client’s interests and then have to convince the client of its advantages. This question inevitably provokes an interesting discussion on the issues surrounding a negotiator’s challenge in managing a principal for whom he or she is negotiating. Drawing on my work on the advising process (Salacuse 2000; 1995), I also consider the role of negotiators as advisors to the persons for whom they negotiate.

In order to explore further the implications of internal negotiations, the class discussion also looks at the problem from the point of view of the negotiator’s principal, the concerns that principals have when someone negotiates on their
behalf, and the techniques that principals employ to assure that their agents remain loyal to the principal’s interests. International business negotiators, while acting for others, also have their own interests. This factor raises the question of the “agency problem” in general, and the ethical obligations of international business negotiators in particular. Both are subjects with the potential for a rich discussion in the classroom. A possible classroom exercise in this regard is to consider a hypothetical situation in which students are asked to prepare negotiating instructions for another person who is to negotiate on their behalf. If time permits, one can also develop a short simulation in which principal and agent negotiate a set of negotiation instructions that the negotiator is to follow in negotiating with a third party.

Students without work experience often view organizations as monoliths. This discussion of internal negotiations is an opportunity to disabuse them of that idea and to enable them to see that within organizations there are usually competing groups with diverse interests, and that their internal competition for status and resources can have an impact on the external negotiation which negotiators have to accomplish. Miles Law of public administration, which holds that “Where you stand depends on where you sit” (Yoo and Wright 1994), applies equally to multinational corporations. For students with negotiation experience, the challenge for a teacher is not just making them aware of the problem, but of offering useful advice on managing tensions they face when negotiating on behalf of their corporations and the numerous constituencies within it.

**Contracts and Relationships as Negotiating Goals**

A third basic theme in my teaching is that the goal of international business negotiation is to create and manage both business agreements \textit{and} relationships. Many students, particularly in the United States, view the purpose of the negotiation as making some sort of a written agreement or contract. Although that view is especially pervasive among lawyers and law students, it does not reflect the reality of international business practice. A more accurate reflection is to be found in the constant refrain that I have heard throughout years of training and consulting with international business executives: “We spend lots of time and effort to negotiate business contracts, but once we sign them we put them in the drawer. After that, what matters is our relationship with the other side and we are negotiating that constantly.” Thus, contracts alone are not the purpose of international business negotiations. What is equally vital is the underlying business relationship between the parties that sustains the contract, and that too is the product of negotiation. While the contract in an international business deal is not unimportant, it is not the entirety of the deal.

At the same time, it is also important to recognize that different cultures place different emphases on the importance of these two phenomena of contracts and relationships in business dealings. Thus, negotiators from certain cultures focus
their efforts in an international business negotiation on achieving a signed contract, while others concentrate on creating the necessary business relationship. Not only does discussion of this topic enable students to understand the difference (Salacuse 1998a), but it also leads to a consideration of the effect of cultural differences on international business negotiations, a theme that keeps arising throughout the course.

**Negotiation as Process**

Negotiation is basically a process of communication by which two or more persons seek to advance their individual interests through agreement on some future action. Such negotiations may be explicit, as when two corporate teams from different countries sit down around a mahogany table to discuss forming a consortium to develop a multibillion dollar hydroelectric plant India, or they may be implicit, as when two engineers from different firms on a construction project meet over a cup of coffee to discuss a schedule for the arrival of excavation equipment at the project site.

One may define a process as “a progressive movement toward a desired end.” My international business negotiation courses focus primarily on process, on how best to move toward achieving the end that the parties desire. I attempt to help students analytically understand the process of negotiation, to develop a plan for moving toward a desired end, and to apply strategies and tactics for achieving it. For example, drawing on the work of Zartman and Berman (1982) within the context of diplomatic negotiation, I develop a three-phase model for business deal-making: 1) pre-negotiation, 2) conceptualization; and 3) detail arrangement, as is illustrated by the following diagram, Fig. 1 (Salacuse 2003: 17–20; 1991).

To teach the process of negotiation without reference to the substance of the matters subject to negotiation is a sterile exercise that does not convey the reality and exciting complexity of international business negotiations happening throughout the world. Negotiation is a practical tool that enables executives to manage the environment in order to achieve their aims. It is therefore important for students to understand something about that environment. Cases and simulated negotiations help to provide some of that background. I also draw on my own work (Streng and Salacuse 1986; Salacuse 2003: 277–90) in the field international business transactions to give further reality to the nature of international business and the international business negotiation process. In addition, to heighten the students’ appreciation of the relevance of negotiation to the contemporary practice of international business, I often seek to weave into the course important current events taking place in the world of international business. For example, the financial crisis of 2008–2009 was an opportunity to talk about the instability of international business arrangements and the frequent need to renegotiate them. The occurrence of a major international merger or
acquisition can prompt a discussion of the approaches to negotiating such deals and the role of negotiation in making them work once the merger agreement is signed.

**The Importance of Preparation**

In all my negotiation courses, I stress the importance of careful, systematic preparation as a key to negotiation effectiveness. I believe that one means to achieving the pedagogical goal of improved negotiation effectiveness is to give students the knowledge and skills to prepare themselves effectively for their negotiations. Thus, not only do I devote time at the beginning of each course to the methods and approaches of effective preparation, I reinforce its importance throughout the course, for example, by asking the following kinds of questions in debriefing simulations: How did you prepare for the negotiation? Based on your experience in the negotiation, how might you have prepared yourself better than you did? What lessons about preparation did you learn from your experience?

Preparation for an international business negotiation has at least two important dimensions. Negotiators must first of all prepare themselves, by gaining the

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**Figure 1. Deal-making phases.**

[Diagram of deal-making phases with stages and tasks listed.]
knowledge, information, and insights to effectively negotiate with another party. Thus, among other things, they must research the nature of the deal, obtain and evaluate information about other parties, thoroughly understand the objectives of their own organization, and contemplate options to put on the bargaining table at the appropriate time. In addition, negotiators need to prepare the ground, to shape the negotiating environment, by taking necessary preliminary steps such as making useful contacts and relationships or involving appropriate third parties that will foster a successful negotiation (Lax and Sebenius 2006: 53–116). I have tried to capture these two dimensions of preparation in “The Global Negotiator’s Checklist” (Salacuse 2003: 272–76), which I usually make available to students at some point during the course.

The International Business Context

Students cannot fully understand the nature and significance of international business negotiation without understanding something about the context in which such negotiations take place. While it is important for them to understand the process of negotiation, they cannot fully understand that process without understanding the substance of the negotiation. A negotiation is always about something. For example, to understand the negotiation of a joint venture or a merger, students have to understand what these arrangements are, why companies engage in them, and how the way in which they are structured can affect the expected benefits that the parties derive from them. Similarly, understanding the relationship of internal negotiations to the external negotiation process demands a grasp of corporate organization and decision-making. These factors require the teacher of international business to provide students with knowledge of the international business context. Just as international business negotiation may be used to teach substantive subjects, as discussed earlier in this article, substantive subjects are necessary to teach international business negotiation. Thus reading lists for international negotiation courses should include material on the related substance and context of international business and economic relations. I do not teach this material in one unit within the syllabus, but instead distribute it throughout the course.

The Special Obstacles to International Business Negotiations: A Comparative Approach

A significant challenge in teaching about international business negotiations is that they take myriad forms and demonstrate countless variations. How then is an instructor to teach the subject in a meaningful way? One way is to use a comparative inquiry approach. Comparative analysis, whether in the study of politics or sociology, is often a powerful lens to highlight and focus on the special nature of a particular phenomenon. My approach in teaching international business has been to try to identify the factors that differentiate international business nego-
tiations from purely domestic business deals, and then to focus on and organize the material around those differentiating factors. One may consider such factors as special “obstacles” or “barriers” to achieving agreement in an international business negotiation, for they have the effect of impeding, or in some cases preventing, the achievement of a negotiated agreement. My courses therefore consider the ways in which negotiators may overcome them in international dealings, as the ability to do so is, in my judgment, an attribute of negotiation effectiveness. My experience teaching the law of international business transactions has no doubt influenced this approach to teaching international business negotiation.

To illustrate the differences, I often begin this portion of the course by comparing and contrasting with students the negotiation of two transactions that are similar but for the fact that one is international and the other purely domestic, for example the negotiation of a long-term sale of a product between two firms from Texas and the negotiation of a similar supply contract between a company from Dallas, Texas, and another from Budapest, Hungary. I ask students what would be different about negotiating the two transactions. In this discussion, we identify differentiating factors that may create barriers that impede or obstruct an international negotiation and which effective negotiators must learn to overcome. Because one of the pedagogic goals of the course is to improve negotiation analysis, international negotiators must learn to recognize, analyze, and develop strategies to deal with these obstacles to succeed at their task. Seven of most significant differentiating factors between the two types of negotiation include: 1) the negotiating environment; 2) cultural differences; 3) foreign governments and laws; 4) instability and sudden change in international business relationships; 5) foreign organizations and bureaucracies; 6) ideological differences; and 7) multiple monies. These seven barriers constitute a basic structure for examining an international business negotiation, although the time devoted to considering each in a particular course varies. The three most important, on which this article will focus, are: 1) cultural differences; 2) foreign governments and laws; and 3) instability in international business relationships.

Differences in the Negotiating Environment

Negotiations do not happen in a vacuum. They take place in a specific environment, and the elements of that environment – place, time, and surroundings – can profoundly influence the course of discussions. In international deals, where the environment may be distinctly foreign to one of the parties, it may therefore constitute a barrier to arriving at a negotiated agreement. For example, a rather simple but often over-looked environmental issue is the effect on the negotiation of the parties’ need to negotiate through an interpreter. If time allows, I also consider the use of various media for negotiations, particularly email and video
teleconferencing, which have become increasingly common as supports in international business dealings but also present certain pitfalls.

Cultural Differences between the Parties

Cultural differences between the parties in a negotiation are a second potential barrier to effective international business negotiation, a subject that many scholars have considered (e.g. Cohen 1997; Brett 2001). International business transactions not only cross international borders, they also cross cultures. Culture is a powerful factor affecting how people think, communicate, and behave. It also affects the way they negotiate. Effective international negotiators need to understand and deal with the impact of cultural difference on their negotiation and any ensuing transaction. In teaching about the role of cultural differences in international business negotiation, I usually begin with a consideration of the nature of culture and the many different definitions that scholars have given it (e.g., Faure and Sjostedt 1993; Hall 1959; Hoebel 1972). For example, some emphasize the behavioral aspects of culture, while others stress the physiological dimensions. Students often take a restricted view of cultural differences as limited to the varying styles of communication at the negotiating table. This part of the course attempts to show the broad impact that culture can have on business systems by pointing out that that culture influences values, for example the tension between individualism and group solidarity, and that these value differences often create significant barriers to arriving at an agreement between international business negotiators and organizations.

I usually conclude this introductory part by offering a working definition of culture as “the socially transmitted behavior patterns, attitudes, norms, and values of a given community.” In this connection, I often use a power point diagram of “culture as an onion,” with behavior, attitudes, norms, and values forming concentric circles like layers of an onion (see Fig. 2).

The process of understanding the culture of a counterpart in a negotiation is similar to peeling an onion. The outermost layer is behavior, the words and actions of one's counterpart. This is the layer that a deal maker first perceives in an intercultural negotiation. A second, inner layer consists of the attitudes of persons from that culture toward specific events and phenomena – for example, attitudes about beginning meetings punctually or the appropriate format of presentations. Attitudes may become evident to a counterpart in an intercultural negotiation only after protracted discussions. Next are norms, the rules to be followed in specific situations. Here, a negotiator may come to realize that a counterpart’s seemingly rigid insistence on punctuality is not merely a personal idiosyncrasy but is based on a firm norm derived from that person's culture.

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4) See also the bibliography in Salacuse 2003.
The innermost layer – the core – consists of values. One of the essential characteristics of a value is the belief by an individual or a group that a specific conduct is personally or socially preferable to an opposite conduct (Frederick 1995: 88). The way meetings are conducted, representatives chosen, and persons rewarded are usually based on certain values that are important to the culture of the individuals involved. Differences in values are often difficult for negotiators to detect and understand. Indeed, the parties to an international negotiation may discover their value differences only after they have signed the contract and have begun to work together. Once discovered, differences in cultural values between partners in an international joint venture may lead to severe conflict and ultimately the failure of their enterprise, a factor that may explain why many international ventures have a short life.

Having explored the meaning of culture, the course then considers its significance in the domain of business. Drawing on the work of scholars like Hampden-Turner and Trompenaars (1993) and Hofstede (1980), I consider with students how culture influences the ways businesses are organized and operated. The work of these scholars is based on significant survey research showing how executives from different cultures perceive, interpret, and act upon difference business phenomenon. For example, with respect to group decision making, I demonstrate that some cultural groups such as the Japanese place a strong emphasis on consensus, while others such as the Italians attach much less importance to this value. At the same time, this work also leads to a consideration of the dangers of cultural stereotyping, the recognition that persons are not cultural robots, and that other factors, such as individual personality, circumstance, and organizational dynamics, among others, can also influence behavior. It is equally important to consider the fact that there are other kinds of culture besides ethnic and national. In negotiation, the professional and organizational cultures of

![Figure 2. Culture as an onion.](image-url)
the parties can also have a significant effect on the process. With regard to differences in negotiating styles among different cultures, both national and professional, I also expose students to my own research on the question drawn from a survey of over 300 negotiators from 12 different countries on their attitudes toward ten important factors in a negotiation, including negotiating goals (contract or relationships), personal style, risk taking, and contractual form (Salacuse 1998b; 1999).

As with other topics covered in my teaching, I usually involve students in an exercise that illustrates the role of cultural issues that arise in an international business negotiation. Two exercises in particular that lend themselves to this topic are Luna Pen, a Harvard Business School Case, written by Kathleen Valley and Michael Wheeler, and Medlee, a simulated negotiation written by Candace Lun under my supervision and available through the Clearinghouse of the Program on Negotiation.

Luna Pen is an exercise in which the student is placed in the position of a young American-educated, German executive with a German multinational firm, who is given the responsibility of trying to negotiate a settlement of a dispute with a Taiwanese company that is producing and marketing Luna Pens in violation of the German firm’s intellectual property rights. As the case unfolds from its beginning to its conclusion, students face a series of decision points at which they must choose among a range of options as to their next move. As the case progresses, cultural differences between the two sides begin to become evident and there is a need to decide how to handle them. The case not only lends itself to a discussion of the implications of cultural differences on a negotiation but also analysis of the phases through which a business negotiation passes.

Medlee is a simulated negotiation that requires more time than Luna Pen. Normally, in university courses, I brief the students on the exercise and organize them into teams at the end of one class period, give them a week to negotiate, and then debrief their negotiation experience during the next class period. Medlee involves a negotiation of a possible joint venture to distribute medical devices in Southeast Asia between two very different firms, MedDevice Inc, a Fortune-500, publicly-traded US manufacturer of medical equipment, and Lee Medical Supply, a small family-owned company in Thailand. An encounter between the Chairman and CEO of MedDevice and the owner of Lee Medical Supply has led to a memorandum of understanding on the proposed joint venture. A meeting has been arranged for a young MedDevice executive and one of Lee’s offspring, roles assumed by students working alone or in teams, to negotiate the details of the joint venture, relating to four issues: control and decision making, staffing, profit distribution, and dispute settlement.

The differences in the backgrounds and goals of the two companies, much of which stems from their differing national and business cultures, lead to significant conflict during the course of the negotiation. In struggling with these issues, students learn much about the nature of culture and its effect on a negotiation, and their experience creates a basis for rich discussion. At the end of the debriefing, I sometimes ask students to evaluate their negotiating counterparts by filling out a form I have developed called “Assessing Your Negotiating Style” (used in my survey research on negotiating styles) and then to share and discuss it with that counterpart, thus giving students an opportunity to see how they are perceived as negotiators by other persons.

In a variation of Medlee that I have used in negotiation training program for associates at a large New York City law firm over a day and a half, partners in the firm act as the principals (i.e. MedDevice CEO and the head of Lee Medical Supply), on whose behalf the teams of associates negotiate. As principals, the participating law firm partners give the associates their instructions and periodically, at specific times throughout the course of the exercise, confer with the associates negotiating on their behalf. This process gives students the additional experience of managing clients and other principals for whom they negotiate.

Foreign Governments and Laws

By engaging in international business, a company enters into a world of many laws and political systems. Moreover, governments, regardless of economic systems, are important players in international business. Dealing with these factors effectively can mean the difference between success and failure at the negotiating table; they are therefore another potential barrier to international business negotiation.

In teaching this subject, I begin by considering with students the wide variety of ways in which a government can influence an international business negotiation. Governments may be directly involved in deals as partners, customers, financers, and suppliers. Even if they are not actually present at the bargaining table, they are often in the background as regulators or agencies whose permission for the deal to go forward is essential. Moreover, virtually every international deal has potential political implications that a skilled international business negotiator needs to perceive and deal with. As a result, governments may intervene in a negotiation or transaction because of perceived political imperatives. Thus, it is important for a negotiator to understand not only the financial and economic implications of the negotiation, but the political implications as well. Toward this end, my courses often include readings on political economy, business-government relations, and international politics, as well as case studies, in which political and governmental factors figure prominently.

Does the presence of a government in a negotiation make a difference in negotiating a deal? As one experienced international deal maker told me: “Negotiating
with governments feels different.” It feels different because governments have special powers and constraints that private persons and companies do not. These special powers and constraints have an impact on the negotiation process (Salacuse 2008). For one thing, governments have the right to use force, and at the same time they benefit from an array of privileges and immunities. For another, they are often subject to rules and laws that private companies are not. For example, deal making with state corporations and agencies involves a host of special considerations that do not usually arise in negotiations between purely private firms. Laws or regulations may limit the freedom of contract of governmental departments and state corporations, for example by requiring them to use standard form contracts that include mandatory clauses on payment terms, insurance, and guarantees, to mention just a few. They may also be tied by rigid rules and regulations limiting the kind of transactions they may make. It is therefore important to understand the laws and regulations affecting the governmental department or state-owned corporation whose representatives are sitting on the other side of the table. In my international business negotiation courses, we examine the various roles and idiosyncrasies of governments as negotiating partners and counterparts, attempting to identify the differences, as well as the strategies and tactics that negotiators can use to reach agreement with governments. One issue is particularly salient: the effect of governmental presence on the stability of negotiated agreements.

Instability of International Business Relationships

At the outset of an international business negotiation, the parties are seeking through negotiation to build a stable business relationship; however, numerous factors, many inherent in the nature of the international system including war, revolution, economic crises, and natural disasters, may arise to destabilize and force changes in negotiated agreements and relationships.

Change, of course, is the one constant in life. Deal makers’ predictions at a negotiating table inevitably confront the realities of change later on. Changes in circumstances may make the parties unable or unwilling to act as their contract had predicted they would. Two key questions that I always raise with students are: 1) Why are international agreements unstable? and 2) What can negotiators do about the problem of instability?

Although changes in circumstances happen all the time in both domestic and international business, several factors heighten the risk of transactional instability in an international deal. First, because the international environment itself is so often unstable, international business dealings seem particularly susceptible to sudden changes, such as unexpected currency devaluations, coups, wars, and radical shifts in governments and governmental policies. Specific examples in the
last few decades include the disintegration of the Soviet bloc, Iraq’s invasion of Kuwait, civil wars in the Balkans, Russia’s default on its bonds, Argentina’s financial collapse, and the U.S. wars in Afghanistan and Iraq. These events have drastically affected the calculations of costs and benefits made in uncounted deals. As a result, expected payments were not made, contracts cancelled, and markets closed. Even if such dramatic events do not affect a deal, other factors may lead one of the parties to conclude that performance of its contract is no longer in its interest. As Raymond Vernon (1971) argued over three decades ago with respect to foreign investment projects, a bargain once struck will inevitably become obsolete for one of the parties, and issues once agreed upon will be reopened at a later time. Long-term agreements, in Vernon’s words, are “obsolescing bargains.”

Second, mechanisms for enforcing agreements are often less sure or more costly in the international arena than in the domestic setting. If a party faced with nonperformance by the other side does not have effective access to the courts to enforce the contract or to seize assets, the other side in a burdensome contract may feel it has little to lose by rejecting the contract or demanding renegotiation with an expressed or implied threat of outright repudiation. In short, lack of effective enforcement mechanisms reduces the costs of the other side’s nonperformance.

Third, as indicated above, foreign governments and government corporations are important participants in international business dealings. Legally or not, they often assert the right to repudiate or modify burdensome contracts on the grounds of protecting national sovereignty and the public welfare. In addition, the costs of pursuing a government for nonperformance may be higher and the likelihood of winning lower than in a suit against a private company.

A fourth factor creating instability is the imperfect nature of all contracts. The goal of any written contract is to express the full meaning of the parties’ agreement concerning their proposed transaction; however, the parties are inherently incapable of attaining this goal because, without perfect foresight, they cannot predict all the events that may affect their transaction in the future and, in any case, the transaction costs of making contracts limit the resources they are willing to devote to the contracting process. Even if the parties had perfect foresight and unlimited resources to draft a perfect contract, they have no assurance that a court or arbitration tribunal would apply their contract exactly as they had intended.

In international transactions, the problem of accurately negotiating and articulating the parties’ intent is particularly difficult because of their differing cultures, business practices, ideologies, political systems and laws – factors that often impede a true common understanding and inhibit the development of a working relationship. The world’s diverse cultures and legal systems attach different degrees of binding force to a signed contract and recognize varied causes to
justify avoidance of onerous obligations. For example, an American company in a transaction with a Japanese firm may view their signed contract as the essence of the deal and the source of rules governing their relationship in its entirety. The Japanese, however, may see the deal as a partnership that is subject to reasonable changes over time, and in which one party ought not to take unfair advantage of purely fortuitous events, like radical and unexpected movements in exchange rates or the price of raw materials.

In discussing these matters in class, I often give students background on the nature of long-term arrangements upon which much international business in based, such as thirty-year public service concession contracts, forty-year mineral development agreements, and multi-year distributorships, as well as the problems of trying to predict the eventualities that may happen over their very long lives. We then explore the potential causes for instability in such agreements and the techniques that negotiators may use to try to give stability to the agreements they negotiate. We next look at the forces that cause negotiated agreements to become unstable and the remedies and techniques available to the parties. This discussion normally leads to a consideration of the nature of international business conflicts and the methods for their resolution, the four main remedies being renegotiation, mediation, arbitration, and litigation. Drawing on my own experience as an international arbitrator, I often spend time discussing the nature of arbitration as a conflict resolution technique because of its prevalence in international business agreements, its widespread use to settle disputes, and the fact that most negotiation students are unfamiliar with it.

As a practical way of involving students in the problems of instability and dealing with governments, I often use the ENCO exercise,7 which I wrote. Based on an actual renegotiation between Enron and the government of the Indian state of Maharashtra, the exercise is structured as a series of decision points in the constantly changing relationship between ENCO, a U.S. energy company, and Maharashtra state with respect to the construction of a large electrical generating plant, the Dabhol Project, that ENCO will build on the basis of a power purchase agreement that obligates the Maharashtra State Electricity Board to buy all the electricity produced over the next twenty years. After construction begins on the project, events such as political protests, election campaigns, and the arrival of a new government, occur at various points, which raise concerns as to the stability of the power purchase agreement until ultimately a newly elected state government decides to cancel the power purchase agreement after ENCO has invested $300 million in the project. At each point in this evolving relationship between Enco and the government, participants in the exercise are

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7) Available from the Clearinghouse of the Program on Negotiation at Harvard Law School, pon.org.
asked to decide on the most appropriate course of action that the CEO of ENCO should take.

The exercise provides a basis for considering in concrete terms the role of governments in international business negotiations and the challenges of maintaining the stability of negotiated agreements. It is also an opportunity to introduce students to project finance, a common method of financing international infrastructure projects such as the Dabhol Power Plant. Thus, in presenting the case, I often give a short talk on project finance, its nature, use, risks and advantages. Among the teaching points that emerge from the discussion of ENCO are the following: all international contracts are potentially unstable, especially when governments are parties to those contracts; political change is a prime cause of contractual instability; enforcement mechanisms (such as international arbitration) in contracts can be important but at best, they are options (BATNAs) that may strengthen a party’s position in renegotiation; because international deals are a continuing negotiation, parties need to develop strategies for negotiating even after a contract is signed to help cope with change; a good negotiator knows the other side’s constituents and interests, as well as how they might change over time; an astute negotiator also needs to identify potential spoilers and develop strategies and tactics to handle them; and finally a deal will remain stable so long as both sides perceive that they are gaining from it.

**Ideological Differences**

Negotiators, like other persons, have ideologies that shape their actions and perceptions. Ideological differences among negotiators can complicate the process of reaching agreement.

**Foreign Organizations and Bureaucracies**

In virtually all international business negotiations, negotiators are seeking to make or manage deals between organizations. To do that successfully, they need to understand how those organizations function and how to work with them successfully. Foreign organizations and bureaucracies are often yet another barrier to international deal making. Class discussion of this topic examines the various ways differing organization forms – from a family-run business like the one present in Medlee, to a publicly traded multinational firms like ENCO – make decisions and conduct their negotiations with other organizations.

**Multiple Monies**

Unlike purely domestic deals, international business negotiations take place in a world of many currencies and monetary systems. The implications of this factor are always present in every international business transaction, as the parties
seek to deal with or avoid the risks and constraints that multiple monies present for their business relationship.

Teaching Methods and Materials

*Choices and Constraints*

The delivery of course content to students to achieve pedagogical goals requires appropriate methods and related materials. Fortunately, a teacher of international business negotiation today has a wide and rich selection of methods and materials from which to draw, and that repertoire has grown richer with the passage time, particularly when one compares the methods and materials available thirty years ago. One may roughly divide negotiation teaching methods and materials into two groups: 1) *didactic methods and materials*, which include texts, articles, and lectures, whose purpose is to convey information; and 2) *experiential methods and materials*, which encompass simulations and various other types of role-play exercises, whose aim is to enable students to learn by doing. Because of the importance of skill development as a basic goal in negotiation courses, teachers have relied on activity-based learning for many years and made it a central focus of their negotiation pedagogy (e.g. Honeyman, Cohen and De Palo 2009; Weiss 2008). Nonetheless, didactic methods also have a role in teaching the context of international business, in conveying negotiation and conflict resolution theory, and in helping students to synthesize what they have learned experientially in the classroom. The choice of particular methods and materials for a specific course and the appropriate mix of didactic and experiential methods and materials are always influenced by the constraints of time, place, and student body.

The pedagogical methods employed in university teaching necessarily differ from those in executive training because of the differing nature of the students involved and the differing amounts of time available for instruction. In a semester-long university course, students have the time to study extensive readings on negotiation and to discuss them in class. Thus, all of my university courses follow a structured syllabus and reading list, with specified materials that the students are expected to study for each class. The readings include both scholarly commentary on various aspects of negotiation, such as the nature of conflict or the impact of culture on negotiation, as well as case studies of specific negotiations. By the very nature of the subject, a reading list in international business negotiation must be interdisciplinary in scope, drawing on a wide array of academic subjects, as the topic of international business negotiation itself involves many disciplines. For example, the fact that much international business negotiation involves interactions with governments favors readings from political sci-
ence, and the fact that cultural differences strongly influence business negotiation leads to readings from anthropology and area studies.

An executive training program, which usually lasts no more than a few days, does not permit a similar approach. Participants do not have the time or the inclination to engage in extensive reading during the short time they are in the program, although I sometimes assign participants short readings to be completed before the their arrival at the program, such as *Getting To Yes*. For all my executive teaching, I prepare a packet of readings and negotiation tools for participants to peruse during the course, if there is time, and to take with them back to their jobs for possible use in their future negotiations.

On the other hand, participants in an executive training program often have a significant and valuable experience that an instructor can mine during the course and that also allows a rapid delivery of material, while university students are usually not similarly experienced either in business or negotiation. For example, in organizing some executive training programs, I have written to the participants before the course, asking them to bring to the program a negotiation problem they are facing or have recently faced, and to share it with the group attending the program. In a small executive training session, say less than fifteen persons, I will often begin the program by having the participants present their problems. As each is presented, I attempt to draw out critical themes and issues, for example the challenges of handling multiple internal negotiations or the complications of working with counterparts from other cultures, which the program will cover. This kind of introduction serves to build relations among seminar participants as they see they are facing common issues and problems; it also conveys the notion that the program agenda is designed to meet their needs and that they have helped to shape it. In large executive training programs, limitations of time will not permit individual presentations of problems by all participants. Instead, I organize participants into small groups of four to six persons and ask them to discuss their individual problems, choose one that is particularly interesting or common, and select a person to present it to the whole executive seminar.

Both of these approaches allow for a lively and informative discussion that provides a good introduction to the participants and the instructor of the concerns of those in attendance. Ordinarily, one could not engage in the same kind of discussion with inexperienced university students. At the same time, instructors using this method should be sensitive to the fact that a few executive participants may sometimes be reluctant to give full details of their problem out of concern not to reveal business secrets or a fear of negatively portraying themselves or their companies.

In general, my presentation of material in the classroom relies fairly heavily on visual representation, as I have found that visual images of any kind attract student attention and facilitate retention of the material taught. Moreover, some students seem to learn better visually than aurally. Thus for every class, I use
power point slides that illustrate or summarize the lessons learned during the class. For the same reasons, I also employ videos to the extent available of negotiations or of negotiators discussing their work. For example, the “Great Negotiator Project” of the Program on Negotiation at Harvard Law School has produced a series of videos, available from the PON Clearinghouse, in which the winners of the Great Negotiator Award reflect on their careers and experience.

In recent years, using actors and the resources of the audio visual department at Tufts University, I have experimented with developing videos of dramatized negotiation problems, which briefly present a conflict or problem to students and which I then use as a basis for discussing how students would solve it. Hans Brandt, discussed above, is an example of such a video. A dramatized problem normally engages students more actively in discussion than does a traditional written case, and also helps develop students’ perceptual skills – key assets for any negotiator. In a further attempt to simulate reality in the classroom, the video seeks to encourage students to react and make decisions in real time.8

Experiential Methods and Materials

The pedagogical methods that I have employed in both university teaching and executive training have been roughly similar in one important respect. They have relied heavily upon various forms of active learning and “learning by doing.” Thus, I make significant use of simulated negotiations, exercises, and case studies to teach international business negotiation in both university courses and executive training programs. It is my belief that these forms of experiential learning, when supported by appropriate readings in the academic literature and related class discussion, best achieve the pedagogical goals of teaching negotiation analysis and negotiation skills in university level courses, as well as in executive training modules. Another type of experiential learning consists of negotiation stories and anecdotes drawn from the actual experience of other persons. I have found that few techniques drive a point home in the minds of students as graphically as an anecdote that illustrates a negotiation principle. As a result, I collect such anecdotes assiduously for use in my teaching.

A principal goal in all my teaching over the last three decades has been to engage students’ minds, rather than merely pass on information and concepts. Experience has taught me that the most effective means of engaging students’ minds and inducing them to think deeply and creatively about negotiation principles and approaches is the use of simulations and cases. In discussing their negotiation exercises and in analyzing cases with students, I usually make strong efforts to develop a personal link between them and the situations they are

8 Two of these videos, Hans Brandt (2003) and Robyn and Luis (2004) are available from the Clearinghouse of the Program on Negotiation and Harvard Law School, see pon.org. I have also made a 90-minute, commercially produced video course: Negotiating in Today’s World: Successful Deal Making At Home and Abroad (Commonwealth Films 1993).
studying. Thus, I constantly ask about their motivations, goals and strategies in the various phases of their simulated negotiations. Likewise, in the discussion of cases, I ask what they would have done if they had been protagonists in the case and what they would have done differently.

The process of teaching a negotiation simulation or role play usually passes through four distinct stages: 1) setup; 2) preparation; 3) negotiation; and 4) debriefing. Student learning takes place in each stage.

**Setup**

Effective organization of a simulation is crucial to its success in achieving pedagogical goals. After an initial explanation by the instructor of the nature of the simulation, each student receives a set of written instructions which describes the role they are to play and the goals that they are to seek to achieve in the negotiation. At a minimum, a good setup requires that the students understand the nature of the task that they are to undertake and that they are assigned and organized into teams and negotiating groups appropriately. It is important that they understand the instructions. If students have not had experience with simulations in the classroom, as is often the case in many countries with no tradition of experiential learning, the instructor should explain why a simulation or role play is being used in the course and should find ways to make the students comfortable with the prospect. In courses with students from many different backgrounds and countries, I will try to organize teams that allow students with simulation experience and those without to work together. If possible, I also make an effort to insure that negotiating teams have a diversity of cultural background, professional experience, and personality types, because such diversity facilitates learning. The setup may also be an opportunity to provide students with information on relevant aspects of international business. Thus, in connection with the MEDLEE simulation, I often give a short “lecturette” on international joint ventures, and I usually precede ENCO with a brief presentation on project finance.

**Preparation**

Every simulation gives students a fixed amount of time to prepare themselves for their negotiation. The specific amount of time will depend on the nature of the simulation and the type of course in which it is used. Thus, a complex negotiation in a semester-long university course may allow students several days to prepare, while a simple exercise in a two-day executive training program may give them only twenty minutes of preparation time. In executive training, shortness of available time is always a constraint, requiring an instructor to strictly control the amount of time allotted to preparation, as well as to the ensuing simulated negotiation and its debriefing. In general, I have found that students organized into negotiating teams use the preparation period more effectively and derive
greater learning from it than students negotiating individually. The team interaction and the members’ diverse backgrounds lead them to think more effectively and creatively about the impending negotiation than they would alone. In addition, the fact that they are part of a team reinforces their sense of dedication to the simulation because they feel an obligation to their team members to make the team as successful as possible.

**Negotiation**

In general, the goal of this phase of the simulation is to give the students the experience of an actual negotiation with other persons, thereby enabling them to learn the skills necessary for conducting effective negotiations in international business. Depending on the nature of the course, the negotiations may take place during class time or at a time and place decided by the student negotiators. The former situation gives the instructor an opportunity to observe the negotiations but the latter usually does not. In any event, an instructor’s ability to observe is limited by the number of negotiations that are taking place at one time, thus requiring the instructor to move among them for short visits. Nonetheless, such visits enable the instructor to verify that the simulation is proceeding appropriately and often reveal incidents and issues that the instructor may use for teaching purposes during the debriefing. For example, I have found that those groups that spend the initial part of the simulation negotiating and agreeing on a negotiation process and agenda are more successful than those that do not. Similarly, those that discuss their basic interests early in the negotiation have an easier time in reaching agreement than those that begin by asserting rigid positions. In order to encourage students to think deeply about the negotiation experience in complex exercises, I often ask individual teams to write a memorandum on the experience for submission to me along with a draft agreement prepared jointly by the two teams.

**Debriefing**

The debriefing consists of a general discussion, guided by the instructor, among all the student negotiators in a classroom setting about their experience in preparing and conducting their negotiations. Learning in this phase takes place in two general ways. First, the students have an opportunity to reflect on and draw lessons from their own experience. Second, they also learn from the revealed diversity and systematic comparison of the experiences of other students who have done the exact same simulation. They perceive that some negotiating teams are more successful than others, and they come to understand the reasons for the differences. A key task for the instructor is therefore asking the right questions in the right order so as to draw out and expose to the group the nature of the experience that they have had in their individual negotiations. When stu-
students gather for the debriefing, their immediate desire is to learn of the substance of the agreements made in other groups and how those results compare with their own. Since my goal as an instructor is to teach negotiation analysis and skills, I focus instead on the students’ process experience and therefore hold in abeyance discussions of individual negotiation results for a time, an approach that heightens suspense somewhat and tends to retain student attention in the debriefing. I often conduct the debriefing by examining the various phases of the negotiation chronologically, beginning with the students’ preparation and organizational efforts before they actually negotiated with the other side, then proceeding to consider their opening moves in negotiation, their strategies, the issues they encountered, the sticking points, the various options attempted, and the agreements finally struck. Throughout the debriefing, in keeping with my pedagogical goal of better negotiation analysis, I persistently ask students to explain and defend the various actions they took throughout the simulation. Toward the end of the debriefing, I also ask students, if their role was to negotiate on behalf of someone else, how they intend to persuade their principals to accept the results of the negotiation and whether they think the agreements they have made will endure.

Conclusion: A Work In Progress

Teaching international business negotiation, while treating many special issues and obstacles, is best viewed as a branch of teaching general negotiation. A pedagogical goal of courses in international business negotiation should be to increase negotiation effectiveness of students by strengthening their analytical abilities, negotiation skills, and knowledge of international business. Since negotiation is above all a practical art, the use of practical exercises and simulations is an important means of developing these skills and abilities.

My teaching of international business, like that of many colleagues in the field, is to a significant extent personal and idiosyncratic, as it is based heavily on my own research interests, professional experience, and disciplinary training. Nonetheless, I believe that certain ideas and approaches outlined in this article may be useful to other teachers of the subject. At the same time, they should also recognize that I consider my international business negotiation courses, both in university programs and executive training seminars, to be very much works in progress even after thirty years.

References


Annex.

Syllabus: THE PROCESSES OF INTERNATIONAL NEGOTIATION

This course explores the processes, rather than specific substantive issues, of international negotiation and dispute resolution. It is divided into the following parts:

I. The Nature of Conflict in the International Arena
II. Negotiation Analysis
III. Getting To the Table: Prenegotiation
IV. Getting to the Table: Preparation for Negotiation
V. The Negotiations Proper: Power, Strategies, and Tactics
VI. Culture and Its Impact on Negotiations
VII. Negotiating With Governments
VIII. Follow-Up, Implementation, and Renegotiation
IX. Agents in Negotiation
X. Multilateral Negotiation
XI. Third Party Intervention: International Mediation and Arbitration

Requirements:

(1) Written Analysis

(A) Analytic advice memorandum

Students who wish to examine a current, unresolved conflict and how negotiation theory may be applied strategically by one of the parties may choose to write an analytic advice memorandum. A brief description of the conflict you have chosen is due on September 25.
**Part One** of the Memorandum consists of an overview of a current international conflict of your choosing. A handout is available on Blackboard which gives guidelines for the conflict overview, including identifying relevant parties, their positions and interests, BATNAs, etc. Its purpose is to provide an analytic foundation for understanding the conflict from a neutral perspective. Part One of the Memorandum is due on October 15 and may not exceed 10 pages in length.

**Parts Two and Three** of your Memorandum will be submitted together. They must be directed at a specific decision-maker who is a party (or potential party) to a particular negotiation within the context of the conflict. The goal of Part Two is to provide new insight to the decision-maker about how and why the processes of negotiation currently utilized are delivering sub-optimal results from that party's perspective, drawing on relevant negotiation literature and theory as appropriate. Part Three is your prescriptive strategy briefing for the same party to the conflict: in light of the data and new insight arising from parts One and Two of the Memorandum, how might that party more productively proceed with negotiations? Parts Two and Three are due on December 3. Together they may not exceed 25 pages in length double-spaced in twelve point type.

**-OR-**

**(B) Research Paper**

Students who wish to examine in depth a particular example of international negotiation, or a particular aspect of negotiation theory as applied to one or more international negotiations, may choose to write a research paper.

The first critical task for students writing a research paper is to pose a focused research question. A productive research question is typically bounded by a particular aspect of negotiation theory explored in the seminar (negotiation paradigms, coalitions, power, agency, third party roles, etc.), by particular parties (for example, intra-party vs. inter-party negotiations, or a particular sub-set of the larger negotiations), and by a specific time frame (the pre-negotiations, the negotiations proper, implementation, etc.). On October 9, students should submit to the instructor for preliminary approval a well-focused research question, as well as a one or two paragraph description of the anticipated analysis. On October 29, a preliminary framing of your analysis and a preliminary bibliography for the paper is due, not to exceed two pages.

The goal of the research paper is to provide substantial insight on the processes of international negotiation, drawing on the factual record and relevant negotiation theory as appropriate. What were the negotiation dynamics at work? How did they enable or undermine a successful negotiated outcome? How does
our analysis help us better understand either this particular negotiation, or this particular negotiation process? The final paper is due on December 3. It may not exceed 35 pages in length, double-spaced in 12 point type.

(2) Participation in online class forum

On Blackboard you will find an open class forum, organized by class topic. By 5 PM of Friday after any six classes of their choosing, students are required to submit an entry reflecting on the readings, class exercises, and discussions from that class. Students may include questions about the class topic under discussion; areas of disagreement; ideas that are deemed to be particularly salient; or application of seminar ideas to a particular international negotiation. Discussion (that is, responses to the entries of others) is also encouraged. Entries should not exceed 250 words (the equivalent of about one typewritten double-spaced page). Students should remember that entries are visible to the entire class, and that the standards of respect are the same in class and on line.

Required Readings:

The required readings for the course include the following two books:


READING LIST AND CLASS SCHEDULE

I. The Nature of Conflict in the International Arena (Session 1)

Required Reading:


Recommended Reading:


II. Negotiation Analysis (Sessions 2 and 3)

Required Reading:


Recommended Reading:


III. Getting to the Table: Prenegotiation (Session 4)

Required Reading:


Recommended Reading:


IV. Getting to the Table: Preparation for Negotiation (Session 5)


Recommended Reading


V. The Negotiations Proper: Power, Strategies and Tactics (Session 6)

Required Reading:


Recommended Reading:


VI. Culture and Its Impact on Negotiations (Session 7)

Required Reading:


Recommended Reading:


VII. Negotiating With Governments. (Session 8)

Required Reading:


Recommended Reading


VIII. Follow-Up, Implementation, and Renegotiation (Session 9)

Required Reading:


Recommended Reading:


IX. Agents In Negotiation (Session 10)

Required Reading:


X. Multilateral Negotiation (Sessions 11 and 12)

Required Reading:


Recommended Reading:


XI. Third Party Intervention: Arbitration and Mediation (Session 13)

**Required Reading:**


**Recommended Reading:**


