

NEGOTIATIONS SKILLS AND ETIQUETTE



**Fourth Negotiations Meeting on the Draft Integrated Coastal Zone
Management Protocol
Dar es Salaam , March 2019**

Summary of Presentation

Presentation Focus:

- ☐ How to conduct treaty negotiation
- ☐ Strategic negotiations issues

Steps and Phases in Multilateral Treaty Negotiation



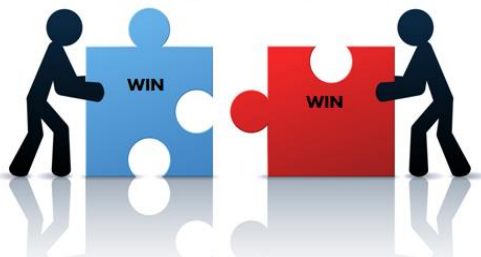
Pre-negotiation

- Problem identification, fact-finding, rule setting and organization of work, issue-definition, issue-framing, etc.

Formal negotiation

- Consolidation of country views, expression of initial positions, pre-formula building, formula building, coalition building, pre-bargaining, bargaining & adoption, etc.

NEGOTIATION



Post-agreement negotiation

- Adoption, signature, ratification, operationalization, implementation, review of implementation, new instruments, etc.

Characteristics of Multilateral Negotiation

Functions - (Assemblies/Conferences ((COPs/MOPs))

- Negotiate an instrument, decision, outcome or review progress

Outputs

- Binding, non-binding instrument, decisions, guidelines or outcome

Size - (actors, interactions)

- Multiple actors, roles, negotiations, interactions

Structures

- **Formal:** Plenary sessions, Standing or ad hoc Committees,
- **Informal:** Contact groups, corridor, work-caucuses

Process and procedures

- Opening, statements, organizational matters, decision-making
- Groups and Coalitions – Regional or Contact Groups
- EU, Africa Group & G77, Friends of the Chair, SIDs, etc

Conduct of Business

RULES OF PROCEDURE

❑ Importance:

- ✓ **shapes** structure, process and outcomes of negotiations
- ✓ **Preparedness** : Avoid unexpected procedural moves by other Parties or Chair
- ✓ Allows for more **flexibility** and responsiveness by Parties



Ignorance of ROP can lead to failures and frustrations with process - especially when discovered after key decisions have been made!!!

Rules of Procedure contd'

Interventions

- Delegates need Chairs permission to address meeting
- Speakers called in order of request
- Raise country 'flag' or press button
- Chair can limit number and time of interventions,
- Parties can make interventions individually or as part of group
- Write down the position before speaking

Points of order

- Formal question about whether an action by a delegate or Chair conforms to ROP
- May be raised at any time and Chair must rule before continuing further,
- No authority for "rulings" on matters of substance or process subject to Parties,
- May be withdrawn before a vote unless it is amended

Rules of Procedure contd'

Motions

- Formal oral proposal on a matter of procedure e.g. **to begin, suspend or adjourn debate on agenda item or a meeting**;
- May be carried by consensus or vote

Proposals & amendments

- Parties make proposals and put forward amendments
- May request text from a chair or secretariat
- **Point to Note:** Never contradict statements made by your country colleague – these statements are made on your behalf!!.

Rules of Procedure cont'd: Negotiation Etiquette

Use your intervention to:

- Propose a position
- Elaborate upon statement or present additional arguments for others/yours
- Explain why the issue is of concern to your delegation
- Provide support to previous speakers who have expressed a viewpoint with which you agree.

When you agree;

- Save time by referencing positions taken or arguments made by others
- Note the areas in which you agree.

When you disagree with what another speaker has said;

- Refrain from naming the country (do not personalize positions)
- State your position affirmatively
- Raise difficulties posed by other position for achieving agreed ends

Rules of Procedure cont'd: Negotiation Language

- Key terms and phrases:

- “**May**” is permissive and discretionary on a country and creates no obligation to carry out an action

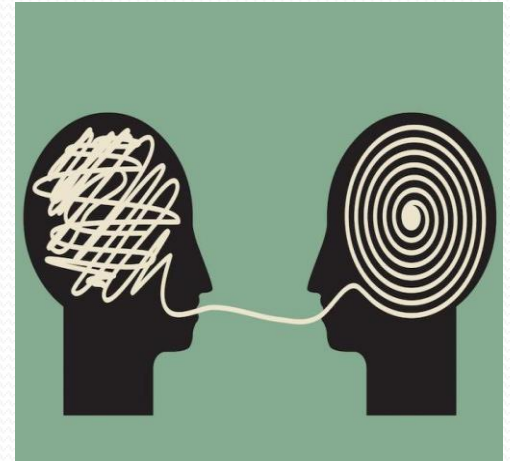
- “**Must**” is required to take an action. “Must” is almost always legally binding.

- “**Shall**” means an action is required, and is almost binding. Unless “shall” is used with another word that weakens its strength – e.g. “A Party shall endeavor to do x, y, or z”

- “**Should**” means an action is not required, but is advised

- e.g. a Party should try to do x, y or z

- **Beware!** A slight change in verb tense can make an enormous difference in the commitment that a country makes



Drafting Issues

Square brackets

- Connotes lack of agreement about text
- Including when a text has not been discussed
- When in doubt, they are an option instead of objection
- Help to focus discussions clearly set out options but over use can cause confusion and text management challenges!!

Mutatis Mutandis

- *‘with such changes as are necessary on points of detail’*
- Often reflects a general rule e.g. the COP ROP apply mutatis mutandis to SBs
- Can also lead to confusion if used as short cut in complex interrelated text

Inserting new paragraphs

- Numbering in proposed text retained
- New paragraphs: *‘bis’, ‘ter’, ‘quarter’, ‘quinque’*
- Numbering is then reconciled when the text is finalized (**often by the secretariat**)

Who is a good Negotiator?

- Well-prepared
- Shows patience, listens and controls emotions
- Is able to break bigger picture/ issues down into smaller ones
- Looks for interest-based decisions
- Uses respect and diplomacy
- Good language, strong analytical skills
- Knows well own country's interests and positions
- Knows positions of other States and coalitions
- Has knowledge of prior negotiations and their outcomes



How to Prepare Yourself

As a member of your country's delegation, you need:

- prepare thoroughly in-country long before negotiations take place
- have a good understanding of country's interests on issues under negotiation, and of other delegations or groups.
- identify most significant agenda items of priority interest to your country and focus closely on them

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Remember....

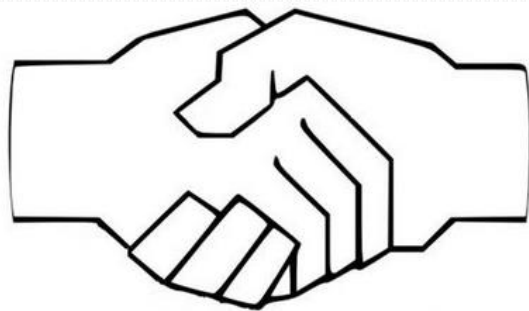
- ✓ Existence of other binding international agreement dealing with a related issue and implications of becoming Party
- ✓ Perspectives of various stakeholders (e.g. State or provincial governments, where relevant; NGOs, private sector interests)
- ✓ Create a forum for discussion and consultations inter-sessionally
- ✓ Develop a national position ideally with involvement of relevant national stakeholders
- ✓ Appoint a delegation, mobilize a negotiating team with various skill (size often dependent on funding)
- ✓ Prepare briefing notes – **for all back at home!**

And Lastly...

REMEMBER

A true victory in sustainable development agenda negotiations is one where “**all Parties**” regard the outcome as “**fair and equitable**” with “**all interests**” having been addressed in “**some way.**”

MWISHO



THANK YOU