

## Utopia-Newland Comprehensive Economic Partnership Agreement

### Exercise Outline

This exercise, developed from a text originally written by Geza Feketekuty, a former senior member of the US Trade Representative's team and an eminent teacher of economic diplomacy, simulates the first phase of a CEPA negotiation between Newland and Utopia issues.

Given below are the common facts, known to both sides. In addition each participant will get 'Confidential Instructions' that sets out the negotiating brief. At the end of the exercise we should analyze the result, to see how an optimum result might have been achieved if we studied the **(1) interests**, **(2) constraints** and **(3) priorities** of each; one should do this for oneself and for the other side.

#### Details

*Utopia* is a large developed country, while *Newland* is an advanced developing country, one-tenth the size of Utopia. An extensive economic relationship exists between them. A large number of people from *Newland* have migrated to Utopia, and this country also depends on its exports to Utopia. Many citizens of *Utopia* visit Newland and this tourism is a major source of income for Newland.

Both countries have problems of unemployment. *Utopia*, the richer partner has lost a number of jobs, and some of its industries are using non-unionized foreign workers. Consequently Utopia has reduced the number of short-term work permits; further, because of terrorism, it has tightened its visa procedures.

#### Issues

4 sticking points affect the CEPA; both sides are keen that before the President of *Newland* visits Utopia in 4 weeks time, a framework FTA agreement should be signed. This puts pressure on the negotiation teams. The issues are:

- *Utopia* wants that its **banks**, technologically advanced and enjoying a strong global competitive position, should gain access to Newland. These banks apply IT and have a strong ATM machines network, at home and in other countries. These banks want access to Newland, and have good political connections. *Newland* has hinted that liberalizing its restrictions on the entry of foreign banks is currently non-negotiable; its domestic banks fear foreign competition. Its Finance Ministry also resents the inclusion of banking issues in the CEPA, which is its own turf. But over time Newland wants to modernize its banks.
- A second problem is over the demand from *Newland* for more **short-term work visas** and improved visa procedures from Utopia; it has many graduates looking

for jobs abroad. Newland wants Utopia to accept them, both for the remittances that they would send home, and to reduce social discontent. Moreover, Utopia's restrictions on business visas have hurt Newland enterprises and the powerful commercial lobbies.

- The third issue concerns **labor standards**. As the richer partner, *Utopia* insists that Newland not gain economic advantage through its lower wages, and ineffective application of international ILO conventions. *Newland* disputes this, arguing that it has implanted all the standards it has signed; the few it has not yet signed, cannot be used as a political lever, as it plans to sign these in the future.
- The final issue concerns **civil aviation**. *Utopia's* national airline currently has 10 flights to Newland, and wants to double the number over the next year. *Newland* has only 7 flights to Utopia, and while its travel industry welcomes more flights, its national airline does not want to allow more flights, since it fears that these will lure away much of its existing traffic, since the Utopian airline has a much better reputation. The Newland Transport Minister is looking for ways to improve the operation of his national airline, and is hoping that Utopia may be able to help.

The task of the negotiators is to reconcile these different interests and objectives.

#### BACKGROUND: The Harvard Method: 'Principled Negotiation'

The background material given below, the Harvard Method may assist you. Please use it to refine your approach in the exercise.

After an extended study, Roger Fisher and William Ury [*Getting to Yes: Negotiating Agreements Without Giving In*, Hutchinson, London, 1981] identified a novel approach to bilateral negotiation as it applies to commercial enterprises and countries, which they call 'principled negotiation (PN). This is in contrast to what they have called 'positional bargaining' (PB) that frequently leads to blockage and impasse, when countries proceed from set positions and the negotiation becomes a battle of wills. Examples: In the early stages of the Kennedy–Khrushchev discussions on nuclear arms control, each side took adamant positions on numbers and scope of inspections, without looking for ways in which the concern of each could be addressed by looking at the inspection method and the real needs of verification. In the India–China border talks of 1960, each offered its own set position, making virtually no effort to identify commonalities or go beyond the formal stance.

Offered as a superior alternative, PN operates through 4 major elements.

**A. People.** "Separate the people from the problem". This means:

- Perceptions: put oneself in the shoes of the other side; discuss perceptions; act in a manner that challenges the perceptions of the other side; make proposals that are consistent with the values of the other side but not their perceptions.

- Emotions: recognize emotions and treat them as legitimate; don't react to emotional outbursts; use symbolic gestures.
- Conversation: listen attentively and ask questions; speak to be understood; speak about own self and not the behavior of the other side.

**B. Interests.** "Behind adversarial positions there lie interests that may be common. To satisfy interests usually several options are available." Example: at the 1978 Egypt–Israel Camp David talks, Egypt sought sovereignty over Sinai, Israel wanted security; the reconciliation came in de-militarizing much of Sinai.

- Identify interests: what are the basic concerns of the other side? What are the consequences, for the other side, of not doing what you seek? Realize that each has multiple interests.
- Talk about interests: the other may not know what you want; make own interests come alive; put the problem before the answer.

**C. Options.** "In trying to share the pie, one is operating only in a single dimension." There should be a creative search for options.

- Obstacles: premature judgment hinders imagination; assuming a fixed pie means looking for a single answer; solving the other side's problem is part of one's own problem; brainstorming can be used (this is very similar to the well-known de Bono thinking methods).
- Shared interests: they often lie latent; taking care of the interests of the other side makes it easier for them to do what one wants; opportunities have to be developed.

**D. Criteria.** "Looking to criteria may offer solutions."

- Prepare in advance: standards that are fair and legitimate; also fair procedures.
- Method: frame each issue as a joint search for criteria; reason and be open to reason; yield to principle, not pressure.

PN is clearly superior to PB. The challenge is to creatively apply these methods in real life situations and to develop procedures, approaches and styles that are based on one's needs.

A Political Example: The Anglo Irish Agreement of 1998, ended the active conflict in Northern Ireland; with all its delays in implementation, it has culminated in the formation of a joint government, and it can be said in 2008 that the peace process is now well entrenched, closing the past. It is a living model of this approach, partly because it involved innovative ideas. One of these concerns the eventual future of Northern Ireland, where it provides for a settlement to be worked out at a future, unspecified date, simply laying down basic principles that should govern this settlement. Both sides are confident that this is an optimal way of tackling positions too vast to be bridged for now; as an when mutual confidence is built up it may become easier to find a final settlement.

In current times, many agreements involve economics, and deal with issues of fine detail. Two principles that remain key in such negotiations are: a need to find commonalities, or

‘shared interests’, and the importance of exchanging information. Negotiators tend to assume that the other side knows their objectives; they also attribute to them their own methods, and ways of thinking. In practice this is seldom true. Also important is ‘active listening’, and open communication, of course within the bounds of confidentiality.

### Your Task

Please consider the following in your strategy:

- Look for solutions that address your own concerns as well as those of the other sides.
- Think ‘laterally’ (Edward de Bono method), and look to innovative ways.
- Examine your own assumptions, and realize that you will need to communicate well to the other side, expressing your needs.
- Keep in mind the sensitivities of the other side, the more so when you are dealing with a ‘weaker’ partner.

Please prepare a list of 4 or 5 points that will constitute your negotiation strategy, before you commence the actual negotiations. You are given 15 minutes for this task. This is followed by your negotiation session (about 40 minutes)

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