

# NATIONAL OPEN UNIVERSITY OF NIGERIA

# **FACULTY OF SOCIAL SCIENCES**

**COURSE CODE: INR 381** 

COURSE TITLE: INTERNATIONAL NEGOTIATIONS AND DIPLOMACY

# COURSE GUIDE

# **INR 381: International Negotiations and Diplomacy**

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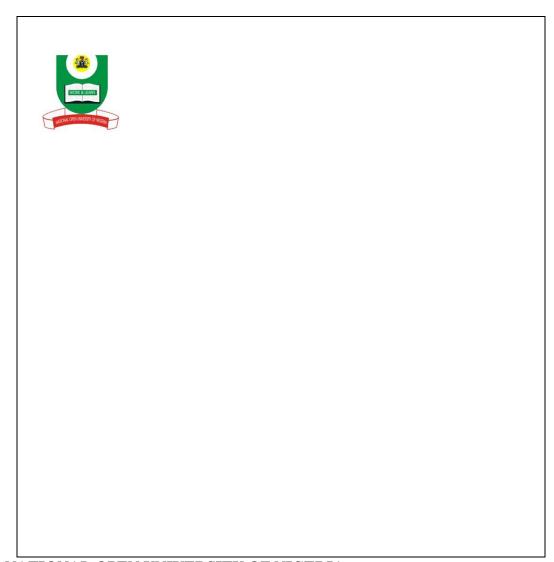
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#### INTRODUCTION

# Welcome to INR 381: International Negotiations and Diplomacy

INR 381 is a 3 unit course that has minimum duration of one semester. It is suitable for students of International Relations. This course consists of 20 Units. It offers a broad and practical introduction to the subject of international negotiation and diplomacy in the sense of "how to" be tactical in negotiation, and also how to engage in negotiations using the instruments of diplomacy in very differing contexts. This work can be helpful in conflict management, trade, climate change, negotiations between states and non state actors, whether in terms of bilateral or multilateral negotiations. The course also provides students with useful knowledge and skills that can also be helpful in dealing with conflicting groups within a society. Students of international relations and diplomacy should also not overlook the importance of maintaining appropriate interpersonal relationships among those who are actually engaging in the negotiating process.

There are compulsory prerequisites for this course. The course guide tells you briefly what the course is all about, what you are expected to know in each unit, what course materials you need to use and how you can work your way through these materials. It also emphasizes the necessity for tutor—marked assignments. There are also periodic tutorial classes that are linked to this course.

# WHAT YOU WILL LEARN IN THIS COURSE

The overall objective of **INR 381: International Negotiations and Diplomacy** is to expose the students to the whole gamut of issues surrounding international negotiations and diplomacy, especially in today's globalised world. It seeks to acquaint the student with the basic concepts of diplomacy, and negotiations, to differentiate between negotiation and diplomacy, history of diplomacy, diplomacy strategies for negotiations, the development of international negotiation, the links between diplomacy and negotiations on issues such as conflict, trade, climate change and diplomatic negotiations in context of regional and global institutions such as in the United Nations.

# **COURSE AIMS**

The basic aim we intend to achieve in this course is to expose the student to the theory and practice of international diplomacy and negotiation. The main focus is on the understanding, assessment, and application of various theoretical lenses for explaining bargaining strategies, processes and outcomes. This is undertaken with the understanding that the basic skills of diplomacy when properly applied in international negotiations can have a transformative impact on the global society as a whole.

# **COURSE OBJECTIVES**

Several objectives can be delineated from this course. In addition, each unit has specific objectives. The unit objectives can be found at the beginning of a unit. You may want to refer to them during your study of the particular unit to check on the progress you are making. You should always look at the unit objectives after completing a unit. In this way, you can be sure that you have covered what is required of you in that unit.

# ON SUCCESSFUL COMPLETION OF THE COURSE, YOU SHOULD BE ABLE TO:

- 1. Define the concept of international negotiation.
- 2. Define the concept of diplomacy.
- 3. Differentiate between negotiation and diplomacy.
- 4. Identify and discuss the various theories of negotiation.
- 5. Identify and discuss the various theoretical approaches to diplomacy.
- 6. Discuss the methods and procedures of negotiations.
- 7. Identify and discuss the various types and functions of diplomacy.
- 8. Discuss the history and evolution of diplomacy.
- 9. Identify and discuss the diplomatic strategies for negotiations.
- 10. Discuss the development of international negotiation.
- 11. Describe the characteristics of international negotiation
- 12. Discuss the roles of mediation, conciliation and good offices.
- 13. Discuss the role of international negotiations in conflict management.
- 14. Discuss the role of diplomacy in international trade negotiations
- 15. Discuss the roles of international environmental diplomacy in climate change negotiations.
- 16. Discuss the role of the media in diplomacy and international negotiations.
- 17. Describe the relationship between negotiations and international law.
- 18. Identify and discuss the practice of diplomacy and international negotiations in the AU and EU
- 19. Identify and discuss the practice of diplomacy and international negotiations in the UN.
- 20. To identify lessons for unilateral, bilateral and multilateral practice of diplomatic negotiation.

# WORKING THROUGH THIS COURSE

To complete this course, you are advised to read the study units, read recommended books and other materials provided by NOUN. Each unit contains self assessment Exercises, and at points in the course you are required to submit assignments for assessment purposes. At the end of the course, there is a final examination. The course should take you about twenty weeks to complete. You need to allocate your time in order to complete the course successfully and on time.

#### **COURSE MATERIALS**

The major components of the course are:

- 1. Course Guide
- 2. Study units
- 3. Textbooks and References
- 4. Assignment File
- 5. Presentation

#### **STUDY UNITS**

There are twenty study units in this course, as follows:

# **Module 1: Understanding International Negotiations**

- Unit 1 Definition of International Negotiation
- Unit 2 Theories of Negotiations
- Unit 3 Methods of Negotiations
- Unit 4 Procedures for Negotiations

# Module 2: International Negotiations and Conceptual Issues in Diplomacy

- Unit 1Processes for International Negotiations
- Unit 2 Definition of Diplomacy
- Unit 3 Theories of Diplomacy
- Unit 4Types of Diplomacy

# Module 3: Diplomacy: History, Functions, Strategy and Behaviour of States

- Unit 1History and Evolution of Diplomacy
- **Unit 2Diplomatic Functions**
- Unit 3Diplomacy and Negotiation Behaviorof States
- Unit 4Diplomacy Strategies for Negotiations

# Module 4: Contextual Issues in Diplomacy and International Negotiations

- Unit 1 Media, Diplomacy and International Negotiations
- Unit 2 Elements of International Negotiation
- Unit 3Negotiations and International Law
- Unit 4Diplomacy and International Negotiations in the UN

# Module 5:Regional and Global Issues in Diplomacy and International Negotiations

- Unit 1Diplomacy and Negotiations in Regional Organisations: AU and EU
- Unit 2 Diplomacy and International Trade Negotiations
- Unit 3International Negotiations and Conflict Management
- Unit 4 International Environmental Diplomacy and Climate Change Negotiations

Each unit contains a number of self-tests. In general, these self-tests question you on the materials you have just covered or require you to apply it in some way and, thereby, assist you gauge your progress as well as reinforce your understanding of the material. Together with tutor-marked assignments, these exercises will assist you in achieving the stated learning objectives of the individual units and of the Course.

#### TEXTBOOKS AND REFERENCES

At the end of each unit, you will find a list of relevant reference materials which you may yourself wish to consult as the need arises, even though I have made efforts to provide you with the most important information you need to pass this course. However, I would encourage you, as a third year student to cultivate the habit of consulting as many relevant materials as you are able to within the time available to you. In particular, be sure to consult whatever material you are advised to consult before attempting any exercise.

#### ASSIGNMENT FILE

There are two aspects to the assessment of this course. In this file, you will find all the details of the work you must submit to your tutor for marking. The marks you obtain for these assignments will count towards the final mark you obtain for this course. Further information on assignment will be found in the Assignment File itself, and later in this Course Guide in the section on assessment. There are many assignments for this course, with each unit having at least one assignment. These assignments are basically meant to assist you to understand the course.

#### ASSESSMENT

There are two aspects to the assessment of this course. First, are the tutor-marked assignments; second, is a written examination. In tackling these assignments, you are expected to apply the information, knowledge and experience acquired during the course. The assignments must be submitted to your tutor for formal assessment in accordance with the deadlines stated in the Assignment File. The work you submit to your tutor for assessment will account for 30 per cent of your total course mark.

At the end of the course, you will need to sit for a final examination of three hours duration. This examination will account for the other 70 per cent of your total course mark.

# **TUTOR-MARKED ASSIGNMENTS (TMAS)**

There are 25 tutor-marked assignments in this course. You only need to submit some of the assignments. The best four (i.e. the highest four of what you submit) will be counted. Each assignment counts for 20 marks but on the average when the five assignments are put together, the score will count 30% towards your total course mark. The Assignments for the units in this course are contained in the Assignment File.

You will be able to complete your assignments from the information and materials contained in the reference books, reading and study units. However, it is always desirable at this level of your education to research more widely, and demonstrate that you have a very broad and in-depth knowledge of the subject matter. When each assignment is completed, send it together with a TMA (tutor-marked assignment) form to your tutor. Ensure that each assignment reaches your tutor on or before the deadline given in the Assignment File. If, for any reason you cannot complete your work on time, contact your tutor before the assignment is due to discuss the possibility of an extension. Extensions will not be granted after the due date unless there are exceptional circumstances warranting such.

# FINAL EXAMINATION AND GRADING

The final examination for **INR 381: International Negotiations and Diplomacy**will be of three hours' duration and have a value of 70% of thetotal course grade. The examination will consist of questions, whichreflect the practice exercises and tutor-marked assignments you have previously encountered. All areas of the course will be assessed. Use the time between the completion of the last unit and sitting for the examination, to revise the entire course. You may find it useful to review your tutor-marked assignments and comment on them before the examination. The final examination covers information from all aspects of the course.

# COURSE MARKING SCHEME

Table 1: Course marking Scheme

ASSESSMENT	MARKS
Assignments	Four submitted, best three accounts for 30% of course marks.
Final examination	70% of overall course marks
Total	100% of course marks

# COURSE OVERVIEW PRESENTATION SCHEME

Units	Title of Work	Week	Assignment	
		Activity	(End-of-Unit)	
Course				
Guide				
Module 1	Understanding International Negotiation			
Unit 1	Definition of International Negotiation	Week 1	Assignment 1	
Unit 2	Theories of Negotiations	Week 2	Assignment 1	
Unit 3	Methods of Negotiations	Week 3	Assignment 1	
Unit 4	Procedures for Negotiations	Week 4	Assignment 1	
Module 2	International Negotiations and Conceptual Issues in Diplomacy			
Unit 1	Processes for international negotiations	Week 5	Assignment 1	
Unit 2	Definition of Diplomacy	Week 6	Assignment 1	
Unit 3	Theories of Diplomacy	Week 7	Assignment 1	
Unit 4	Types of Diplomacy	Week 8	Assignment 1	
Module 3	Diplomacy: History, Functions, Strategy and Behaviour of States			
Unit 1	History and Evolution of Diplomacy	Week 9	Assignment 1	
Unit 2	Diplomatic Functions	Week 10	Assignment 1	
Unit 3	Diplomacy and Negotiation Behaviorof States	Week 11	Assignment 1	
Unit 4	Diplomacy Strategies for Negotiations	Week 12	Assignment 1	
Module 4	Contextual Issues in Diplomacy and International Negotiations			
Unit 1	Media, Diplomacy and International Negotiations	Week 13	Assignment 1	
Unit 2	Elements of International Negotiation	Week 14	Assignment 1	
Unit 3	Negotiations and International Law	Week 15	Assignment 1	

Unit 4	Diplomacy and International Negotiations in the	Week 16	Assignment 1	
	UN			
Module 5: Regional and GlobalIssues in Diplomacy and International Negotiation				
Unit 1	Diplomacy and Negotiations in Regional	Week 17	Assignment 1	
	Organisations: AU and EU			
Unit 2	Diplomacy and International Trade Negotiations	Week 18	Assignment 1	
Unit 3	International Negotiations and Conflict	Week 19	Assignment 1	
	Management			
Unit 4	International Environmental Diplomacy and	Week 20	Assignment 1	
	Climate Change Negotiations			

# HOW TO GET THE MOST FROM THIS COURSE

In distance learning, the study units replace the university lecture. This is one of the great advantages of distance learning; you can read and work through specially designed study materials at your own pace, and at a time and place that suits you best. Think of it as reading the lecture instead of listening to the lecturer. In the same way a lecturer might give you some reading to do, the study units tell you when to read, and which are your text materials or reference books. You are provided exercises to do at appropriate points, just as a lecturer might give you an in-class exercise. Each of the study unit follows a common format. The first item is an introduction to the subject matter of the unit, and how a particular unit is integrated with the other units and the course as a whole. Next to this is a set of learning objectives. These objectives allow you to know what you should be able to do by the time you have completed the unit. These learning objectives are meant to guide your study. The moment a unit is finished, you must go back and check whether you have achieved the objectives. If this is made a habit, then you will significantly improve your chances of passing the course. The main body of the unit guides you through the required reading from other sources. This will usually be either from the reference books or from a reading section.

The following is a practical strategy for working through the course. If you run into any trouble, telephone your tutor. Remember that your tutor's job is to help you. When you need assistance, do not hesitate to call and ask your tutor to provide it.

- 1. Read this Course Guide thoroughly, it is your first assignment.
- 2. Organize a Study Schedule. Design a 'Course Overview' to guide you through the Course. Note the time you are expected to spend on each unit and how the assignments relate to the units. Important information, e.g. details of your tutorials, and the date of the first day of the Semester is available from the NOUN Website. You need to gather all the information into one place, such as your diary or a wall calendar. Whatever method you choose to use, you should decide on and write in your own dates and schedule of work for each unit.
- 3. Once you have created your own study schedule, do everything to stay faithful to it. The major reason that students fail is that they get behind with their course work. If you get into difficulties with your schedule, please, let your tutor know before it is too late to get help.

- 4. Turn to Unit 1, and read the introduction and the objectives for the unit.
- 5. Assemble the study materials. You will need your set books and the unit you are studying at any point in time.
- 6. Work through the unit. As you work through the unit, you will know what sources to consult for further information.
- 7. Up-to-date course information will be continuously posted there.
- 8. Well before the relevant due dates (about 4 weeks before due dates), access the Assignment File on the NOUN Website and download your next required assignment. Keep in mind that you will learn a lot by doing the assignment carefully. They have been designed to help you meet the objectives of the course and, therefore, will help you pass the examination. Submit all assignments not later than the due date.
- 9. Review the objectives for each study unit to confirm that you have achieved them. If you feel unsure about any of the objectives, review the study materials or consult your tutor.
- 10. When you are confident that you have achieved a unit's objectives, you can start on the next unit. Proceed unit by unit through the course and try to pace your study so that you keep yourself on schedule.
- 11. When you have submitted an assignment to your tutor for marking, do not wait for its return before starting on the next unit. Keep to your schedule. When the Assignment is returned, pay particular attention to your tutor's comments, both on the tutor marked assignment form and also the written comments on the ordinary assignments.
- 12. After completing the last unit, review the course and prepare yourself for the final examination. Check that you have achieved the unit objectives (listed at the beginning of each unit) and the course objectives (listed in the Course Guide).

# **TUTORS AND TUTORIALS**

There are 15 hours of tutorials provided in support of this course. You will be notified of the dates, times and location of these tutorials, together with the name and phone number of your tutor. Your tutor will mark and comment on your assignments, keep a closewatch on your progress and on any difficulties you might encounter andprovide assistance to you during the course. You must mail your tutor marked assignments to your tutor well before the due date (at least two working days are required). They will be marked by your tutor andreturned to you as soon as possible.Do not hesitate to contact your tutor by telephone, e-mail, or discussionboard. The following might be circumstances in which you will findhelp necessary. Contact your tutor if:

- i. You do not understand any part of the study units or the assigned readings.
- ii. You have difficulties within the exercises.
- iii. You have a question or problem with an assignment, with your tutor's comments on an assignment or with the grading of an assignment.

#### **SUMMARY**

You should try your best to attend the tutorials. This is the only chance to have face-to-face contact with your tutor and ask questions which are answered instantly. You can raise any problem encountered in the course of your study. To gain the maximum benefits from course tutorials, prepare a question list before attending them. You will learn quite a lot from participating in the discussions.

# **List of Acronyms**

ACP - African, Caribbean and Pacific

AOSIS - The Alliance of Small Island States

ASEAN - Association of Southeast Asian Nations

AU - African Union

**BBC** - British Broadcasting Corporation

CARICOM - Caribbean Community
CCTV - China Central Television

**CMP** - COP Serving as the Meeting of Parties to the Kyoto Protocol

CNN - Cable News NetworkCOP - Conference of the Parties

**ECOMOG** - Economic Community of West African States Monitoring Group

**ECOSOC** - Economic and Social Council

**ECOWAS** - Economic Community of West African States

**EEC** - European Economic Community

**EU** - European Union

**FAO** - Food and Agriculture Organization of the United Nations

**G77** - Group of 77

GATT - General Agreement on Tariffs and Trade
IAEA - International Atomic Energy Agency

ICJ - International Court of Justice

JUSCANZ - Japan, the United States, Canada, Australia and New Zealand

LDCs - Less Developed Countries
MDGs - Millennium Development Goals

NAM - Non-Aligned Movement NAMA - Non-agricultural Market Access

NGLS - Non-Governmental Liaison Service
NGOs - Non Governmental Organizations
NPLF - National People's Liberation Front

NSA - Non State Actors

OIC - Organization of Islamic Conference

**OPEC** - Organization of Petroleum Exporting Countries

**PD** - Prisoner's Dilemma

SCCF - Special Climate Change Fund SDGs - Sustainable Development Goals

UN - United Nations

UNCED - United Nations Conference on Environment and Development
 UNESCO - United Nations Education, Scientific and Cultural Organization

**UNFCCC** - UN Framework Convention on Climate Change

UNGA - United Nations General AssemblyUNSC - United Nations Security Council

**VCLT** - Vienna Convention on the Law of Treaties

**VOA** - Voice of America

WHO - World Health OrganizationWTO - World Trade Organization

# MAIN COURSE

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# MODULE 1: UNDERSTANDING INTERNATIONAL NEGOTIATIONS

# INTRODUCTION

The main purpose of this module is to launch you into understanding some basic concepts in international negotiation, which are relevant to helping you cope easily with other modules. To achieve this purpose, this module succinctly provides you with the foundational knowledge on the definition of international negotiation; theories of negotiation; methods of negotiations; and procedures for negotiations.

Subsequently, you will find the comprehensive explanations on module 1 under the following four units respectively:

Unit 1 Definition of International Negotiations

Unit 2 Theories of Negotiations

Unit 3 Methods of Negotiations

Unit 4 Procedures for Negotiations

#### UNIT 1DEFINITION OF INTERNATIONAL NEGOTIATIONS

#### **CONTENTS**

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  - 3.3 The Significance and Necessity for Negotiation
  - 3.4 Parties to International Negotiations
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Readings

#### 1.0 INTRODUCTION

In this unit, we shall examine the concept of international negotiations, explaining the various definitions provided by scholars. Having a sound knowledge of the concepts and practice of negotiation skills is a necessary and useful skill in today's world.

# 2.0 OBJECTIVES

At the end of this unit, you should be able to:

- 1. Define the concept of international negotiations.
- 2. Explain why international negotiation has become a necessity in the modern world.
- 3. Identify parties to, and in, international negotiations.

# 3.0 MAIN CONTENT

# 3.1 Definition of International Negotiations

Any analysis of international negotiations - bilateral or multilateral - needs some key conceptual clarifications that will help to provide the reader with the basic understanding of 'what, why, who, when, and how' to negotiate. Clarification of basic concepts will also provide the reader with direction through the readingson international negotiation. Negotiation, as the etymology of the word points out is composed of the Latin roots 'neg' (not) and otium (ease or leisure). The word "negotiate" came into English language in the year 1599 (Lall, 1966). The two words are central to the meaning of the word as it is used today. First, a peaceful process or method is to be adopted; secondly, the objective is agreement, compromise or settlement. Current dictionary definitions of negotiation contain numerous possibilities, all peaceful and non-judicial, and thus generally support the wide sense in which we use the concept in this material.

International negotiations relate to many areas of study, among which are diplomacy, business, law, international trade and international cooperation, conflict management, environmental diplomacy, climate change, and many others. In each of these fields one specific and particular

definition or approach can be applied to the term. Having in mind the diplomatic perspective, for instance, one can affirm that "International negotiation is: inter-national". It is about negotiation between countries. Negotiation is the central activity of diplomats and foreign policy leaders. Conflicts are avoided and ended through the art and science of negotiation. Every day, issues in foreign policy are resolved through negotiation. Water rights, environmental concerns, trade agreements, the birth of new international organizations, efforts at peacekeeping, and indeed every aspect of foreign interaction involves negotiation. International negotiation occurs all the time between governments, individuals and companies, where the traps and tricks of cross-border negotiation can ensnare even the most experienced home-country negotiators. According to Lall (1966: 5) international negotiation is the process of consideration of an international dispute or situation by peaceful means, other than judicial or arbitral processes, with a view to promoting or reaching among the parties concerned or interested some understanding, amelioration, adjustment, or settlement of the dispute or situation.

# 3.2 Basic Concepts of Negotiation: Strategy and Tactics

A strategy is a careful plan or method, especially for achieving an end. The use of Tactics refers to the skill of using available means to reach that end. Structural, strategic and process oriented approaches to negotiation tend to share a distributive understanding of negotiations. These approaches involve the presupposition that negotiations are zero-sum transactions. In other words, negotiators look at negotiations as contests over a limited or fixed amount of some mutually desired benefit such that one person's gain is another person's loss. The totality of available benefits is often represented metaphorically as a 'pie'. Because negotiators battle over a fixed amount of some good or benefit, negotiators hope to 'win' a portion or 'slice' of the pie at the expense of a corresponding loss (of pie) by the other.

# 3.3 The Significance and Necessity for Negotiation

Negotiation is a fact of life; just as humans cannot exist without communicating, so we can barely exist without negotiating. Negotiation is a basic way of getting what one party wants from another; it is an exchange of information through communication. Given the level of awareness of international situations in today's globalised world, no one needs to be convinced of the significance of negotiation. As the escalation of conflicts become evident in today's world, in diverse fields such international affairs, between state and non-state actors, environment, business and labour relations and personal relationships, the significance of negotiations and the need to negotiate increase. Negotiation aimed at conflict management seeks to limit or minimize tensions and disputes as much as possible, without necessarily changing the status quo or the relations of power, values, and interests between the disputing parties.

# **3.4 Parties to International Negotiations**

Parties to international negotiations are also known as actors. They include states, non state actors including growing number of nongovernmental organizations (NGOs), business firms, international organizations, and other institutions, who are drawn into the process because they are concerned in one way or another with the positive or negative values represented by the issues put on the agenda. The procedures and fora for modern international negotiation are numerous and varied. The increase in complexity year by year, and their forms and functions are evolving in adaptation to the changing needs of a rapidly expanding community of nations. Since

the end of World War II, conference diplomacy in particular has significantly widened and diversified the approaches to international negotiation. It has also stimulated bilateral diplomacy. The fact that a party to a dispute or situation is now able to bring its cause to an international forum frequently operates to induce countries to take bilateral diplomacy much more seriously than they did before the era of continuous opportunities to resort to conference negotiation.

# **Self Assessment Exercise 1**

- i. What do you understand by the term international negotiation?
- ii. What is the significance and necessity for negotiation?
- iii. Why has international negotiation become a necessity in the modern world?
- iv. Who are the parties to international negotiations? What roles have they played in the modern international negotiations?

# 4.0 CONCLUSION

This first unit of our course has tried to help you understand the meaning of international negotiation, which is a concept that has been debated and discussed by scholars for a long time. Everyone negotiates something every day. Negotiation process can occur both at personal level or diplomatic levels depending on the situation at hand, negotiation takes place when both parties are at verge of coming to a formidable solution to their differences or they are willing to put machineries in place for a favourable working relationship. The need for different parties or different nations to achieve a certain goal in the area of development or trade, the negotiation tool can be used in this case to foster better working relationship thereby agreeing on a particular term of trade or exchanging various developmental ideas using the various comparative advantages between nations. The ability for both parties during a negotiation to bring adequate information about the proposed dispute, conflict or proposal is necessary for an effective negotiation process.

# **5.0 SUMMARY**

We have discussed the concept of international negotiations. We noted that international negotiation is often a process of power-based dialogue intended to achieve certain goals or ends. International negotiation can be bilateral or multilateral, public or secret, and can involve differing forms of negotiation among states and non-state civilian actors, as well as with antistate actors, such as individual terrorists and terrorist organizations. In addition, differing cultures may engage in negotiations with differing styles and for differing purposes, with differing expectations.

#### 6.0 TUTOR-MARKED ASSIGNMENT

- **Q.1** Discuss the concept of international negotiation.
- **Q.2**Discuss the significance and necessity for negotiation.
- **Q.3**Identify the parties to international negotiations and briefly discuss the necessity of international negotiation in the modern era.

# 7.0 REFERENCES/FURTHER READINGS

- 1. Faure, G.O. (2003). How People Negotiate. Amsterdam: Kluwer Academic.
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- 6.0 Tutor-Marked Assignment
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# 1.0 INTRODUCTION

In the last unit, we discussed the concept of international negotiation and also examined the basic concepts of negotiation- including bargaining, strategy and tactics, the significance and necessity for negotiation and parties to international negotiations. In this unit we will examine the theories of international negotiation. This unit also summarizes the fundamental assumptions and theories associated with each. However, it is important to acknowledge that in practice most negotiators use a combination of approaches and borrow from all kind of schools of thoughts during a negotiation.

#### 2.0 OBJECTIVES

At the end of this unit, you should be able to:

- 1. Identify the various theories of negotiations.
- 2. Discuss the main tenets of each theory of negotiations.
- 3. Apply the theories of international negotiations in understanding international situations in the modern world.

# 3.0 MAIN CONTENT

# 3.1 Theories of Negotiations

Negotiation theories may be prescriptive, descriptive, or normative in nature. Additionally, theorists and practitioners from various disciplines have developed and utilized a variety of approaches or levels of analysis to improve their understanding of particular aspects of negotiations. The resulting theories are diverse, and frequently highlight features that reflect salient concerns from the perspective of the disciplines from which they came.

Theorists differ on the question of how to categorize the main schools of thought in negotiation. For example Daniel Druckman (1997) describes the main schools of thought in negotiation theory as corresponding to four approaches to negotiation: negotiation as puzzle solving, negotiations as a bargaining game, negotiation as organizational management and negotiation as diplomatic politics. Alternatively, Howard Raiffa (1982) puts forward a typology of 'approaches' crafted around the dimensions of symmetry-asymmetry and prescription-description. The overview of approaches to negotiation or schools of thought presented here is based on a summary offered by I. William Zartman, theorist, practitioner and researcher on negotiations. It comprises five different levels of analysis, or core approaches. These are the structural, the strategic, the processual, the behavioral and the integrative approaches.

# 3.2 Structural Approach

We begin by examining the Structural Approach to negotiations. This approach considers negotiated outcomes to be a function of the characteristics that define each particular negotiation. According to Alfredson and Cungu (2008), these characteristics may include elements such as the number of parties and issues involved in the negotiation and the composition or relative power of the competing parties. Structural Approaches to negotiation find "explanations of outcomes in patterns of relationships between parties or their goals" (Zartman, 1976). In structural approaches to negotiation theory, analysts tend to define negotiations as conflict scenarios between opponents who maintain incompatible goals. Analysts who adopt a structural approach to the study of negotiations share an emphasis on the means parties bring to a negotiation. One of the main theoretical contributions derived from the Structural Approach is the theory that power is the central determining factor in negotiations (Alfredson and Cungu, 2008). In this view, the relative power of each party affects their ability to secure their individual goals through negotiations. Structural theories offer varying definitions of power. For instance power is sometimes defined as the ability to win, or alternatively, as the possession of 'strength' or 'resources'.

The perspective that power serves as a central structural feature of every negotiation has its intellectual foundation in traditions of political theory and military strategy including the writings of Thucydides, Machiavelli and von Clausewitz. A central idea in this school is the notion that the strong will prevail, or, in the language of classical realism, the idea that 'the strong do what they can and the weak suffer what they must' (Thucydides, 1910). Yet even in conflicts that pit the very strong against the very weak, the range of outcomes is wide. To wrestle with this conundrum, analysts taking a structural approach have looked at additional structural properties such as symmetry-asymmetry, the availability of alternatives, or the role of tactics in detail to try to understand why victory in negotiations does not always go to the party who is ostensibly the more powerful.

# 3.3 Strategic Approach

Strategic approaches to negotiation have roots in mathematics, decision theory and rational choice theory. This approach also benefit from major contributions from the disciplines of economics, biology, and conflict analysis. Whereas the structural approach focuses on the role of means (such as power) in negotiations, the emphasis in strategic models of negotiation is on the role of ends (goals) in determining outcomes. Strategic models are also models of rational

choice. According to Alfredson and Cungu (2008:10) negotiators are viewed as rational decision makers with known alternatives who make choices guided by their calculation of which option will maximize their ends or gains, frequently described as payoffs. Actors choose from a 'choice set' of possible actions in order to try and achieve desired outcomes. Each actor has a unique 'incentive structure' that is comprised of a set of costs associated with different actions combined with a set of probabilities that reflect the livelihoods of different actions leading to desired outcomes. Strategic models tend to be normative in nature. Because they are grounded in the belief that there is one best solution to every negotiation problem, they seek to represent "what ultra smart, impeccably rational, super-people should do in competitive, interactive such as bargaining situations" (Raiffa, 1982). Because they look for 'best solutions' from all perspectives of a negotiation, this approach has been called Symmetrically Prescriptive. The strategic approach is the foundation for negotiation theories such as game theory and critical risk theory.

**3.4 Game Theory**: The most widely used strategy is the games theory. It uses formal mathematical models to describe, recommend or predict the actions parties take in order to maximize their own gains when the consequences of any action they choose will depend on the decisions made by another actor. It is concerned with "games of 'strategy', in contrast with games of skill or games of chance – in which the best course of action for each participant depends on what he expects the other participants to do (Alfredson and Cungu, 2008; Schelling, 1960). Games are frequently represented as matrixes or trees where each player must choose between a finite numbers of possible moves, each with known pay-offs.

Cooperative or Competitive: A Negotiators Dilemma- One of the best-known games to treat negotiations is the Prisoner's Dilemma Game (PD). This game reflects the following scenario. Two prisoners are awaiting trial for a crime they committed. Each must decide between two courses of action: confess or not. If neither person confesses, in other words, they cooperate with each other; each prisoner will have to serve a prison term of two years. On the other hand, if both prisoners chose to 'defect' and turn evidence against one another, both prisoners will be faced with a four-year prison term. If the game ended here cooperation by the two prisoners would be likely, but in the classic version of the PD game there is another set of alternatives. The prisoners learn that if one party cooperates and the other defects the one who defects will not serve time, leaving the one who refused to testify against his partner to serve the full five-year sentence. Because each player is seeking to maximize his own outcomes, and neither knows what the other will do, the PD game demonstrates that the rational player will choose defection every time because he realizes that by choosing to defect he will fare better in the game, no matter what his opponent does. Note that in long-term interactions, the outcome of negotiations – the choice of parties to either cooperate or defect - can depend heavily on the amount of trust that is established between the two sides.

Negotiators face a similar challenge in their decision-making as they also have incomplete information about the other negotiator's intentions. In bargaining scenarios, this formulation suggests that agreements are unlikely because each party has an incentive to defect in order to maximize his own gains. However, such an outcome is sub-optimal because players would be better-off if they both cooperated. In real life, cooperation does occur. To account for this, Robert Axelrod used a repeated version of the PD game to demonstrate that individuals who

pursue their own self-interest may cooperate with each other when they realize that they may meet again. Moreover, Axelrod used computer simulations of a repeated PD game to show that, even when met with an uncooperative opponent, a player can maximize his gains by using a tit-for-tat strategy, a strategy that involves starting out the game as cooperative and then punishing one's opponent (defecting) whenever she fails to cooperate (Axelrod, 1984). Alternatively, when the second party responds positively to a cooperative opening by the first party employing the tit-for-tat strategy in a repeated game, Axelrod demonstrated that cooperation may then arise as an equilibrium outcome

**3.5 Critical Risk Theory:** Another strategic theory is Ellsberg's Critical Risk Theory of crisis bargaining (Ellsberg, 1959). Alfredson and Cungu, (2008) have argued that like the game theory, critical risk theory uses cardinal utility numbers to explain decision-making behavior, but introduces the notion that parties use probability estimates when making rational calculations of whether or not to concede, or to stand firm in a crisis negotiation. These probabilities are derived from each player's calculus of their own critical risk, or the maximum risk of a breakdown in negotiations that the player is willing to tolerate in order to stand firm, combined with each player's estimation of the level of their opponent's inherent resolve to stand firm

# 3.6 Behavioral Approach

The behavioral approaches stresses the role negotiators' personalities or individual characteristics play in determining the course and outcome of negotiated agreements. Behavioral theories may explain negotiations as interactions between personality 'types' that often take the form of dichotomies, such as shopkeepers and warriors or 'hardliners' and 'soft liners' where negotiators are portrayed either as ruthlessly battling for all or diplomatically conceding to another party's demands for the sake of keeping the peace. The tension that arises between these two approaches forms a paradox that has been termed the "Toughness Dilemma" or the "Negotiator's Dilemma" (Zartman, 1978). The dilemma states that though negotiators who are 'tough' during a negotiation are more likely to gain more of their demands in a negotiated solution, the trade off is that in adopting this stance, they are less likely to conclude an agreement at all. The behavioral approach derives from psychological and experimental traditions but also from centuries-old diplomatic treaties.

# 3.7Concession Exchange (Processual) Approach

The concession exchange theories share features of both the structural approach (power) and the strategic approach (outcomes). However, they describe a different kind of mechanism that centers on learning. According to Zartman, the concession exchange approach, which referred to the processual approach looks at negotiation "as a learning process in which parties react to each others' concession behavior" (Zartman, 1978). According to this perspective, negotiations consist of a series of concessions. The concessions mark stages in negotiations. Concessions are used by parties to both signal their own intentions and to encourage movement in their opponent's position. Parties "use their bids both to respond to the previous counteroffer and to influence the next one; the offers themselves become an exercise in power" (Zartman, 1978). The risk inherent in this approach is that participants engaged in concession-trading may miss opportunities to find new, mutually beneficial solutions to their shared dilemma and end-up

instead in a purely regressive process which leaves both sides with fewer gains than they could have had if they had pursued a more creative approach.

# 3.8 Integrative Approach

The integrative approach to negotiations has roots in international relations, political theory, research on labor disputes and social decision-making. In 1965, looking at labor negotiations, Richard Walton and Robert McKersie published a theoretical framework for understanding the negotiation process, which they also applied to exchanges in international relations and to disputes over civil rights. They described integrative bargaining as bargaining in which negotiators employ problem solving behavior. Integrative approaches on the other hand views negotiations as interactions with win-win potential. While a zero-sum view sees the goal of negotiations as an effort to claim one's share over a "fixed amount of pie", integrative theories and strategies look for ways of creating value, or "expanding the pie," so that there is more to share between parties as a result of negotiation. Integrative approaches use objective criteria, look to create conditions of mutual gain, and emphasize the importance of exchanging information between parties and group problem-solving (Alfredson and Cungu, 2008). Because integrative approaches emphasize problem solving, cooperation, joint decisionmaking and mutual gains, integrative strategies call for participants to work jointly to create win-win solutions. They involve uncovering interests, generating options and searching for commonalities between parties 11. Negotiators may look for ways to create value, and develop shared principles as a basis for decision-making about how outputs should be claimed.

# 3.9 Principled Negotiation

Another negotiation theory is that of Principled Negotiation. This theory falls in the integrative school. In their book, *Getting to Yes: Negotiating Agreement Without Giving In*, Roger Fisher and William Ury argued the merits of "win-win" problem solving as an approach to negotiations (Fisher and Ury, 1981). Principled negotiation, they argue, goes beyond the limited strategic choices of distributive bargaining. They frame negotiation as a three-phase process, whose efficiency depends on how negotiators treat four essential elements: interests, people, options, and criteria. In a later work, these four pillars were refashioned into the "seven elements" of negotiation comprising interests, relationships, options, legitimacy, alternatives, commitments and communication. In the principled negotiations model, the "essential elements" serve as prescriptive components for negotiations modeled on an integrative approach.

# **SELF ASSESSMENT EXERCISE 2**

- i. Identify and discuss the various theoretical approaches to international negotiation.
- ii. How can each theory be applied in understanding certain international situation?

#### 4.0 CONCLUSION

In practice, negotiators often bring into play strategies based on their conscious or unconscious understanding of the negotiation process. Negotiation theories, however, help us think analytically about negotiation processes. The insights they provide can help us shape the way we negotiate and, as a consequence, help influence the outcomes we achieve. For instance, when used deliberately, the theoretical lessons and techniques that we employ can assist us in transforming negotiation theory into practical expertise.

#### 5.0 SUMMARY

We have identified and discussed the various theories of international negotiations. The descriptions provided in this unit areaimedat broadening our understanding negotiation. We summarize key analytical traditions in negotiation theories and provided precise categorizations of existing theoretical frameworks. Numerous theorists have also commented on the value of using various insights complementarily and the lack of neatness in the space between the various approaches.

#### 6.0 TUTOR-MARKED ASSIGNMENT

**Q.1**Identify and discuss any two theoretical approaches to international negotiation?

**Q.2.** Discuss the Prisoner's Dilemma Game (PD) as a form of cooperative and non cooperative approach in Games Theory.

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#### **UNIT 3 METHODS OF NEGOTIATIONS**

#### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 Methods of Negotiations
  - 3.2 Inquiry and Investigation
  - 3.3 Conciliation
  - 3.4Resort to Regional Agencies or Arrangements
  - 3.5 Discussion(s) among the Parties Directly Concerned
  - 3.6 Good Offices
  - 3.7Pourparlers
  - 3.8 Ad Hoc Conferences of States, and Utilization of Existing Conference Mechanisms
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment.
- 7.0 References/Further Readings.

#### 1.0 INTRODUCTION

In the last unit, we identified and discussed the various theories of international negotiations. In this unit, you will study the methods of international negotiations.

# 2.0 OBJECTIVES

At the end of this unit, you should be able to:

- 1. Identify the methods of international negotiations.
- 2. Discuss the methods of international negotiations.

# 3.0 MAIN CONTENT

# 3.1 Methods of Negotiations

# According to Article 33 of the United Nations Charter:

The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall first of all seek solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their choice.

Every form of conscious effort for the peaceful settlement, adjustment, amelioration, or better understanding of international situations or dispute is in essence negotiation, except recourse to a judicial organ or tribunal. The essence of negotiation is to arrive as nearly as possible, at agreement among the parties. Since the end of World War II, no significant international dispute involving issues of war and peace has been completely settled by referral to the Court.Negotiation has played and continues to play an active, indispensable, and major role in preservation of world peace and in attempts to move forward a world based on a system of

international order and amity. In addition to negotiations proper, the UN Charter in Article 33 mentions:

- i. Inquiry.
- ii. Mediation.
- iii. Conciliation.
- iv. Resort to regional agencies, or arrangements, or other peaceful means of the parties own choice.
  - Among other peaceful means, several varieties of techniques are in use:
- v. Discussion or talk among the parties directly concerned negotiation par excellence according to common consent and the assumptions in the United Nations Charter
- vi. Utilisation of the good offices of one or more states or individuals. In the gamut of negotiations, this method stands close to mediation and conciliation.
- vii. Pourparlers, which refers to informal preliminary discussions before substantive discussions are held.
- viii. Conferences of agreed states (ad hoc conferences), or utilization of existing conference mechanisms.

These are methods of international negotiation not necessarily restricted to the countries directly involved.

# 3.2 Inquiry and Investigation

The Charter of the United Nations uses two words for the process of the first examination of a situation or dispute. These two words are 'inquiry' and 'investigation' (Article 4). Investigation suggests the more probing process, backed by authority. Both words are used in the context of Chapter VI, which is confined to the "The Pacific Settlement of Disputes" and does not include provisions for enforcement action. What is intended in the Charter is a process of peaceful exploring of the facts and nature of a dispute or situation with a view to facilitating its pacific settlement. The alignment of the concepts of inquiry and investigation is borne out also by the provisions of the Articles of the 1907 Hague Convention for the Pacific Settlement of International Disputes. The Convention provides that Commissions of Inquiry carry out investigations.

# 3.3 Conciliation

As a method of international diplomacy and negotiation, conciliation is the opposite of condemnation. Conciliation has played and continues to play a role of significance in the relations among states. In international relations, as in personal relations, conciliation calls for restrain on the part of parties to a dispute or situation and thereby arresting the possibilities of movement towards the resolving of the difficulties. A case in point occurred in 1956, during the events following armed attacks against Egypt in the Suez area. While sympathizing with Egypt, India did not rush to the UN condemning the British, French or Israeli actions. Instead, India counseled restraint and supported this approach by the United States. This provided the background for resolutions adopted by the UN General Assembly in quick succession that avoided any condemnation of the aggressors against Egypt. Had the UN adopted what seemed more logical approach of condemnation, it might have provoked more violence on the part of the aggressors. The value of conciliation as a form of current negotiation is has served as a soothing balm in dispute and conflict situations.

# 3.4Resort to Regional Agencies or Arrangements

Under the terms of Chapter VI of the United Nations Charter, regional arrangements and agencies are listed among those procedures which parties to a dispute shall 'first of all' seek to utilize (Lall, 1966; see UN Charter Article 33). If the parties fail to settle the dispute by first priority methods, 'they shall refer it to the Security Council' (see UN Charter Article 37). The Councilwill then make a finding as to whether the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security. If the findingsare in the affirmative, the UN Security Council will recommend appropriate procedures or methods of adjustment or settlement (See UN Charter Article 36, 37). The recourse to regional arrangements or agencies, unless it resolves the dispute, may be a prelude to the application of those further peaceful processes by the UN Security Council which, for the most part, are processes of negotiation.

# 3.5Discussion (s) among the Parties Directly Concerned

Direct peaceful exchanges among the parties to a dispute or situation, with a view to settlement or adjustment, is the very essence of negotiation. It is to this form of activity that the UN Charter directs attention when it uses the word negotiation in Article 33. Diplomats as key practitioners in field of international negotiations are of the view that for a large proportion of disputes or situations between states the most productive form of negotiation is direct discussion among the parties concerned. A case in point is position of the UN Security Council on May, 18, 1964, on the Kashmir issue between India and Pakistan. After weeks of discussion, the President of the UN Security Council summing up recommended direct discussion between India and Pakistan for arriving at a solution to the problem. This Council returned to what is generally regarded as the norm, or even the ultimate, in negotiations methods.

# 3.6 Good Offices

Essentially, mediation is a more formal process which entails the prior agreement of the parties to a dispute or situation, both to the use of the method and to a particular mediator. Such bilateral or multilateral agreement, as the case may be, is not essential requisite in the function of good offices. When the Permanent Representatives at the UN of certain African countries went as a delegation to call on the UN Secretary General Dag Hammarskjold to express their concern over the issue of colonialism in African countries such as Algeria and South Africa, and made suggestion as to what might be done in the situation, they were calling into operation the 'good offices of the Secretary General' (Druckman, 1997). Similarly, over the years successive UN Secretary Generals, such as Kofi Anan and Banki Moon have used their good offices in dispute and situations in various parts of the world. Nigerian Heads of States, such as Chief OlusegunObasanjo, have also used their good offices to seek peaceful settlement of dispute and conflict situations in West Africa and Africa.

# 3.7Pourparlers

Pourparlers refer to informal discussions, generally preliminary to substantive negotiations and having the objective of promoting peaceful settlements. They are particularly useful in a delicate situation either to prepare the ground for, or even to achieve some of the purpose of, more substantive negotiation. In this respect they might be likened to conciliatory moves, but are more direct rather than through a conciliator or mediator. Nowadays, the term 'pourparlers' is used

only occasionally in negotiating context. However, the idea contained in this word is frequently in use in the 21<sup>st</sup> century negotiating situations.

# 3.8 Ad Hoc Conferences of States, and Utilization of Existing Conference Mechanisms

Conference negotiation brings together with the parties directly concerned, other parties whose interests may be affected or who may be regarded as friendly, concerned or neigbouring states. An example of this kind of international conference was the International Conference on the Question of Laos, at Cambodia, Canada, the Peoples Republic of China, France, India, the United Kingdom, and the United States met and negotiated. The conference drew up an International Declaration and a protocol thereto, to guarantee the independence, neutrality, and integrity of Laos. Several conferences of this nature have been held concerning disputes and situations in Africa and other parts of the world.

# **SELF ASSESSMENT EXERCISE 3**

- i. Identify the various methods of international negotiations.
- **ii.** Discuss the various methods of international negotiations.

# 4.0 CONCLUSION

We conclude this unit by noting that the various methods of negotiation identified and discussed above have played and continue to play an indispensable role in the preservation of world peace and in attempts to move the world towards an international system based on order and unity.

#### **5.0 SUMMARY**

We identified and discussed various methods of international negotiation. We noted that the modern methods of negotiation are inquiry, mediation, conciliation, resort to regional agencies. They are juxtaposed by peaceful means such as discussion or talk among the parties directly concerned, utilisation of the good offices, pourparlers, and ad hoc conferences or utilization of existing conference mechanisms. On the whole, these methods have helped to facilitate the work of the United Nations as they reinforce the fact that we live in an era of negotiation of international issues, rather than resort to judicial or forceful settlements.

# 6.0TUTOR-MARKED ASSIGNMENT

**Q.1**Identify the various methods of international negotiation.

Q.2 Briefly discuss any four methods of international negotiations of your choice.

# 7.0 REFERENCES/FURTHER READINGS

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#### **UNIT 4 PROCEDURESFOR NEGOTIATIONS**

#### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
- 3.1 Procedures for Negotiations
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Readings

# 1.0 INTRODUCTION

In this unit, we would examine the various categories of procedure available for the conduct of international negotiation. International negotiations proceeds on the basis of certain preconditions- a dispute or situation must exist between and among states; there must be international concern about this dispute or situation together with a desire to explore the possibilities of peaceful non-judicial amelioration or settlement; and most importantly, there must be willingness among the parties themselves to accept negotiation and shift individual grounds where necessary to arrive at common grounds.

#### 2.0 OBJECTIVES

At the end of this unit, you should be able to.

- 1. Identify the broadcategories of procedures for international negotiations.
- 2. Discuss each of the broad categories of procedures for international negotiations.

# 3.0 MAIN CONTENT

# **3.1 Procedures for International Negotiations**

There are several broad categories of procedures for direct negotiation in international relations.

The first broad category of procedure is when there is a more or less spontaneous and shared realization, generally among countries, that a particular situation should be subject to negotiations. Most governments, their statesmen and diplomats, would tend to agree that the method of negotiation that is most desired is that of direct discussion among the parties to the dispute or situation. During the first half of the 1940s, World War II restricted the relationship between most governments to matters directly connected with the pursuit of victory through a total mobilization and direction of national efforts, material resources, and men. This prompted many states, immediately after the war, to get together to examine various neglected situations, issues, and problems. The experiences of the war, particularly the destructive experiences, brought governments to a mood of readiness for the establishment of mechanisms and organizations which would assist in increasing the possibility of peace relationship among states. The results of increased international cooperation expressed itself in conferences which established the United Nations (UN), the Food and Agricultural Organisation (FAO), the United Nations Education, Scientific and Cultural Organization (UNESCO), the World Health

Organization (WHO), the International Monetary Fund (IMF), the World Bank and many other agencies related to the UN. These developments provide some of the most practical cases of direct negotiation undertaken on the initiative of the governments primarily concerned, to achieve common objectives. Direct negotiations might develop when there is a shared realization among several nations that a particular international situation should be given consideration with a view to its amelioration or settlement. Direct negotiation can also take place when a powerful or large number of states request a much smaller state or relatively less powerful state to undertake negotiation with it regarding a particular situation. For instance, at the San Francisco Conference of April 25, 1945, the strong sense of mutual involvement and concern to end the World War II and propelled states to urgently negotiate. In just two months the United Nations Charter was fully worked out by fifty sovereign states, a remarkable achievement and a demonstration of the effectiveness of common realization and faith in the community of nations.

In the second category of direct negotiation in international affairs, negotiations are initiated by the great powers to settle situations or disputes with relatively weaker states. One of such cases is that of border negotiations between the People's Republic of China and the Union of Burmafrom 1954-1960. All the crucial initiatives from this negotiation came from the Chinese. In the year 1954, the government of China invited Prime Minister U Nu to Peking, and during the visit, the issue of border between China and Burma. It was agreed and captured in the communiqué that the border question should be settled through normal diplomatic channels. However, in 1955, Chinese troops penetrated Burmese territory. There was a clash between troops of the two countries. Because of this development, the Chinese followed up with a peaceful move, by inviting Prime Minister U Nu to China who agreed to visit Peking to discuss the border problem. In Peking, all the initiatives came from the Chinese side. The interest of the Chinese was not in the Namwan areas but in three villages - Hpimwa, Kanfang and Gawlum, which lay on the Burmese side of the watershed between the N'MaiKah and Salween rivers. These three villages were of strategic importance to the Chinese. Despite the strong pleas of the leaders of the Burmese Kachin state that the territory should not be taken from them, the Chinese initiative won the day. Note that the three villages were not taken through war, but through direct negotiation. The point being made here is that of a great power firmly holding the initiative in direct negotiations with a smaller state.

In the third category of direct negotiation in international affairs, negotiations may be directly conducted by the parties concerned in a dispute or situation when there is a tradition of friendship and common discussion among two or more states. There is never complete equality of will or pressure from two parties in the direction of negotiation between them. Generally speaking, if one country is much more powerful than the other, it tends to have the effect of pushing the two states concerned into negotiation. The friendship between the United States and Canada provides a good example of the type of negotiations in the third category. In October 1934, the provincial leader of the Liberal Party in Ontario, Michell Hepburn, announced that he would not carry out the cost allocation agreement signed by his predecessor in 1932 with the government of the Dominion. At that time, no legislation had been adopted in confirmation of the 1932 agreement between the Central government and Ontario. The Outbreak of WW II gave an impetus to feelings on both sides that favour cooperation, and led to agreement between the United States and Canada regarding utilization of the Great Lakes-St. Laurence Basin signed in

Ottawa on March 19, 1941. The point is that the tradition of friendship between the USA and Canada provided the bedrock for direct negotiation of the situation.

In the fourth category of direct negotiation in international affairs, negotiations may be directly conducted by the parties concerned in a dispute or situation when there has been strong rivalry between states which has come to be accompanied by a mutual realization of common interest to end or moderate that rivalry, in regard to a particular aspect of the relations of states concerned. The Cold War rivalry between the United States and the Soviet Union provides us with a clear example in this category of negotiation. During the Cold War period, a prodding between the USA and USSR on various issues of cooperation in the exploration of outer space, including, at one time, the possibility of a common endeavor for a moon shot. Another example of such cooperation was the successful initiation of cooperation in the field of water desalting. The first negotiating meetings, initiated on July 14, 1964, indicated the desire of both sides to explore possibilities of cooperation. On July 16, 1964, the two sides reached an informal agreement covering the exchange of inspection visits by technical experts, exchanges of scientific reports on work being done in the field, and arrangements for small symposia to discuss projects or scientific issues. During those sessions, information of great value were exchanged in the spirit of cooperation. For example, it was learned from the USSR team that the country had already started constructing an atomic reactor to provide steam for a desalting plant in the Caspian Sea which will have a capacity of 25 million gallons a day. At that time, it was larger than any plan in operation in the world. The cooperation of the two countries for the desalting of sea water is a good example of a common need and rivalry that have resulted in the pooling of efforts and resources. The significance of this negotiation is that it took place in a Cold War period, when such was seen as almost impossible between the USA and USSR.

# **SELF ASSESSMENT EXERCISE 4**

- i. Identify and discuss the procedures for international negotiations.
- ii. Discuss the procedures for international negotiations with current examples.

# 4.0 CONCLUSION

In our examination of direct negotiations under the influence or pressure of other parties, certain rules or tendencies suggest themselves. One is that the more powerful the parties involved, the less feasible is it for third parties to bring to bear effective influence or pressure for negotiations between them. This suggests that the voice of power is more likely to succeed in bringing the parties together than the voice of weakness. However, this general proposition is not absolute. Sometimes, relatively less powerful countries play key roles in bringing parties involved to the negotiation table, especially in situation of conflicts.

#### 5.0 SUMMARY

As a consequence of the discussion in this unit, we might now suggest the following general principles regarding direct negotiations. Negotiations may be directly conducted by the parties concerned in a dispute or situation either on their own initiative or as a result of the influence or pressures of a third party or parties. We identified four broad categories of procedures for direct negotiation. The procedures discussed above have contributed to our better understanding of

negotiations at the international level. Negotiations directly initiated by the parties to a situation or dispute tend to develop along these forms:

- a. When there is a more or less spontaneous and shared realization, generally among countries, that a particular situation should be subject to negotiations.
- b. When a relatively powerful or large state suggests negotiation to a relatively small or less powerful state.
- c. When there is a tradition of friendship and common discussion among two or more states.
- d. When there has been strong rivalry between states which has come to be accompanied by a mutual realization of common interest to end or moderate that rivalry, in regard to a particular aspect of the relations of states concerned.

# 6.0 TUTOR-MARKED ASSIGNMENT

- **Q.1.**Identify the broad procedures for international negotiations and discuss any two with contemporary examples.
- Q. 2. Briefly explain, in your own understanding, why direct negotiation has emerged as the most desired form of negotiation by most governments, their statesmen and diplomats, and among the parties to the dispute or situation.

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# MODULE 2: INTERNATIONAL NEGOTIATIONS AND CONCEPTUAL ISSUES IN DIPLOMACY

#### INTRODUCTION

You have just completed module one, where you studied the various definitions of international negotiations, theories of negotiations, methods of negotiations, procedures for negotiations and processes for international negotiations. This module takes you further into the course. Significantly, it exposes you to the processes of international negotiation, definition of diplomacy, theories and types of diplomacy. The processes of conducting international negotiations are much more complex than the ones conducted domestically. The main reason why it is so is partly because of the nature of disputes or situations being dealt with at the international level. Broadly speaking, diplomacy is the other side of the military coin. Diplomacy is the art by which peaceful interaction between and among states is facilitated and conducted and even when war breaks out, diplomacy is employed to facilitate the end of hostilities or to negotiate for a ceasefire and eventually sign peace pact. While diplomacy and diplomats are regarded as important and the demand for both is currently on the rise, however, the definition of diplomacy remains a subject of debate among scholars. To be sure, we have a sense that it is a way in which countries talk to and negotiate with one other. We also have images of embassies and ambassadors, consulates and consuls, and the presence of diplomats on a variety of public and private occasions, seated at tables with colleagues, walking with or behind their political leaders and within conferences or international organizations negotiating international issues of concern.

However, the module is divided into four connected units to deepen our understanding of the processes of international negotiation and at the same time expose you to the conceptual issues in diplomacy:

Unit 1 Processes for international negotiations Unit 2 Definition of Diplomacy Unit 3Theories of Diplomacy Unit 4 Types of Diplomacy

#### UNIT 1 PROCESSES FOR NEGOTIATIONS

#### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
- 3.1 Processes for Negotiations
- 3.2 Pre-Negotiation
- 3.3 Formula Stage
- 3.4 Details Stage
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Readings

# 1.0 INTRODUCTION

In this unit, we intend to discuss the various processes for international negotiations. The processes of conducting international negotiations are much more complex than the ones conducted domestically. The scope of items under dispute at the international level supports theassertion that international negotiations cover an extensive and complex range of issues. Issues such as trade, business or commercial ventures, environmental and climate change concerns and many others have to be negotiated between states at the international stage

# 2.0 OBJECTIVES

At the end of this unit, you should be able to

- 1. Identify the various processes for international negotiations.
- 2. Discuss each of the processes for international negotiations.

# 3.0 MAIN CONTENT

# 3.1 Processes for International Negotiations

Scholars of international relations have suggested that negotiation proceeds in three distinct stages: pre-negotiation, formula anddetails phases. According to Berridge (2005: 64) each negotiation phase haspeculiar characteristics, and their relative degree of difficulty also varies. International negotiation, being agame of persuasion, is also widely acknowledged that technique and strategy are important in all negotiations. There is also agreement that negotiations must have clearly stipulateddeadlines to sustain momentum. 'Representing things in the form of other things' is also a recognized tool to 'staying on track' innegotiation (Berridge, 2005: 67). Presenting outcomes or 'packaging agreements,' and the final step of enforcing outcomes through adequate follow up, are amongst other matters considered crucial. Ensuring that parties to a dispute honor agreements by adhering to their commitments has been highlighted. The three-stage negotiation processes are discussed in the proceeding sections of this unit.

# 3.2Pre-Negotiation

Difficult negotiations in fact start much earlier than the substantive discussion. 'Pre-negotiation, also referred to as 'talks about talks,' is a moment when the questions of 'Why?' What?' Where? and 'How?' are answered. At this stage, the agenda andother procedural issues, including format, venue, timing and delegations are sortedout. Importantly, the necessity to negotiate must first be equally appreciated by the parties to a dispute or situation. This occurs when the parties acknowledge the existence of a 'stalemate' and accept that the *status quo* is unsustainable. It is noted, however, thata prevailing situation may be favorable to a party which may therefore not easily bemotivated to buy into negotiation. For high-stakes negotiation, this phase is considered lengthy and relatively difficult. A key challenge is in finding dates suitable for all, in case of other pre-existing commitments by parties to a conflict and a third party facilitator, particularly for high-level representation.

# 3.3 Formula Stage

Pre-negotiation is followed by the 'formula' stage to set out 'basicunderstanding' or 'broad principles' of expected outcome. "The chief characteristicsof a good formula arecomprehensiveness, balance, and flexibility. At this stage,rivals mainly 'size up' each other. What cannot and does not need to be agreed inadvance is normally left to a subsequent 'step-by-step' process – an approach considered most ideal in delicate negotiations so as to avoid premature collapse. This phase is relatively least complicated of the three phases. Worth noting,however, is that the formula stage can provide a clue of the expectations by theparties into the next (details) stage of negotiations. If there is a veiled intent by aparty to create 'linkages' between unrelated item to force a 'package deal' ratherthan discussing issues on merit, this stage may serve a useful early-warning.

# 3.4 Details Stage

Due to its relative complexity, at least compared to the formula stage but lessoften to the pre-negotiation stage, this stage is referred to as the moment oftruth. Uncertain on the extent to which this can be generalized, Berridge (2005) is nonetheless categorical that the details stage is a strong candidate for the dubioushonour of being called the most difficult stage of all. Sensitive 'details' are tackledhead-on at this phase. The stage is deemed not just complicated in view of the hardoptions that have to be faced. In fact, it is precisely this stage that makes negotiationthe most important function of diplomacy. At this stage, negotiators face the daunting task of dealing with delicate mattersand they often tread cautiously to avoid making bad concessions. Choices made haveto be subsequently justified to all stakeholders; otherwise, the cost can be just toohigh a brunt to shoulder. The stage is often blemished by disagreements amongstmembers of the sometimes very huge teams of negotiators of mixed backgrounds, and between them and their common foe. Because of the inherent difficulty, it is a time consuming phase.

#### **Self Assessment Exercise 5**

- i. Identify and discuss the processes for international negotiations.
- ii. Stage three or the detail stage of negotiation is also referred to as 'the moment of truth'. Discuss the statement with reference to choices that have to be made and challenges involved.

#### 4.0 Conclusion

In highly antagonistic disputes or situations, persistentinflexibility in negotiation is unhelpful. In cases of open hostility, it could lead to further escalation. Experiences show that resort to open confrontation and violence a means favorable to those well equipped in the art of warfare and aggression. Some analysts have noted that at times a carrot and stick or threats and incentives approach is also usually applied by the powerful to induce agreement. Following the stages or processes of negotiations helps to reduce the difficulty of violent conflict.

## **5.0 Summary**

In this unit, we discussed the three processes or stages for international negotiation which include: pre-negotiation, formula and details phases. There is no doubt that the processes of conducting international negotiations are much more complex than the ones conducted domestically. The main reason why it is sois partly because of the nature of disputes or situations being dealt with at the international level. The scope of items under dispute at the international level supports the assertion that international negotiations cover an extensive and complex range of issues such as terms of trade, finance debts, environmental concerns and many others. To avoid disputes or situations escalating, negotiators are guided by the three distinct stages for international negotiation.

## **6.0 Tutor-Marked Assignment**

Q.1. Identify the processes for international negotiations and discuss any three of your choice.

**Q.2**. As an international negotiator at the United Nations, how would you proceed with negotiation towards resolving conflict between two states?

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- 2. Berridge, G. R. (2005) Diplomacy: Theory and Practice, 3rd ed, New York: Palgrave.

#### **UNIT 2 DEFINITION OF DIPLOMACY**

#### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 Definition of Diplomacy
  - 3.2 Negotiation as the Essence of Diplomacy
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Readings

#### 1.0 INTRODUCTION

In this unit you will learn about diplomacy, beginning with the definitions of diplomacy. When things go wrong in international affairs, we frequently findpeople talking about a failure of diplomacy. When some dispute or situation needs to be resolved, diplomacy is oftencalled upon. Notonly are diplomacy and diplomats important, the demand for both of them is currentlyon the rise. When the concept of diplomacy is mentioned, what immediately comes to the mind of the reader is officially accredited representative of a sovereign state, and international organizations seated around well polished tables in formal negotiations to avert serious conflict, or a Head of State and His foreign Minister officially receiving letters of credence from newly posted diplomats. Other pictures may include Heads of State and their foreign affairs ministers on state visits and cocktail parties. While these impressions capture some the visible aspects of diplomacy, the concept is more complex and challenging.

#### 2.0 OBJECTIVES

At the end of this unit, you should be able to

- 1. Define and understand what diplomacy is.
- 2. Explain with concrete examples why negotiation the very essence of diplomacy.

#### 3.0 MAIN CONTENT

## 3.1 Definition of Diplomacy

The concept of diplomacy comes from the Greek word *diploma* meaning a folded document and is linked to the official handwriting and the idea of credentials confirming the claims of the bearer. Accordingly, a preoccupation with authenticity and authority appears to be at the etymological foundation of the term. There is no agreement among scholars on the exact meaning of diplomacy. However, we will examine the literature and submission by seasoned scholars working in this area. The following definitions are provided by various scholars and practitioners of diplomacy:

Table 1: Definitions of Diplomacy	
Definition	Author (s)/Source (s)
The application of intelligence and tact in the	Ernst Satow, 1922.
conduct of official relations between the	,
governments of independent states'	
Diplomacy is 'a discrete human practice	Paul Sharp,1999.
constituted by the explicit construction,	-
representation, negotiation and manipulation of	
necessarily ambiguous identities'.	
The Art of resolving international difficulties	John R. Wood and Jean Serres, 1970.
peacefully	
Diplomacy is the way of managing relations	AkinjideOsuntokun, 2006.
between individuals, groups, principalities or	
states in order to advance and protect the	
interests of all those involved in such	
relationships.	
Diplomacy is 'the management of international	Sir Harold Nicholson, 1939.
relations by negotiation; the method by which	
these relations are adjusted and managed by	
ambassadors and envoys; the business or act of	
the diplomatist'.	
Diplomacy "is the police in grandCostume"	Napoleon Bonaparte, 1805.
Diplomacy is "the patriotic art of lying for	Ambrose Bierce, 1911.
one's country"	T D D 1065
Diplomacy "is letting someone else have your	Lester B. Pearson, 1965.
way"	
All diplomacy is continuation of war by other	Former Chinese Premier Chou En-lai, 1954.
means	T 1 ' D
Diplomacy "is to speak French, to speak	Ludwig Boerne
nothing, and to speak falsehood"	Onford English Distinguis
Diplomacy is 'the management of international	Oxford English Dictionary.
relations by negotiation  Diplomacy refers to "skill or address in the	Edmund Burko, 1706
Diplomacy refers to "skill or address in the conduct of international intercourse and	Edmund Burke, 1796.
negotiations"	
It is "the art of lubricating the wheels of	Sisley Huddleston, 1954.
international relations."	bisicy fluddicstoff, 1754.
To say nothing, especially when speaking is	Will Durant
half the art of diplomacy.	TIM Durant
Diplomacy: The art of jumping into troubled	Art Linkletter
waters without making a splash	The Dimitotion
Sincere diplomacy is no more possible than dry	Joseph Stalin
water or wooden iron	
Diplomacy is to do and say the nastiest things	Isaac Golberg
in the nicest way	2010018

Diplomacy is the art of saying 'nice doggie' till	Wynn Catlin, 1911.
you find a rock	
Diplomacy is the expression of national	Robert McClintock, 1964
strength in terms of gentlemanly discourse	
Diplomacy and defense are not substitutes for	John F. Kennedy, 1961.
one another. Either alone would fail.	
If politics is the art of the possible, diplomacy	Robert J. Moore, 1985
is the art of taking the possible beyond its local	
dimensions	

Source: Compiled by the Course Writer, 2016

No doubt, the definitions examined above point to a similar direction, namely that diplomacy is a technique or procedure for the conduct of international relations. In reality, diplomacy is at the heart of international relations or as Palmer and Perkins noted: that diplomacy is a process by which foreign policy is carried out. As an instrument of foreign policy, diplomacy functions through a labyrinth of foreign offices, embassies, legations, consulates, and special missions all over the world.

## 3.2 Negotiation as the Essence of Diplomacy

One of the foremost writers and practitioners of diplomacy, Sir Harold Nicholson, argues that diplomacy is 'the management of international relations by negotiation; the method by which these relations are adjusted and managed by ambassadors and envoys; the business or act of the diplomatist'. The emphasis on negotiation is the very essence of diplomacy. Diplomacy focuses on negotiating treaties, reaching an executive agreement, or bargaining with another state over terms of a proposed agreement. The work of diplomacy is not only undertaken by a country's ambassador assigned or accredited to a foreign country or an international organization such as the United Nations (UN), African Union (AU) and Economic Community of West African States (ECOWAS). Diplomatic negotiations can be done by Heads of State during a summit meeting, foreign ministers and other government officials, or by a specially designated diplomat as in one who seeks to secure peace between parties in a dispute or situation requiring such negotiations. Examples of such diplomacy include:

- i. Negotiation between President Nixon and Leonid Brezhnev at US-Soviet summits on arms control and other matters in the early 1970s.
- ii. Negotiations hosted by President Carter in the late 1970s between Egyptian President Sadat and Israeli Prime MinisterMenachemBegin that resulted in Camp David Peace Accords.
- iii. Former US Secretary of State, Henry Kissinger, who in the aftermath of Arab Israeli war, engaged in what came to be known as 'Shuttle Diplomacy' between Capitals in the Middle East to negotiate peace.
- iv. Undersecretary of State Richard Armitage working to defuse a highly dangerous situation involving India and Pakistan in 2001.
- v. Negotiation hosted by President OlusegunObasanjoin Abuja, Nigeria between the Sudanese government and various rebel groups from Darfur in 2006.

Diplomacy can involve formal and informal negotiations. These negotiations can be conducted with the full knowledge of the world or in secret. Negotiations can be conducted on a bilateral

basis, between two states, or on multilateral basis, involving three or more states. The Secretary General of the United Nations and other international organizations are often in a position to play a constructive role in managing conflicts and assisting parties in the negotiation process.

#### SELF ASSESSMENT EXERCISE 6

- i. What do you understand by the term diplomacy?
- ii. Why is negotiation extolled as the very essence of diplomacy?

#### 4.0 CONCLUSION

Almost every day of the week, newspapers and television, andrecently joined by the social media, broadcast report of the work of diplomats. If there is a war to be averted, a crisis to be resolved, or a peace settlement to be negotiated, diplomats are on the scene. Other equally important duties carried out by diplomats include the daily work conducted at embassies and consulates: issuing tourist and immigrant visas, providing citizen services for oversea travelers, encouraging commercial activity among nations, and meeting regularly with host foreign ministry personnel.

#### **5.0 SUMMARY**

In this Unit, you have been taught the management of international relations through tact, negotiation and poise - diplomacy. Various definitions of diplomacy have been examined. Basically, we noted that diplomacy can be viewed as a basic means by which states attempt to harness their power for the purpose of achieving their objectives and securing their interests. Diplomatic activity is one of the most visible aspects of international intercourse. Diplomacy focuses on negotiating disputes and situations; hence negotiation is the very essence of diplomacy

#### 6.0 TUTOR-MARKED ASSIGNMENT

**Q.1.** Define the concept of diplomacy and its application to international relations.

Q.2. Identify and briefly discuss the major actors involved in the conduct of a county's diplomacy.

## 7.0 REFERENCES/FURTHER READINGS

- 1. Freeman, Charles W. (1994). Diplomat's Dictionary, Diane Publishing
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#### UNIT 3THEORETICAL APPROACHES TO DIPLOMACY

#### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 Theoretical Approaches to Diplomacy
  - 3.2 The Traditional School of Diplomatic Thought
  - 3.3 The Nascent School of Diplomatic Thought
  - 3.4 The Innovative school of Diplomatic Thought
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Readings

## 1.0 INTRODUCTION

In the first unit of this module, you studied the definition of diplomacy. In this unit you will be exposed to the various theoretical approaches of diplomacy. While there is agreement on the importance of practical diplomacy, the same cannot be said of diplomatic theory. Diplomats are often the first to criticize attempts at theorizing or providing 'particular explanations of why the world is the way it is and what people ought to do' (Murray, 2013). Most diplomats also criticize any idea of a 'grandtheory on diplomacy'. Formost diplomats, 'to practice diplomacy is to theorise'. According to StuartMurray (2013), the attitudes of diplomatic scholars towardstheory of diplomacy were for the most part not much better. Unlike the mother discipline of International Relations the sub field does not have a readily identifiable body of lucid, extractable and plural theory with which to makesense of modern diplomacy. This is nothing new. It is well documented that diplomacy and diplomatic studies has a resistance or inertia to theory (Murray, 2008). Because of this resistance, diplomatic studies has a resistance or inertia to theory is much like the practical environment it focuses upon: the field is multifaceted and its core subject is contested and ever expanding.

## 2.0 OBJECTIVES

At the end of this unit, you should be able to

- 1. Identify the types of theoretical approaches to diplomatic studies.
- 2. Describe the different types of theoretical approaches to diplomatic studies.

#### 3.0 MAIN CONTENT

## 3.1 Theoretical Approaches to Diplomacy

Theory is useful to fields of study grappling with questions over its subject matter. It is vital to filtering complex and growing bodies of knowledge saturated with contested claims. It offer scholars and practitioners a theoretical identity hitherto lacking; and drives fields of study forward, revealing gaps in the field that needs to be studied in greater detail. In the midseventeenth century diplomacy was in a similar evolutionary, formative period and theory was

fundamental to cementing diplomacy as an important area of study and practice. A lot of changes have taken place from the pre-Westphalian period to the post-Cold War era. If both the scholars and practitioners of diplomacy are to understand the modern diplomatic environment, then building, consolidating and debating distinct schools of diplomatic theory is fundamentally important. In this unit, three different Schools of diplomatic thought, or diplomatic theory, are identified to help clear the confusion over diplomacy: the Traditional school, the Nascent school, and the Innovative school.

## 3.2The Traditional School of Diplomatic Thought

The Traditional School is the most familiar way of theorising diplomacy. For centuries, traditional works dominated the tenet of diplomacy and in time came to constitute a distinct way of thinking and writing on diplomacy. Certain common characteristics, assumptions and generalisations are shared by Traditionalists which allows the introduction of a unique school of diplomatic thought. The traditional approach to writing on diplomacy has several synonyms: statist', state-centricor rationalist' being common. The tradition in this case is to continue to emphasize the centrality of the state to diplomacy. Continuity allows each generation of Traditionalists to build on the foundations laid by their theoretical forefathers. Each of the Traditionalists relies on, develops and expresses an admiration for the work of their predecessors. Satow, for example, writing two centuries later considered the work of De Callieres as a mine of political wisdom (Satow in T.G. Otte, 2001). In *The Evolution of theDiplomatic Method* (1957: 62) Nicolson too expresses admiration for the work of his traditionalforefathers regarding de Callieres work as the best manual on diplomatic method everwritten. The title of G. R. Berridge's *Diplomatic Theory from Machiavelli to Kissinger* (2001) indicates an admiration for the earlier scholars writing on diplomacy.

Traditionalists share five common assumptions.

- i. First, they describe diplomacy as an almost exclusive state function. They posit that diplomacy is the privileged domain of professional diplomats, conducted almost exclusively by Foreign Service personnel and officials from Foreign Ministries. In the modern era, traditional diplomacy is an activity where professional, officially accredited state representatives are portrayed as the monopolistic gatekeepers of a sacrosanct historical tradition.
- ii. Second, Traditionalists interpret diplomacy as the study of the international realm of sovereign states, with the central purpose of diplomacy being to overcome the anarchical nature of that system and to facilitate peaceful relationships amongst sovereign states through familiar, historical channels of diplomacy.
- iii. Third, traditionalists concentrate on diplomacy's role in relation to a classic political-military agenda which can be described as a conception of international relations, where states are motivated by considerations of measurable power.
- iv. Fourth, Traditionalists consider diplomatic and political history as central to their school of thought. The study of diplomacy, they argue, demands an embracing of the distant as well as the recent past.

v. Fifth, Traditionalists write prescriptive guides to diplomacy where they theorise on the practice of diplomacy. Satow's *Guide to Diplomacy* (2009), Berridge's *Diplomacy: Theory and Practice* (2010) and Rana's *The 21st Century Ambassador* (2011) can be classified as such. These books are manuals of diplomatic procedure, in the tradition of the guides that made their appearance early in the European system, and continue to dominate the field.

The Traditional school remains essential to understanding modern diplomacy. Itdescribes the inner workings and realms of professional diplomacy and conveys numerous intricacies of the diplomatic game in a rigorous, historical and sophisticated manner. In terms of explaining the rules, procedures and processes of traditional diplomacy to outsiders, their contribution is invaluable.

## 3.3 The Nascent School of Diplomatic Thought

The Nascent school is opposed to Traditionalism. It emerged to challenge the dominant Traditionalist school. The nascent school is opposed to the argument that the state is the dominant actor in diplomacy. Nascent scholars view traditional diplomacy as increasingly distanced from the real world problems of the twenty-first century. Scholars from this group focus on emerging forms of alternate diplomacy, hence the label Nascent. This type of diplomacy has several synonyms: new, unofficial, and unconventional or track-two diplomacy. The major assumption of this school is that diplomatic expertise for dealing successfully with conflict and peacemaking does not reside solely within government personnel or procedures. Nascent scholars share four common assumptions and generalisations, allowing us to speak of a distinct School.

- i. First, Nascent theoristschallenge the notion that diplomacy be interpreted in a rigid, precise or authoritative fashion, concentrating on the role of the state. For Nascent scholars, lessening state focus requires afundamental reconceptualisation of diplomacy.
- ii. Second, Nascent theorists view the state and its diplomacy as blocking change to a more pacific international relations system. They can be described as those who regard the state as an obstacle to world order.
- iii. Third, Nascent scholars argue that the traditional diplomatic institution is in a period of crisis and obsolescence.
- iv. Fourth, Nascent authors believe that traditional diplomacy is ill-suited to twenty-first century problems, and that this type of diplomacy both as a vocation and an area of theoretical focus is defunct. The crisis of the traditional diplomatic institution leads Nascent theorists to suggest that perhaps it is obsolete and irrelevant.

This Nascent School, like Traditionalism, in not without its faults. The major criticism of this school is its assumption toward the prominence of states and their traditional diplomatic institutions as obsolete.

## 3.4 The Innovative School of Diplomatic Thought

The third school, the Innovative school, emerged as a result of the criticisms against the traditionalists and nascent schools of diplomatic thought. This schoolfavours a middle ground for both. Various scholars interpret modern diplomacy differently, in particular the questionable relationship between the incumbent state and emerging non-state actors. For this third School, diplomatic studies and theory reflects a so-called state/non-state division. The third school emerged to occupy the middle ground. Scholars from this group share five common assumptions orgeneralisations, which confirm the existence of the Innovative school of diplomatic thought.

- i. The first assumption common to the Innovators is their criticism of the divisionary relationship between the Traditional and Nascent schools.
- ii. Second, for the Innovators, polarisation of diplomatic thought forces the observer of modern diplomacy into making a binary either/or choice that diplomacy is either relevant or obsolete, dead or alive, state or non-state, and so on.
- iii. Third, they argue that modern state/non-state diplomatic relationships are distinctly nonadversarial, symbiotic and complementary. Non-state diplomatic actors are as much a part of modern diplomacy as state actors are and must be accepted as such by all theorists and practitioners of all types of diplomacy.
- iv. Fourth, the Innovator's propensity to moderate and incorporate balance into their way of thinking and writing about diplomacy is related to the positive networks and plural relationships they believe exist between diplomatic actors of all creeds.
- v. Fifth, for the Innovators, traditional diplomacy must be considered in relation to the transformed environment of actors, issues, and modes of communication within which diplomats function; and yet, demonstrate the continuing centrality of conventional diplomats to most of what happens in contemporary diplomacy.

The three diplomatic schools identified and discussed in this unithave broadened our knowledge of modern diplomacy. Having three schools of diplomatic thought instead of one dominant type of traditional thinking with limited application improvesunderstanding of the modern diplomatic environment and our image of the modern diplomatic environmentbecomes sharper.

#### SELF ASSESSMENT EXERCISE 7

- i. Identify and discuss the strength and weaknesses of any of the three theoretical approaches to diplomatic studies.
- ii. Compare and contrast the traditional and nascent schools of diplomatic thought.
- iii. Compare and contrast the nascent and innovative schools of diplomatic thought.

#### 4.0 CONCLUSION

What should be of interest to students of international relations is to understand the various theoretical approaches to diplomacy. The respective diplomatic schools of thought, and the strengths and weaknesses of each school have been discussed. Thus, each school of thoughtprovides us with insights to better understand the most effective form of

moderndiplomacy or the most relevant way of thinking or writing on modern diplomacy. Moreover, classification of different theories on diplomacy highlightsweaknesses in the field as well as new research opportunities.

#### **5.0 SUMMARY**

We have identified and discussed three different schools of diplomatic thought, or diplomatic theory - the Traditional school, the Nascent school, and the Innovative school. For students of international relations, the three schools will provide sharper lenses which make the modern diplomatic picture clearer.

#### 6.0 TUTOR-MARKED ASSIGNMENT

- **Q.1**Identify and discuss the strength and weaknesses of any of the theoretical approaches to diplomatic studies.
- Q.2. Compare and contrast the traditional and nascent schools of diplomatic thought.
- Q.3. Compare and contrast the nascent and innovative schools of diplomatic thought.

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#### UNIT 4TYPES OF DIPLOMACY

#### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 Types of Diplomacy
  - 3.2 Permanent Diplomacy
  - 3.3 Personal Diplomacy
  - 3.4 Permanent Conference Diplomacy
  - 3.5 Parliamentary Conference Diplomacy
  - 3.6 Ad Hoc Conference Diplomacy
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Readings

#### 1.0 INTRODUCTION

In the last unit, you studied the different theories of diplomacy; in this unit you will learn thetypes of diplomacy and functions of diplomats.

## 2.0 OBJECTIVES

At the end of this unit, you should be able to

- 1. Identify and discuss the types of diplomacy.
- 2. Differentiate between the different types of diplomacy.

#### 3.0 MAIN CONTENT

## 3.1 Types of Diplomacy

There are different types of diplomacy and they include: permanent diplomacy, personal diplomacy, permanent conference diplomacy, parliamentary conference diplomacy, and ad hoc conference diplomacy.

#### 3.2 Permanent Diplomacy

The first type of diplomacy is known as permanent diplomacy. According to Ofoegbu (1980:71), the oldest form of diplomacy is the exchange of diplomatic representatives on a permanent basis. These representatives tackle two broad types of duties: Chancery duties such as representation, reporting, negotiations and intelligence; and Consular duties such as visas, information, welfare of nationals, trade and commerce, and economic matters. The head of state would normally allow his appointed minister of foreign affairs to make all pronouncements on behalf of the state. Whenever the head of state wants to make pronouncements, the minister of foreign affairs will not only be in attendance but also provides the background information. In case of change of government, the structure of the permanent mission is not altered, except for change of such persons such as ministers and ambassadors and posting of personnel within the Foreign Service.

#### 3.3 Personal Diplomacy

The second type of diplomacy is personal diplomacy and involves key decision-makers such as heads of state, foreign ministers, secretaries-general of international organizations, very senior ministers such as those of defense, finance ministers and special personal representatives or assistants of heads of states. This type of diplomacy has continued to grow in importance because of the improvements in communications technology and travels systems. It is also widely recognized that personal diplomacy increases the knowledge of key decision makers by directly being involved in negotiations. Most importantly, personal diplomacy heightens trust, leads to friendship and increases the chances of understanding and cooperation. Some have equally argued that personal diplomacy quickens the processes of decision making, and eliminates the inherent dependence on other peoples reporting and receiving feedback before making decisions. By coming together, important world leaders can use their authority and prestige to defuse misunderstandings and take decisions on critical issues.

## **3.4 Permanent Conference Diplomacy**

The third major type of diplomacy is permanent conference diplomacy. It is a procedure whereby permanent delegations are accredited to international and regional organizations and institutions. These missions are reinforced from time to time by additional delegates from their home states or countries. For example, for UN meetings, the Nigerian delegates may comprise of: the Head of State, his foreign minister, other key or selected ministers, political leaders that accompany the President, invited academics/specialist on issues, the Nigerian Permanent UN Representative and his/her staff.

## 3.5 Parliamentary Conference Diplomacy

The fourth type of diplomacy is called parliamentary conference diplomacy, and also takes place within international organizations and institutions. This type diplomacy has been criticized as characterized by "rhetoric, polemics and long boring formal statements that state and restate positions rather than seek to discuss, negotiate and generate the mutual offers of concessions and bases of settlements. It largely depends on majority decisions and unfortunately, sometimes, the voting of majority lacks the economic and military power to execute the decisions.

## 3.6 Ad Hoc Conference Diplomacy

The fifth type of diplomacy is called ad hoc conference diplomacy, and like the name implies it is adhoc in character. This is a temporary diplomatic arrangement set up by states or international organizations for specific purposes and it terminates after the purpose might have been achieved. For example the OAU Anti-Apartheid Committee, which Chief OlusegunObasanjo of Nigeria, served at one time as its Co-Chairman, Eminent Persons Groups on South Africa. As soon as apartheid was crushed leading to the enthronement of democratic rule in the country and subsequent election of Nelson Mandela as the first black president of South Africa, the adhoc committees were disbanded. The ad hoc conference diplomacy has remained one of the most active forms of diplomacy. Hardly a week passes without witnessing two or three international gatherings of delegates.

#### SELF ASSESSMENT EXERCISE 8

- i. Identify and briefly discuss the different types of diplomacy.
- ii. Differentiate between any two of the different types of diplomacy.

#### 4.0 CONCLUSION

The different types of diplomacy examined in this unit are not without their respective limitations. The personal diplomacy for example has been criticized as a risky venture primarily because the travels can lead to tragic loss of lives or aggravate international tensions if a head of state suddenly dies in a foreign state. A Head of state may be criticized for frequent travels. Over reliance on personal diplomacy has also been criticized as ignoring the accumulated intelligence, knowledge and information of professional ambassadors and their embassy staff. It is therefore recommended that personal diplomacy and permanent diplomacy should work hand in hand. Permanent diplomacy has also been criticized as very expensive or too costly for small and poor nations. It also makes excessive demands on the diplomats involved. While this may be so, diplomats have equally argued that foreign affairs is not a cheap business, hence countries must invest in their international relations according to their national capacity. In the same vein, while parliamentary diplomacy has been criticized for over lobbying, use of pressure techniques, over mass media coverage and opportunities for actors to state their grievances, adhoc diplomacy as being shorted termed and less productive. While these criticisms should not be glossed over, the reality remains that each type of diplomacy has its huge merits and situations determine the type or combination of diplomacies to employ by the actors involved in international negotiations.

#### **5.0 SUMMARY**

In this unit, we examined the different types of diplomacy, including, the permanent diplomacy, personal diplomacy, permanent conference diplomacy, parliamentary diplomacy, and ad hoc conference diplomacy. We also discussed the advantages of each type of diplomacy as well as criticism leveled on each. In the final analysis, all types of diplomacy are important and compliment the work done in the other by actors representing a country.

#### 6.0 TUTOR-MARKED ASSIGNMENT

**Q.1**. Identify and briefly discuss two types of diplomacy of your choice.

Q.2Compare and contrast any two types of diplomacy of your choice.

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# MODULE 3: DIPLOMACY: HISTORY, FUNCTIONS, STRATEGY AND BEHAVIOUR OF STATES

#### INTRODUCTION

Essentially, this module is interesting and important for your understanding of functions of diplomacy, the history and evolution of diplomacy, negotiation behavior of states and diplomatic strategies for negotiation. The functions of diplomacy include information gathering, reporting, representation, protection and negotiation. The most important function of diplomats is that of negotiation. In terms of history, diplomacy is as old as human society. Even so, diplomacy these days, particularly its ultimate form of representation, is being undermined by information age because Heads of State can communicate with one another by computers and telephones. Negotiation work of the modern diplomat is quite demanding because he or she has to defend the interest of his or her country at all times. Hence, it was necessary to understand the negotiation behavour of various countries in order to understand the character of the diplomats from these countries. We shall attempt to understand the negotiation behaviours of the USA, Iran, Russian and China.

You will find the comprehensive discussions of this module under the following units:

Unit 1 History and Evolution of Diplomacy

Unit 2 Diplomatic Functions

Unit 3 Diplomacy and Negotiation Behaviorof States

Unit 4Diplomacy Strategies for Negotiations

## UNIT 1HISTORY AND EVOLUTION OF DIPLOMACY

#### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 History and Evolution of Diplomacy
  - 3.2Greek Contribution to the Development of Diplomacy
  - 3.3Romans Contribution to the Development of Diplomacy
  - 3.4The Emergence of Modern Diplomacy
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Readings

#### 1.0 INTRODUCTION.

This unit will focus on thehistory and evolution of diplomacy. Diplomacy is old as time itself. Right from the time man evolved food gathering and hunting economy into sedentary farming and pastoral society, there were two ways in which man advances his terrestrial interest. It is either by conquest or by negotiation, which in today's language is called diplomacy. With the development of modern diplomacy have come various institutions and practices within which diplomacy relation is conducted. There are now embassies, consulates, legations, honorary consulates and so on.

## 2.0 OBJECTIVES

At the end of this unit, you should be able to

- 1. Discuss thehistory and evolution of diplomacy.
- 2. Account for the contributions of ancient civilizations to the development of modern diplomatic practice.

## 3.0 MAIN CONTENT

## 3.1 History and Evolution of Diplomacy

Even before the emergence of modern states as we know them today, which goes back to the Treaty of Westphalia in 1648, the art of diplomacy had been in practice for thousands of years. Before 1648, old civilizations like those in China, Mongol India, Babylon, Ancient Egypt, the Greek City states, the Empire of Alexander, the Roman empire and other kingdoms including Ghana, Mali, Benin, Oyo, Kanem-Borno, the Sokoto Caliphate, the acephalous societies of the Igbo, Tiv and other societies in Nigeria conducted one form of diplomacy or the other. According Osuntokun (2006: 54) the art of diplomacy has always been in existence, it was a preferred mode of relations to military confrontation because military confrontation has a cost far above the cost of diplomacy. In most cases even after the destruction occasioned by war, the combatants still have to resort to negotiation. We would proceed to examine the history and evolution of diplomacy at the international level.

## 3.2Greek Contribution to the Development of Diplomacy

History of diplomacy could be said to have started with the Greek period between 700 to 100 BC (Murty, 1968: 9). The Greek philosophers like Plato and Aristotle contributed a great deal to the political construction of a City State and its external relations with neighboring states. With the growth of Greek civilization, the relations between several City states in the neighborhood became complex and competitive and as such the art and practice of negotiations demanded men with shrewdness, wisdom and amiable disposition, who were in the position to convince the assembly of the neighboring states, as to its policy and its interest. The function of the Greek diplomat at that time, though the word diplomacy was not used then, was to collect information regarding the State to which he was accredited, use forensic methods to advocacy before the popular City Assemblies in support of his State's interests, write periodical reports about the foreign State. We see the Greek example of diplomacy most clearly in Thucydides' history of Peloponnesian War. Thucydides attended a number of the political debates he recorded, and the power of orators was documented by him. Prior to the outbreak of the war, for example, the Spartans summoned their allies to a conference to discuss recent events and to decide on a course of action. The case of the Megarians and Corinthians for declaring war on Athens appears quite persuasive until one reads the subsequent Athenian rebuttal. This event illustrates how far diplomatic practice had been institutionalized at the time of the Spartan-Athenian hegemony.

## 3.3 Romans Contribution to the Development of Diplomacy

The Romans acquired the Greek diplomatic traditions, but as an expanding empire, Rome had demonstrated less attraction to negotiation. That notwithstanding, Roman contribution to international law had diplomatic implications. The Romans emphasis on the fulfillment of contracts, for example, applied to their view of treaties. The work of the Romans on Jus gentium(law applied not just to the Romans, but to all peoples whether citizens or foreigners) and jus naturale (law whose principles are discovered by reason and thus, common to all humanity no matter ones race, creed or colour) had foreign policy implications (Viotti and Kauppi, 2006). The Romans developed trained archivists who became specialists in diplomatic procedures. During the latter years of the Roman Empire, a need arose for trained negotiators. The Eastern Byzantine hub of the empire in Constantinople realized force alone could not keep the barbarians at bay. Diplomats, therefore, were critical players in the three-part strategy to foster rivalry among the barbarians, secure friendship of frontier tribes and peoples by flattery and money, and convert as many of the heathens to Christianity as possible. Such a strategy accounts for Emperor Justinian's ability to extend Byzantine influence as far south as Sudan and keep at arm's length the warrior tribes of the Black Sea and Caucasus. The collapse of the western half of the Roman Empire led in the middle ages to an end of the political and administrative rationality imposed by Rome. Political authority was fragmented among a wide variety of local and regional rulers and the Church in Rome, which claimed universal moral authority. During this period, it was difficult to transact town to town, castle to castle interactions. As a result, not established system of international contact existed, resulting in little advancement in diplomatic practice and conventions.

#### 3.4The Emergence of Modern Diplomacy

Modern diplomacy arose in the thirteenth and fourteenth centuries in Italy. Essentially standing outside the rest of feudal Europe, and Italian city-states resembled the Greek independent state

system. Out of this era emerged ambassador scholars such as Dante, Petrarch and Machiavelli. The first recorded diplomatic mission was established in Genoa in 1455 by Duke of Milan. Five years later the Duke of Savoy sent a representative to Rome, site of the Holy See (the Church). Then in 1496 Venice, a commercial power of the day, appointed two Venetian merchants living in London to represent the republic's interests. Soon after, permanent embassies of the Italian states were established in Paris and London, with other states following suit. It came to be accepted that the ambassador was viewed as the personal representative of his Head of State, with the status of the ambassador more a reflection of the power of his ruler and thus his ability to engage in lavish displays of wealth.

The Congress of Vienna (1814-1815)is of great historical importance. Three reasons stand out. First, the era of the Concert of Europe could be characterized as a multipolar state system. It is not an exaggeration to observe that ministers, political leaders and diplomats of the day deserve credit for establishing an international system that successfully mitigated the worst aspects of anarchy amongst states. Periodic international conferences were held in succeeding decades to make necessary adjustments to the European order- the balance of interests and power supportive of stability that also contributed to the avoidance of general war (Viotti and Kauppi, 2006). Small wars occurred over the half of the century, but each was contained, and none posed a substantial challenge to the overall order that had been established. Although the Concert of Europe as a formal diplomatic mechanism fell apart after several decades, the underlying order and expectations established by diplomacy at Vienna in 1815 contributed to preserving Europe from another outbreak of general war until 1914. Secondly, it was not until the Congress of Vienna that a truly organized system of diplomatic practices and norms emerged. The follow on Congress of Aix-la-Chapelle, for example, agreed on a hierarchy of diplomatic representation: first were ambassadors, papal legates, and papa nuncios; next were envoys extraordinary and ministers plenipotentiary; then came ministers resident; and finally there were those in the position of charge d'affaires. Diplomacy was increasingly professionalized, with common rules, norms and expectations. Certain etiquette, for example, is maintained even between enemies preparing for war. After the Japanese bombed Pearl Harbor on December 7, 1941, the United States declared war on Japan, and diplomatic relations was terminated (Viotti and Kauppi, 2006). In accordance with international law, diplomats were quickly given safe passage out of both countries. The rules of diplomatic immunity long established in customary international law were formally codified in the Vienna Conventions on Diplomatic and Consular Relations. Finally, the Congress of Vienna is worth studying because it is a classic example of successful multilateral diplomacy (a number of countries communicating and negotiating). Successful multilateral diplomacy depends on accommodating the interests and specific objectives of not only two states as in bilateral diplomacy, but rather a number of participants.

The Versailles Treaty and other multilateral settlements following the World War I achieved less compared to the Congress of Vienna. The Versailles peace lasted only two decades. World War II repeated the mass destruction of lives and property of World War I, but at even higher levels made possible by technological advances in military weaponry. A clear example of this case was the bombing of two Japanese cities of Hiroshima and Nagasaki, which was the cataclysmic finale of WW II (Viotti and Kauppi, 2006). As a result of learning from earlier experiences, multilateral diplomacy following WW II did prove to be somewhat successful, although the succeeding half

of the century was also marked by periods of high tension that threatened mass destruction on a global scale. This was largely as a result of the East-West rivalry characteristic of the Cold War between the USA led Western bloc and the USSR led Eastern bloc. Nevertheless, multilateral diplomacy in international conferences and within international organizations has assumed an increasing important role in international relations since 1945.

The International Law Commission of the UN was called upon to prepare the draft articles on diplomatic intercourse and immunities, in order to facilitate a uniform application of the principles and practices in diplomatic relations. In order to convoke a conference for the purpose of translating the report of International Law Commission on diplomatic relations into an accepted Code, the United Nations General Assembly (UNGA) invited member states and other international bodies to participate in a convention held in Vienna in April, 1961. The UN Conference on Diplomatic Intercourse and Immunities was attended by 81 states along with some international agencies. After prolonged discussions on the draft, the Convention on Diplomatic Relations was adopted on 18<sup>th</sup> April, 1961. The main purpose envisaged by the Convention is to "ensure the efficient performance of the functions of diplomatic relations as representing states and not to benefit individuals".

Diplomacy has gone through several stages in its evolution. First, from its rudimentary stages to its current level of sophistication, a diplomat nowadays is a highly sophisticated, well informed and intelligent man or woman. He or she is no longer necessary related to the ruling dynasty or Head of State as was the case in the old times. A diplomat these days is a professional of his own, trained and sometimes speaks several languages. Latin was the language of diplomacy, later French which has remained and today English has become a dominant language of diplomacy. Today languages such as French, Arabic, Chinese, German, Spanish and Portuguese are now United Nations languages because they are spoken in more than two or three countries.

#### **SELF ASSESSMENT EXERCISE 10**

- i. Discuss the History and Evolution of Diplomacy.
- ii. To what extend have ancient civilizations contributed to the development of modern diplomatic practice.

#### 4.0 CONCLUSION

We can conclude this unit by stating that diplomacy is as old as human society even if not in the formal sense in which diplomacy is understood today. Even so, diplomacy these days, particularly its ultimate form of representation, is being undermined by information age because Heads of State can communicate with one another by computers and telephones. The satellite has also reduced the importance of diplomatic reporting as television networks, the internet, and radio report breaking news at a speed that leaves diplomatic and intelligence reporting lagging behind. The position of ambassadors and diplomats and the job they do have being made even more complex as a result of globalization, trends of interdependence and crises of authority (Osuntokun, 2006: 58). First, there has been an erosion of diplomatic norms. The sanctity of diplomatic missions, for example, is no longer respected as a result of entry of non-state actors. Over the years, missions have been attacked by mobs, such as the takeover of the American

embassy in Tehran, Iran in November 1979 by radical students. Since 1980, diplomats have become the major targetsof terrorism.

#### 5.0SUMMARY

We have examined the historical development and evolution diplomacy, from the Greek, to Roman, to Italian and modern diplomatic practice. We noted the important role and contribution of the Congress of Vienna (1814-1815) and subsequent norms and principles to the emergence of modern diplomatic practice.

## 6.0 TUTOR-MARKED ASSIGNMENT

**Q.1**Discuss the history and evolution of diplomacy.

**Q.2**The art of diplomacy is as old as human society. Discuss with relevant cases or examples of your choice.

**Q.3** Why is the Congress of Vienna (1814-1815) regarded as a great historical contribution to development of modern diplomacy?

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#### **UNIT 2 DIPLOMATIC FUNCTIONS**

#### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 Functions of a Diplomatic Mission
  - 3.2 Representation
  - 3.3 Negotiation
  - 3.4 Information Gathering
  - 3.5 Diplomatic Protection
  - 3.6 International Cooperation
  - 3.7 Consular Functions
  - 3.8 The Roles and Functions of Diplomats
  - 3.9 Information Gathering
  - 3.10 Reporting
  - 3.11 Representation
  - 3.12 Negotiation
  - 3.13 Protection
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Readings

#### 1.0 INTRODUCTION

In this unit, you will learn about diplomatic functions of the permanent mission. You will also learn the functions of the diplomat, which includes information gathering, reporting, representation, protection and negotiation. Diplomacy in the 20<sup>th</sup> century introducesnew principles, methods and additional functions on the part of the mission and diplomats. Diplomaticactivity widened its range considerably and itgrew in the political field, especially throughthe introduction of new components. Asidefrom intense bilateral negotiations, multilateralnegotiations become highly important ininternational conferences organizations. One of the most significant contributions of the Vienna Convention as regards diplomatic relations is the importance given to the diplomatic mission institution, considering it an independent entity and allowed to carry out diplomatic functions. Accordingly, the diplomatic missions enjoy immunities and distinctive privileges and perform functions corresponding to its goals, contributing to mutual understanding and close relations between two States, as well as to promoting friendly multilateral cooperation between them.

#### 2.0 OBJECTIVES

At the end of this unit, you should be able to:

- 1. Identify and discuss with examples the functions performed by diplomatic missions.
- 2. Identify and discuss the roles and functions of diplomats.

#### 3.0 MAIN CONTENT

## 3.1 Diplomatic Functions

According to Article 3 of the 1961 Vienna Convention, the functions of a diplomatic mission are as follows:

- i. Representing the sending State in the receiving State;
- ii. Protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law;
- iii. Negotiating with the Government of the receiving State;
- iv. Ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State;
- v. Promoting friendly relations between the sending State and the receiving State, and developing their economic, cultural and scientific relations.

The second paragraph of Article 3 in the Vienna Convention also shows the right of a diplomatic mission to perform consular functions. The essential function of any diplomatic mission is promoting friendly relations and collaboration between the two States at economical, cultural and scientific levels. These functions are further discussed in detail.

## 3.2 Representation

Representation is about the most visible function performed by permanent missions. The representation function means that diplomatic agents participate to events in public life, standing for the sending State. International representation of States is a juridical rapport on whose ground a State grants another State the right to fulfill juridical actions towards a third State. Subsequently, in the case of international representation we can identify three subjects of international law. It is not the case of diplomatic mission, which is not a subject of international law, but an organ that helps maintaining and developing relations between two States as subjects of the diplomatic rapport.

#### 3.3 Negotiation

Negotiation is one of the functions that permanent diplomatic missions perform. Negotiation means examining a problem of common interest in order to solve it. Negotiation goes beyond discussions in the process of sealing international accords. Currently, they represent an important field in the activity of a diplomatic mission, performing the negotiation function when conducting discussions with competent organs of the receiving State on problems of mutual concern.

## 3.4 Information Gathering

Another important function performed by diplomatic missions is that information gathering. By performing this function, the diplomatic mission provides the sending State data obtained regarding domestic life and international politics in the country of residence. The diplomatic mission performs its functions using official and officious contacts, mass media and local journals, literary and scientific publications. Concerning this aspect, under section (d) from article 3, the 1961 Vienna Convention stresses the lawful character that any information source used by the diplomatic mission must have.

## 3.5 Diplomatic Protection

There is a close connection between representation, negotiation and protection functions. By performing the latter, the diplomatic mission achieves protection of interests that the sending State and the personnel under its authority might have in the country of residence. Actually, when the diplomatic mission represents its State and negotiates with authorities in the receiving State, then it acts in the name of specific interests, in order to accredit and promote these interests.

## 3.6 International Cooperation

The aim of the diplomatic mission is expressed by a central function that polarizes the attitude of all other functions in the direction of the other goal: promoting friendly relations and cooperation between the sending State and the receiving State. Hence, diplomatic missions fulfill an essential role when investing in the bilateral relation virtues that transform it in the primary positive element in the process of placing international relations on moral, fairness and lawful principles.

#### 3.7 Consular Functions

Performing consular responsibilities by the diplomatic mission is no doubt an important part of the practice of international relations. It developed as the role of consular institution became more important, thanks to growth in commercial relations and tourism. The Vienna Convention stipulates in the second paragraph of Article 3 the following: "Nothing in the present Convention shall be construed as preventing the performance of consular functions by a diplomatic mission". In doctrine, this stipulation can mean that the sending State may establish an embassy, a consular division, without permission of the receiving State. This conclusion is drawn from the principle of States' sovereignty and mutual consent - fundamental principle of diplomatic and consular relations.

## 3.8 The Roles and Functions of Diplomats

Diplomats are agents of the State. In theory, they act on instruction. Until the advent of moderncommunications, their instructions were more or less general. Diplomats required indepth understanding of the national interest of the country they represented. What then are the major roles and functions of a diplomat? First, he/she is an agent of his government ordered to carry out instructions from authorized superiors. Whatever an individual diplomat's private feelings on a given issue may be, he is duty-bound to carry out the instructions. Ofoegbu (1980) identified four major functions of diplomats which are reporting, representing, negotiating and protecting. While all the functions are important, it has been pointed out that the function most intimately involved in by diplomats is that of negotiation.

## 3.9 Information Gathering

One of the functions of the diplomat is that of information gathering and analysis. Due to his presumed experience and familiarity with a country, its culture, institutions, and key personalities, the diplomat brings added value by analyzing and putting in context information gathered to serve the interest of his/her country. Consequently, for the diplomat to be well-informed, he ideally should speak, read, and understand the local language, extract from the mass media key nuggets of important information, develop a string of well-informed contacts covering

a wide spectrum, and attend major events such as political party congresses. The analysis needs to be substantiated by fact and interpretation

## 3.10 Reporting

The function of reporting carried out by the diplomat normally follows that of information gathering and analysis. As diplomats are the eyes and ears of their country abroad, their reports which covered politics, economics, news analysis, social conditions in their host countries, changes in policies or decision makers, intelligence gathered from formal and informal contacts, and carefully thought out pieces of advice on policy reforms, serve as raw materials in the foreign office. The reports are in form of confidential dispatches, which are sent through privileged couriers services. A lot of effort is put into the duty of reporting. It involves an embassy monitoring all the duty all aspects of the life and work of the country in which it is based.

## 3.11 Representation

The diplomat performs of the function of representation. Diplomats represent their countries in the host countries concerned, represent their states at functions, parties and ceremonies. Through such representation, diplomats help to cement the relationship between their country and the host country.

## 3.12 Negotiation

A diplomat is also a negotiator. We stated earlier that the most demanding function or duty carried out by diplomats is that of negotiation. The function of negotiation brings diplomats in close contact with their host country and with other diplomatic missions in the same post as actors. Depending on the issue, a diplomat may have more or less freedom toadjust from basic instructions, tactics, and goals. In order for a negotiation to succeed, which may notalways be desirable or the preferred outcome, the astute diplomat will have a good general understanding ofhis counterpart's baseline requirement, some sense of the national cultural manner of negotiating, and awillingness to bargain, but not to bargain away essential or vital objectives.

#### 3.13 Protection

Diplomats protect the lives, property and interests of their citizens in foreign lands. This is their function of protection. Citizens living in the host country look up to the diplomats to defend their interests whenever the need arises and sometimes seek protection or shelter in the embassies if their lives are threatened. The diplomats on their own part know that carelessness over the welfare of a citizen could cause strain in foreign relations between their country and their host country. These citizens abroad may be businessmen, tourists, students, workers, and government officials. Their needs, welfare and interests differ. Protecting, promoting and attending to these needs, interests and welfare, improve foreign relations and reduce international tensions and promote the good image of a country.

#### **SELF ASSESSMENT EXERCISE 9**

- 1. Identify and discuss with examples the functions performed by diplomatic missions.
- 2. Identify and discuss the roles and functions of diplomats.

#### 4.0 CONCLUSION

There is strong similarity in the functions and role of the permanent mission and the diplomat. The major diplomacy function of the permanent mission and the diplomat consists of a constant assessment of other countries' power potential, perceived vital interests, relationship with other states, in an attempt to maximize one's own country's freedom of action with the ultimate purpose of assuring the achievement of the nation's vital interests, the core of which is survival. In this regard, diplomacy traditionally and currently utilizes a variety of practices or maneuvers to obtain the protection or furtherance of the national goals or interests. While technology is making certain traditional means of conducting diplomacy obsolete, the core functions of diplomacy will remain. In the past, airplane and telegraph made clipper ships and quill pen instructions redundant. New information technology is already making reporting far more focused on analysis than simple newsgathering that is done better by the CNN effect, and e-mail and cell-phone are replacing cabled instructions. Such technological advances occasionally produce serious suggestions to eliminate some or many embassies, but only because of a perceived more efficient manner of performing their functions. Diplomacy is still a vital element of national power.

#### **5.0 SUMMARY**

In this unit, we discussed the diplomatic functions of permanent missions. You also learned the roles and functions of diplomats. As noted in this unit, there is an edge cut similarity between the functions of both the permanent diplomatic mission and the roles and functions of the diplomat. The functions which we identified include information gathering, reporting, representation, protection and negotiation. We also pointed out that though all the functions are important, the most intimately involved of all is that of negotiation. After all, Sir Harold Nicholson insists the diplomat is a negotiator and that diplomacy is 'the management of international relations by negotiation. Diplomats also act as spokesman and sounding board for the country. A good diplomat will be effective in public and private gatherings at furthering his country's interests and refuting criticism of it by couching his advocacy in a manner best suited to the culture where he is stationed.

#### 6.0 TUTOR-MARKED ASSIGNMENT

- i. What are the major the functions performed by diplomatic missions?
- ii. Write short notes on the roles and functions of diplomats.

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#### UNIT 3 DIPLOMACY AND NEGOTIATION BEHAVIOR OF STATES

#### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1.Diplomacy and Negotiation Behavior of States
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Readings.

#### 1.0 INTRODUCTION

In this unit, we shall examine how thework of the diplomat is shaped by the negotiation behavior of his or her state. Negotiations are carried out by people who usually act for states. Diplomats, the official representatives of their countries, bring all of their country's power and prestige to the negotiating table, putting the negotiations under extra pressure, but also bringing risks with it that must be limited. Serious loss of face for diplomatic negotiators can result in serious loss of face for the country, which can lead to unforeseen consequences. After all, the representative is not only the representative of his Head of State and country; he was, in a way, the Head of State himself. The ambassador is not only the representative of his or her state; he or she personifies it. This is why representatives are listened to, but some of course carry more weight than others. Their influence, which is also determined by their skill, is still largely based on the power that they represent.

#### 2.0 OBJECTIVES

At the end of this unit, you should be able to

- 1. Discuss the relationship between the diplomat and negotiating behavior.
- 2. Discuss and differentiate the negotiating behaviors of countries.

#### 3.0 MAIN CONTENT

## 3.1 Diplomacy and Negotiation Behavior of States

The diplomatic negotiator as a representative of a country is protected by many rules and procedures. In principle, the essence of the rules and procedures is to ensure that no one state has an advantage over the other. However, in reality, some states are more powerful and some have developed the capacity to negotiate better than other states. The Vienna Convention of 1961 documented the accumulation of European practices, norms, values and regulations assembled over the centuries. Over the centuries, a 'diplomatic culture' has developed, in which diplomats from very different cultures can interact in a comfortable atmosphere. The misunderstandings and misconceptions that cultural differences can cause are in this way reduced to acceptable proportions. It can be argued that differences in negotiation style have a more limited influence on the negotiating climate in diplomacy than in international business, unless the diplomat is planning to use these differences as a tactical weapon. On the other hand, individual character-

trait differences can damage the atmosphere. Differences in negotiating skills will naturally always have influence on the outcome of the negotiations; there is also a visible increasing difference in training techniques. The difference between the official representatives of a state, whether this person is a diplomat or an internationally functioning civil servant, and the negotiator who represents a company or other group, is based on the formal character of the negotiation mandate of the first. The instruction that the diplomat gets as a negotiator carries the status of the state. With this basic understanding we proceed to examine the negotiation behavior of some countries.

## 3.2 The Negotiation Behavior of the United States of America

The U.S. negotiators have a distinctive style described as forceful, urgent, explicit, legalistic, and results-oriented. Although these traits inevitably vary according to the personalities of negotiators involved and the circumstances, the pragmatic American style is always evident, shaped by powerful and enduring structural and cultural factors. Prominent among the structural influences is the United States' position as an international power. Because of its global interests and the depth of its power, the US plays a leadingrole in numerous negotiating forums. While American diplomats tend to see themselves as tough but fair bargainers, most foreign practitioners regard the US as a hegemonic power that is less concerned to negotiate than it is to persuade, sermonize, or arm-twist negotiating counterparts into acceding to American positions. The U.S. negotiators are compelled to work within certain constitutional constraints. Although the US negotiators, including the President himself, have the power to negotiate, they must do so with a watchful eye on United States Congress. They must also be mindful of the interest of American citizens.

Culture significantly influences how U.S. negotiators use language and time. They tend to be blunt and legalistic while employing a conceptual vocabulary drawn from such diverse fields as labor relations, Christian theology, and sport. They are uncomfortable with silence and ignore body language. They enter a negotiation with their own timeframe and usually press for an early agreement, especially if the issue at stake has political significance at home. The US negotiators apply pressure by simultaneously exerting substantial and multifaceted resources. At the negotiating table, U.S. diplomats are known for pushing the facts and arguments as they seek to convince their counterparts of the benefits of reaching an agreement on U.S. terms, and the costs of failing to do so. The US negotiators keen to achieve results and use all available channels of communication, including back channels and unofficial or Track-II contacts, to foster progress. Even so, the focus remains on preserving the prerogatives of the official, Track-I channel.

## 3.3 The Negotiation Behavior of Iran

The Iranians expect their negotiators to demonstrate resolve and strength. It is usual for Iranians to expect nothing less that strong will on the part of the leadership. As such, the Iranian leader will do whatever it takes to remain in power. For instance, telling Iranians that their ruler is cruel, undemocratic and authoritarian will not convince the public that they need a new leader. To the contrary, this reinforces the idea that their ruler is strong. It is only when Iranians become convinced that either their rulers lack the resolve to do what is necessary to remain in power or that a stronger power will protect them against their current tyrannical rulers, that they will speak

out and try to overthrow leaders. Compromise as understood by the West is seen as a sign of submission and weakness (Rhode, 2015).

Many of the cultural elements found within Iran do not neatly align with values embedded in Western-style diplomacy. For Iranians, it actually brings shame on those who accept certain compromise or concede defeat. By contrast, the negotiator who forces others to compromise increases his honor and stature, and is likely to continue forcing others to submit in the future. This provides the picture of the behavior of negotiators, especially, when negotiating with the West. The Iranians do not consider weakness a reason to engage an adversary in compromise, but rather as an opportunity to destroy them. What Iranians really believe, they usually keep to themselves. The same applies to the Iranian negotiators who are usually weary of opening up especially when it has to do with Iranian nuclear interest (Rhode, 2015). For the Iranians, negotiations (political, economic, security etc) are seen as opportunities to outsmart others, to demonstrate power, and to make sure opponents know that they are not weak. In politics, Iranians negotiate only after defeating their enemies. During these negotiations, the victor magnanimously dictates to the vanquished how things will be conducted thereafter. Signaling a desire to talk before being victorious is, in Iranian eyes, a sign of weakness or lack of will to win. Iranians do not want to be on the losing side.

## 3.4 The Negotiation Behavior of Russia

Russia's negotiation behavior is rooted in its complex history in which violence and authoritarianism had existed and Russia's yearning to be accepted as an equal to the USA. To understand Russia's negotiation behavior, one most understand its Tsarist and Soviet past. Russian cultural identity has affirmed the durability of its inheritance through the period of the Soviet rule. Even after the collapse of the old Soviet Union and the weakness of central authority as was the case during the era under USSR, the new Russian federation shows strong will when it comes to negotiations. The strands of continuity are revealed in the Russian negotiation behavior. There are thus enduring traits of Russian identity, behavior and culture that characterizes the Russian negotiator which is no less different is some facets as was the case during the Soviet and Revolution era. The marked continuity of the past means that the student of international relations will need to understand, for example, the experience of Soviet-American negotiations since the World War II, particularly since 1960s. Diplomatic negotiators, whose careers began during this period of communist rule or are trained by superiors borne out of that generation, remain psychologically confined to soviet era approaches and attitudes, no matter how much the official wishes to adapt.

The Russian style of negotiations reflects and reinforces traits that have for many centuries characterized distinctly Russian outlook, namely, mistrust and jealously of the outside world, ambivalence of the West, deep seated insecurity, respect for power and certainty of goals, distaste for compromise and readiness to threaten the use force. This history of foreign invasions coloured the policies of the Tsars and Soviets leaders alike and it still influences Moscow's calculations in international negotiations. The Russian negotiators act in defense of the motherland for being perceived as weak, collapsed and lacking control. Russian leaders in turn defend the motherland from invaders, seek outlet for trade and cooperation and are still determined to maintain control over a vast empire threatened by other interests.

## 3.5 The Negotiation Behavior of China

Chinese negotiators are well disciplined in pursuing its interest, reflecting their Marxist-Leninist training. However, the Chinese are distrustful of impersonal and legalistic negotiations (Solomon, 1985). A fundamental characteristic of Chinese negotiating style is the effort to identify a sympathetic counterpart in a foreign government, to cultivate a personal relationship and a sense of friendship, and then to manipulate feelings of goodwill, obligation, guilt or dependence to achieve their negotiating objectives. Friendship to the Chinese implies the obligation to provide support and assistance to one's friends. The Chinese therefore view negotiation as reconciling the principles and objectives of the two sides and testing the counterpart government's commitment to a relationship with the PRC. The Chinese do not see it as a technical process of revolving over details in which the two sides initially table maximum positions and then seek to move to a point of convergence through incremental compromises. To facilitate maneuvers, Chinese officials seek to establish a positive ambience for a negotiation through meticulous show of hospitality, such as cuisine, sightseeing, etc, press play, toasts, and the official mood. They may seek to minimize confrontation or differences of view through subtle and indirect presentation of their position. They may communicate through trusted intermediaries. When they seek to prevent the breakdown of a negotiation, they may resort to stalling tactics or reach a partial agreement while reserving their position on important issues where they do not wish to compromise.

In terms of pressure tactics of the Chinese, PRC negotiators resort to a variety of maneuvers to put an interlocutor on the defensive. They are skilled at making a foreign counterpart appear to be the suppliant ordemandeur. They play political adversaries against each other and they may alternate hard and accommodating moods by shifting from 'bad guy' to 'good guy' officials. They may urge the foreign negotiator to accommodate to their position with the argument that if he does not, his friends in PRC leadership will be weakened by failure to reach agreement. They tend to focus pressure on a sympathetic negotiation, on the assumption that a friend will work with special effort to repair problems in the relationship. They may present themselves as the injured party and seek to shame an interlocutor with recitation of faults on the part of his government or his failure to live up to past agreements or to the spirit of mutually agreed or accepted principles. They may try to use the press to create public awareness on a foreign negotiating team. They may also seek to trap a negotiator against a time dateline. The endgame for the Chinese negotiators is the belief of PRC officials that when they have tested the limits of their adversary's position and that a formal agreement serves their interests, they can move rapidly to conclude a deal. They may let a negotiation appear to deadlock to test their interlocutor's patience and firmness, and then have a senior leader intervene at the last moment to reach an agreement.

#### SELF ASSESSMENT EXERCISE 11

- 1. Briefly discuss the relationship between the diplomat and the act of negotiating for his or her state or country.
- 2. Describe the negotiation behavior of any country of your choice.

#### 4.0 CONCLUSION

In concluding this unit, negotiation work of the modern diplomat is quite demanding because he or she has to defend the interest of his or her country at all times. In discharging this role the diplomat seeks to outsmart others at the negotiation table. Hence, it was necessary for us to examine the negotiation behaviour of various countries, in order to understand the character of the diplomats from these countries. We specifically selected and examined the negotiation behaviours of the USA, Iran, Russian and China. From our examination of the negotiating behaviours of these countries mentioned, it is evident that diplomats work in extremely complex situations, making it necessary for them to have a lot of professionalism and general skills and knowledge. In negotiating, which involves competitive and cooperative elements at the same time, the diplomat is confronted with difficult situations for which an acceptable solution must be found. In this regard, diplomats from some countries present certain traits, skills acquired from training and sense of nationalism, which empowerthem, to negotiate better than others.

#### **5.0 SUMMARY**

This unit discussed the work of the diplomat and the negotiation behavior of countries. We pointed out that diplomats are not only official representatives of their countries who seek to defend the interest of their country's power and prestige at the negotiating table, but also personify their countries and even the Heads of State. We also examined the varied negotiation behavior of countries including the USA, Iran, Russia and China. It is important that the student of international relations understand the negotiation behavior of these countries and many more countries because they impact on bilateral and multilateral negotiations between countries.

## 6.0 TUTOR-MARKED ASSIGNMENT

**Q.1** Describe the relationship between the diplomat and the negotiation behavior for his or her state or country.

**Q.2** Write short notes describing with relevant examples, the negotiation behavior of any country of your choice.

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#### UNIT 4 DIPLOMATIC STRATEGIES AND PRINCIPLES FOR NEGOTIATIONS

#### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 Diplomatic Strategies and Principles for Negotiations
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Readings

#### 1.0 INTRODUCTION

The word diplomatic strategy invokes images of international intrigues and power play. Everything in politics is subject to negotiation, except strategy itself, which is considered as a body of imperatives. A strategy derives from a philosophy, while negotiation chooses its methods and compromises in the service of purposes that are beyond its control. Despite the difficulty of the act of negotiation, it is always advantageous to deal with men of principle, resolute governments and countries that are sure of themselves. The reality is that many states do not know how to conceive and apply a diplomatic strategy, hence, they confine themselves to reacting to events, and fail to realise how they can protect themselves by adopting a waiting posture. Strategy sets priorities, and at the same time the principles determines the ways in which they will be applied.

#### 2.0 OBJECTIVES

At the end of this unit, you should be able to

- 1. Define the concept of diplomatic strategy.
- 2. Identify and discuss diplomatic strategies used in negotiations.
- 3. Identify and discuss principles for diplomatic negotiations.

## 3.0 MAIN CONTENT

## 3.1 Diplomatic Strategies and Principles for Negotiations

Diplomatic strategy is the projection of diplomatic thinking and the product of character, but it must surpass and outlive those who happen to be its authors. When it expresses the fundamental strengths and aspirations of a nation, it becomes a lasting principle which can be deployed in the act of negotiation.

#### 3.2 Diplomatic Strategies

Diplomatic strategies can be applied to everyday negotiations. A summary of time tested diplomatic strategies are provided to equip the students of international relations in the act of negotiations, either in business, politics, conflict resolution and in inter-state negotiations.

a. The Use of an Advocate as a Diplomatic Strategy: this entails the use of a semi-independent advocate to influence the other side in negotiations.

- b. **Diplomatic Strategyof Super Rationality:** This is an advanced diplomatic technique that solves strategic dilemmas such as the Mexican Standoff. It is considered an alternative to game theory. Game theory assumes that players in a game act in their own self interest. In some situations such as the Mexican Standoff, when players act in their own self interest, they lose. Super rationality is a diplomatic model that suggests negotiators can get beyond their self interests to seek an optimal solution for everyone.
- c. **The Use of Objective Criteria as Diplomatic Strategy**: Frame your positions with facts and figures. The American and Chinese negotiators are known for using the strategy of arming themselves with facts during negotiation. They use this strategy to counter and weaken their opponents or to remind the opponent of certain pre-agreed principles.
- d. The Diplomatic Strategy of Reciprocity (Tit for Tat): Diplomatic strategy of using reciprocity or Tit for Tat is a process of equivalent retaliation. It is a common strategy in international diplomacy that involves three steps. Following this diplomatic strategy, the negotiator always cooperates, until provoked. Secondly, if provoked, always retaliate with equal force. Thirdly, the negotiator should be quick to forgive. The strategy is intended to maximize the chances for a peaceful resolution of conflict.
- e. **Diplomatic Strategyof Buying Time of Delay tactics:** Diplomatic negotiators use the strategy of buying time in order to gain advantage over their opponent. This strategy is particularly suitable if the other side is making large gains in negotiations. It is often a good idea to find an excuse to delay the negotiation process so as to bargain for a shift in position. Delay tactics are easy to implement. Use the delay to regroup, identify lessons learned and refocus your strategy.
- **f.** The Diplomatic Strategy of Building Golden Bridges: Give the other side options that allow them to come away from negotiations with some wins.
- **g. Diplomatic Strategy of Avoiding Escalations:** When negotiations become heated take a break or use humor to defuse the situation.
- **h. Diplomatic Strategyof Anchoring:** Negotiators have a tendency to use the first information they hear as an anchor. This is also one of the critical strategies used by Chinese negotiators. They keep coming back to important information earlier said or principles earlier agreed.
- i. The Diplomatic Strategy of 'Making Your Ideas Seem like Their Ideas': A highly skilled diplomat is able to lead the other side to desired conclusions. With a soft touch, the other side may accept your ideas are their own. A leader is best when people barely know he exists, when his work is done, his aim fulfilled, they will say: we did it ourselves.
- j. **Diplomatic Strategyof Ignoring Imposed Constraints:**It may be in your best interests to ignore deadlines and other constraints imposed by the other side. It is important not to let the other side box you in.
- k. **Diplomatic Strategy of Naming the Trick:** If the other side uses a deceptive tactic such as a red herring or straw man, it may be necessary to name their trick that is to openly point out what they are doing. For instance, the Chinese are known for openly complaining such as "This is a delay tactic isn't it?"
- **l. Diplomatic Strategy of Calling Bluffs:** If you think the other side is bluffing, call them on it. Ask them to show their cards. Although non-disclosure agreements may already be

in place, the American and Chinese are said to sometimes bring in the media in order to blackmail the opponent into submission.

- m. The Diplomatic Strategy of 'Never Allowing Your Opponent to Lose Face': Never personally attack your opponent or make them look bad. If they make themselves look bad, help them to recover.
- **n.** Politeness and Coding Words as a Diplomatic Strategy: In diplomacy, code words are used to keep criticism polite (on the surface). Diplomats don't argue, they have "frank discussions". They avoid words that can be used against them and shade their harsh words. This technique is often used in diplomatic negotiations. You don't say that an opponent is incompetent; you say they "lack the requisite capabilities or capacities in some areas".
- **o.** The Diplomatic Strategy of Setting-Up Your Opponent's Victory Speech: The other side wants to be able to tell their boss that they were victorious in negotiations. The strategy of setting up your opponent's victory helps the other side to walk away with a perceived victory. It is better to keep the opponent as a long term friend or ally than an enemy. After all, diplomats need to support of each other at some time or the other.

## 3.3 Principles for Diplomatic Negotiations

Telling someone how to negotiate is not as easy as often portrayed. The act of diplomatic negotiation involves a lot of training and experiences which are only gained in the course of the actual act of negotiation. A person's attitudes toward life and toward the game of negotiation have a strong, immeasurable, and probably unalterable effect on how, and how well, he or she negotiates in any situation. Literally hundreds of books have been written about the subject of 'How to Negotiate'. There are, however, certain principles and common failings which can be described, and which no player can ignore. Six basic principles of negotiation are identified and discussed here. These are the principles to learn something about each of your opponents, talk with everybody, be flexible, never give up, explain plans thoroughly, and be positive.

# i. Diplomatic Negotiations Principles 1:Learn Something About Each of Your Opponents.

This advice on principle of negotiations applies to any form of diplomatic negotiation game. It is necessary to recognize the differences between face-to-face (FTF) and postal play. When you play FTF with people you don't know you will often encounter attitudes and conventions very different from your own. In the extreme, what you think is perfectly commonplace might be, to them, cheating. In postal play with experienced opponents you'll encounter fewer "strange" notions. Incompetent players can be found in any game, of course. Postal games suffer from failure of players to submit orders before the adjudication deadline. A failure to move at a crucial time usually causes significant if not decisive changes in the flow of play. Both FTF and postal games suffer from "dropouts" or people who quit playing before their countries are eliminated. Part of a good player's range of skills is the ability to keep his allies and his enemy's enemies from dropping out. In a top-class game none of these difficulties occur. The point here is that of "sizing up". The more you know about your opponent's tendencies the better you can predict his reaction to a given move on your own part and the better estimation of your own gains.

## ii. Diplomatic Negotiations Principles 2: Talk With Everybody

At the beginning of the game, and periodically throughout, talk with all other players, even your enemy. Someone on the other side of the board may know something of interest to you. Trade information, when possible, with those who do not have an immediate stake in what you do next. Do not be too free with the information you obtain or it may get back to your source, who will decide he can't trust you with more. As will be explained in the upcoming article on strategy, an expert player takes account of, and tries to control the actions of, every player in the game and he cannot do that if he does not talk with them.

## iii. Diplomatic Negotiations Principles 3: Be flexible

If you expect everyone to play the way you do, you will surely lose. Don't get emotional, though it is not necessarily bad to simulate some emotion in order to change an opponent's behavior. It is only a diplomatic game, and stabbing is a part of it. If you are stabbed, or someone lies to you, anger will do you no good. What you can do is make sure your antagonist regrets his action, with the idea that next time he'll remember and won't do it again. The advocates of "short-term" diplomacy go even further. They would say, forget about the stab, rather the focus should be 'what is in your interest now?' You could find that you should ally with the person who just betrayed you. When you are at war, always think about possible deals with your enemy, especially if he has the upper hand! No rule says you must fight him to the bitter end. You might both fare better by doing something else, such as jointly attacking a third country or separately attacking third and fourth countries. Always have an alternative plan in case things go wrong. Humans, especially Diplomacy players, can be an erratic lot.

## iv. Diplomatic Negotiations Principles 4: Never Give Up

Keep negotiating with your enemy even as he wipes you out. You may be more useful to him as a minor ally than as an enemy. As long as you have a unit you can affect the course of the game. There have been postal games in which a player reduced to two supply centers later won, and in FTF games even one-center countries have come back to win. In the fluid conditions of many games dramatic reversals of fortune are common.

#### v. Diplomatic Negotiations Principles 5: Explain Plans Thoroughly

When you have sized up your opponents and selected your strategy, make your approach clear. Explain in detail and at length what you expect both you and your potential ally to accomplish. If he cannot see any advantage in what you propose he will not accept or may pretend to agree and then backstab. Some players prefer to be noncommittal, to get the feel of things during the first season or first negotiation. Others like to form solid alliances as soon as possible. Whichever you prefer, be sure you put effort into your attempts to come to agreements with others; even if you intend to break them, give plausible reasoning. If things go wrong you may find yourself relying on an agreement you intended to break. If you do not seem interested in the agreement when you propose it, the other player will not believe you. For example, when you propose an offensive alliance don't merely say "Let's you and me get him". This is not negotiation; this is an invitation to be treated as an inferior player. Instead, talk about why it is in the interest of both your countries to eliminate country X, how it can be accomplished (tactics), what other countries will

probably be doing (strategy), how the spoils will be divided, and what each of you can do afterward to avoid fighting each other. If the attack does not give both of you prospects for a win your potential ally will be suspicious, especially if the alliance appears to favor him, not you.

## vi. Diplomatic Negotiations Principles 6: Be positive

Convince the other party; do not tamely hope that his ideas coincide with yours. Negotiation is a strange mixture of aggressive persuasion and attempts to seem innocuous, to avoid drawing too much attention to oneself. People who are good at it in postal games may have difficulties FTF, or vice versa. However you go about it, do not be discouraged by initial failures, and analyze why you succeed or fail. There is no substitute for experience.

#### **SELF ASSESSMENT EXERCISE 12**

- 1. Define the concept of diplomatic strategy.
- 2. Identify and discuss diplomatic strategies used in negotiations.
- 3. Identify and discuss principles for diplomatic negotiations.

#### 4.0 CONCLUSION

To conclude this unit, our discussion of the diplomatic strategy and principles for negotiation equip us with technical knowledge to guide diplomats in the act of negotiation. Strategy means analyzing the existing situation correctly, setting the right objectives, and employing the appropriate means to achieve those objectives. In the diplomatic game, we have counterparts called other countries and governments. We need to judge their objectives, intentions, strategies and limitations. We need to compete, negotiate, persuade, threaten, reward, or compromise with them. It is useful to know the strength and weakness of your opponent in the game of diplomacy and negotiation. A player who is deficient in strategy can leave you in a much better position as you outmaneuver him in dealing with the players on the other side of the board. So also the principles enable the negotiator to bargain from the position of advantage rather than disadvantage as some players like to eliminate inferior players early in the game, while others try to use the poor players to eliminate strong opponents.

#### 5.0 SUMMARY

In this unit, you learned the diplomatic strategies and principles for negotiations. We pointed out that diplomatic strategy is the projection of diplomatic thinking and the product of character, but that it must surpass and outlive those who happen to be its authors. Strategy means analyzing the existing situation correctly, setting the right objectives, and employing the appropriate means to achieve those objectives. When it expresses the fundamental strengths and aspirations of a nation, it becomes a lasting principle which can be deployed in the act of negotiation. We also discussed the principles of negotiation noting that the act of negotiating is not as easy as often portrayed in numerous books written on the subject. We identified and discussed six basic principles of negotiation. Theyinclude: learning something about each of your opponents, talking with everybody, being flexible, never give up, explaining plans thoroughly, and the need to be positive throughout the negotiations. Above all, it is important that a diplomatic negotiator keeps

his opponent as a friend long after the negotiation because he or she will need the support and cooperation of the person at another time.

#### 6.0 TUTOR-MARKED ASSIGNMENT

- **Q.1**Define the concept of diplomatic strategy.
- **Q.2**Identify and discuss any five diplomatic strategies used in negotiations.
- Q.3Identify and briefly discuss any three principles for diplomatic negotiations.

## 7.0 REFERENCES/FURTHER READINGS

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# MODULE 4: CONTEXTUAL ISSUES IN DIPLOMACY AND INTERNATIONAL NEGOTIATIONS

#### INTRODUCTION

The main purpose of this module is to acquaint you with issues concerning the media, diplomacy and international negotiations; elements of international negotiations; negotiations and international law; diplomacy and international negotiations in the United Nations Organisation. The media can be a powerful tool and instrument, when it comes to publicizing, explaining, or influencing diplomacy and international negotiations. The media is so crucial to diplomatic activity throughout the world. In today's modern world, major elements of negotiations such as power, culture, perception, and personality styles of negotiators impact on the negotiation process. International law supports the process of settlement of international disputes through negotiations and peaceful settlement of dispute. The UN has served as the primary international arena for governments to come together and negotiate on subjects from poverty to peace and development to security, from disputed borders to women's rights to the protection of fish in the sea, climate change, trade, terrorism and many others.

Under this module are four units, which contain comprehensive discussions for your study:

Unit 1 Media, Diplomacy and International Negotiations

Unit 2 Elements of International Negotiation

Unit 3 Negotiations and International Law

Unit 4Diplomacy and International Negotiations in the UN

# UNIT 1MEDIA, DIPLOMACY AND INTERNATIONAL NEGOTIATIONS

#### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 Media, Diplomacy and International Negotiations
  - 3.2 The Impact of the Modern Media on Diplomacy
  - 3.3 The Use of the Media in International Negotiations
  - 3.4 Diplomatic Negotiations and Leakages of Government Information to the Media
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Readings

#### 1.0 INTRODUCTION

In the last unit, you learned about the diplomatic strategies and principles for negotiations. In this unit, you will study the relationship between the media, diplomacy and international negotiations. Communication is a key element in international negotiations. One government communicates to another in the hope of persuading it to behave in a way which is in the interest of the first state. They communicate through various channels. They include the formal diplomatic framework involving diplomats presenting their government messages to their counterparts in other countries and formal means like statements and speeches by Heads of State and at political rallies. Among these informal channels are news media, the audience which include foreign governments. Other ways of communication through the media, apart from letters to the editor, include articles by officials and ministers, press, radio, television interviews, off the record leaks to journalists, and most recently through the internet and social media.

# 2.0 OBJECTIVES

At the end of this unit, you should be able to

- 1. Describe the relationship between the media, diplomacy and international negotiations.
- 2. Discuss with relevant examples the use of the media in international negotiation.
- 3. Discuss the impact of the media on diplomacy.

### 3.0 MAIN CONTENT

## 3.1 Media, Diplomacy and International Negotiations

The wide use of the media in international negotiation today makes a mockery of the diplomatic convention of confidentiality. By revealing publicly information previously known only to the two sides involved in a diplomatic negotiation, one party wishes that the other will be forced towards or away from a particular decision. The use of the news media rather than formal diplomatic contacts is not just a choice between one channel of communication and another. There is a real difference in outcome of communication exposed to the public and that not

exposed. It may not be a media event itself, but the journalists carry the spotlights, thus heralding the event. They bring the focus on personality, on suspense, and on the negotiation's success or failure. Most importantly, the media is an additional pressure on the parties to yield. One of the characteristics of the use of the news media in international negotiation is that diplomats sometimes deny giving or leaking informationrelating to any ongoing negotiation to them.

Apart from the intentional use of the news media as channels of communication by diplomats, information is sometimes published in the media at their own initiative, which has unintended effects on international negotiation. The exposure to the general public, including foreign governments, of diplomatic communication through the media helps to explain why diplomats have in the past been careful to use this form of communication in diplomacy. An example to illustrate the impact of the media on inter-state relations is given here. In July, 1944, the American newspaper columnist Drew Pearson published a State Department telegram from the US special representative in India, William Phillips, which advocated USA support for the growing nationalist campaign in India for independence from Britain. The refusal of the USA government to dissociate itself publicly from the contents of the cable led to some unpleasantness in the relationship between Britain and USA.

There has been an increase in recent times in the use of media in negotiation because of a number of factors. The benefits to be gained from using the media became more apparent and attractive. In the case of the Phillip's cable which had been given to Pearson by a State Department official who supported the campaign for Indian nationalism, the facts that no public disclaimer was issued by the USA government told the British government that it backed Phillip's recommendation; hence the leak was to the advantage of the USA government. In addition, after World War I, there was a decline in secret diplomacy, which came with the growing need to keep the people informed about international affairs and negations. This was to avoid speculations about secret agreements and commitments. This has further strengthened the link between negotiation and the media. Additional factors include the rise, in addition to states, of non state actors, including Non GovernmentalOrganisations (NGOs), environmental groups, human rights groups and many others.

## 3.2 The Impact of the Modern Media on Diplomacy

Communication is so crucial to diplomatic activity that, over history, virtually any advance in communication technology has affected the practice of diplomacy. Diplomatic reporting and national intelligence services play a significant supporting role, but most of the information reaching governments about developments throughout the world comes from the wire services, newspapers, news magazines, radio, and television. In today's modern world, there are countless varieties of media communication methods, including but not limited to columnists, staff writers, on air personalities, opinion leaders, commentators, editorial boards and internet bloggers. Furthermore, mass media reports come in first; supplementary information via diplomatic or intelligence channels arrives hours, days, or even weeks later. And it is often maintained that much of the information flowing through official channels is originally culled from the press in any case.

Over forty years later, new communication technologies like the internet, mobile phones, and more recently social media applications, especially social networking platforms like Twitter or Facebook, are regarded by many as drivers of revolutionary changes in our societies. If the speed at which information travels today might not be radically new, the ubiquity of information, its digital sharing across platforms, ease of storage, the possibility of communicating at very low if not virtually no-cost with wide audiences across borders are redesigning the scope and patterns of social interactions, as well as of political processes. Communities of interest, as in the case of advocacy networks, form across national borders among individuals who might have never met. With the emergence of a new communication technology, assertions are being made about the current development of a new kind of diplomacy. Some of the terms used are virtual diplomacy, cyber diplomacy, media diplomacy and democratization of diplomacy (Grant, 2005). Democratisation of diplomacy refers the increasing influence of non-state actors, the creation of new community of interests, and the growing relevance of freedom of information legislation brought about in the domain of international relations by the Internet. The opportunities offered by social networking media to connect governments to worldwide audiences bypassing the mainstream media also lead to a blurring of the distinction between diplomacy, in its strict sense the negotiation among official actors, and public diplomacy, the communication between governments and foreign publics.

# 3.3The Use of the Media in International Negotiations

As a form of communication, the news media plays an integral role in negotiation. Bargaining concerns one party communicating to another its wishes and intentions. Other means through which a message may be communicated include military postures, economic measures, and changes of personnel. The media's role extends to creating a veil of partial truthfulness. By publishing conflicting leaks, scoops, and other disclosures, which are closely monitored by the other side, a situation is created of ambiguity and expectations of high demands. In using the media, diplomats have to fit into their framework, but also making the contents of the leak fit the media's definition of newsworthiness. Only if the leak is newsworthy will the media publish it and follow up on the process involving reaction from different publics. Sometimes the government does not use the media as a whole, but gives the information it wants publicized to a particular journalist. In countries with a controlled media, the media do reflect government thinking. The useof the media and the role it plays in international negotiation varies with each case.

- a. The media may be used by one government to state its objectives to another government, for instance where no formal diplomatic channels exist between the two. After Ian Smith declared Rhodesia unilateral independence in 1964, and diplomatic ties between London and Salisbury were severed, the media were sometimes used to send messages. Another example is the use of the American correspondents in Tehran during the seizure of the US embassy by Iranian students in 1979 to send ultimatums to Washington.
- b. The media may be used to convey the impression that government is seriously interested in bargaining with another even though it really desires no agreement. During war, for example, a government may agree to negotiations either to assuage public opinion or to give itself time to reorganize the army or to acquire new weaponry. A government may enter into diplomatic negotiations for the purpose of making propaganda. A conference is used not so much to reach an agreement over a range of issues as to make broad appeals

- to the outside public. A conference extensively covered by the media is an excellent forum for influencing public attitudes. The best example of this is the United Nations General Assembly. An experienced diplomat can easily discern when a government involved in a diplomatic negotiation is using it primarily to influence public attitudes rather than reach a diplomatic agreement.
- c. The media may be used to create the impression that an agreement has already been reached, after which a form of pressure is applied on the other party to agree or find itself in the unpopular role either of being the party obstructing the agreement or of encouraging pressure, at home or abroad. During the discussions about the future of Rhodesia at the Commonwealth Conference in Lusaka in 1979, the Australian delegation leaked a copy of the draft agreement to the media. The fear of a hostile reaction from among the Conservative backbenchers to the proposed deal encouraged Mrs. Margaret Thatcher and her Foreign Policy Secretary, Lord Carrington, to reach a quick agreement (Cohen, 1986: 73).
- d. The media may be used to report lack of progress in negotiations. The UN sponsored international conferences to prevent climate change have been continuing ever since 1992, but the data shows that emissions are significantly rising. The Hindu Newspaper in its editorial wrote: "With the passing of each year, the signs of changes in the weather global warming leading to alteration of rainfall and temperature patterns are becoming more and more apparent. There can now no longer be any doubt that the world is in the midst of climate change" (Hindu, 1 November 2002).
- e. The media may also be used to disrupt negotiations by leaking sensitive information to them. This strategy is used by interested groups against the negotiation to disrupt negotiations. When secret negotiations were held in London in 1978 between Britain and the Prime Minister of the then British colony of Belize, George Price, which would have resulted in the colony's division, with the northern and southern areas being given to Mexico and Guatemala, which had long standing claims on them, opponents leaked the information to *The Guardian's* diplomatic correspondent. The disclosures were reported back to the colony where strong hostility developed and Price was forced to leave the London talks (Cohen, 1986: 73).

## 3.4Diplomatic Negotiations and Leakages of Government Information to the Media

The use of the media as a channel of communication occurs not only when governments are involved in negotiation, but already when ministers and diplomats are planning policy. Differences among them, resulting from different perceptions of national interest or from opposing interests of different government departments, are not always resolved within the formal governmental structure. Information is disclosed in the media with the desire aimed at maneuvering a minister or the cabinet as a whole towards or away from a particular course of action. Leaks to the media have become a common feature of governments around the world. When ministers, diplomats or ambassadors are served by a permanent, professional, non-political bureaucracy, there is always the possibility of differences or even tension between the two sides in defining the national interest. As a result of frequent postings abroad and an absence from the domestic pressures of Parliament and the wider public which ministers, diplomats or ambassadors, face, they develop their own perceptions about the national interest. Sources of leakages to the media, whether by ministers or officials, fall into a number of categories.

- a. Leaks by officials to get attention of ministers, in the hope that a minister will order a brief on the subject that has appeared in the press, or in the hope that the minister will be persuaded towards a particular line of thought.
- b. Leaks that occur when a particular minister or official favours a policy which lacks support of other ministers and officials.
- c. Leaks that occur when individual cabinet ministers disagree with a decision but cannot say so publicly because of the conventions of collective responsibility and the secrecy of cabinet meetings, instead they leak to journalists.
- d. Leaks to create the impression that government made a decision when it has not, with the hope that when the public welcome such a decision, the government may be forced to reverse its decision in support of the public.
- e. Leaks on unethical practices in the government cycles such as corruption, abuse of powers and mismanagement of offices by ministers.

There is the concern that during international negotiations, especially sensitive ones, any form of hasty media publicity can affect the atmosphere or even influence the intended outcome of such negotiations.

### **SELF ASSESSMENT EXERCISE 13**

- 1. Describe the relationship between the media, diplomacy and international negotiations.
- 2. Discuss with relevant examples the use of the media in international negotiation.
- 3. Discuss the impact of the media on diplomacy

#### 4.0 CONCLUSION

The media can be a powerful tool, when it comes to publicizing, explaining, or even influencing both diplomacy and international negotiations. Particularly, with the advent of the cable news networks such as CNN, BBC, VOA, CCTV etc, and the internet, in many instances the general public can receive information regarding the status, mood and progress of ongoing negotiations in an instant. Additionally, the media may serve as a source of information even for the other party across from your delegation at the negotiating table. The media also provides feedback to delegates on public perception of issues, mood, and progress of the negotiations.

# **5.0 SUMMARY**

In this unit, you studied therelationship between themedia, diplomacy and international negotiations. We learned that the media as an important channel of communication, impacts on both diplomacy and international negotiations in various ways. Apart from the print news media, radios, televisions and most recently,the internet and social media have provided channels through which information on negotiations are broadcast to the public. On the other hand, information leaked to the media serve as a strategy for maneuvering an interest party towards or away from a particular course of action. The emergence of a new communication technology has increased the influence of non-state actors on diplomacy, which was previously seen astheexclusive domain of representatives of state actors. Non state actors also exert influence on international negotiations, especially with the increased agitations on issues of global interests such as internet governance, environmental protection, climate change, and sustainable development goals (SDGs).

# 6.0 TUTOR-MARKED ASSIGNMENT

- **Q.1** In your own words, describe the relationship between the media, diplomacy and international negotiations.
- **Q.2**Discuss the extent to which the modern media has impacted on traditional diplomacy.
- **Q.3.** Briefly discuss with relevant examples the uses of the media in international negotiation.
- **Q.4.** Discuss the merits and demerits of leakages of information to the media especially during diplomatic negotiations.

## 7.0 REFERENCES/FURTHER READINGS

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#### UNIT 2 ELEMENTS OF INTERNATIONAL NEGOTIATION

#### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
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  - 3.3 Sources of power in international negotiation
  - 3.4 Uses of and consequences of power in international negotiation
  - 3.5 Culture and International Negotiation
  - 3.6 Ways in which culture can influence international negotiation
  - 3.7 Perception and International Negotiation
  - 3.8 Personality and International Negotiation
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- 5.0 Summary
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## 1.0 Introduction

In this unit, you will learn about the elements of international negotiation. The elements discussed in this unit namely power, culture, personality and perception, amongst others influence the negotiation process. They are in turn, being influenced by the process and each other. The elements do not exist in isolation, but rather function as interdependent factors. Our goal in this unit is to understand how the various elements influence international negotiations.

### 2.0 OBJECTIVES

At the end of this unit, you should be able to

- 1. Identify and discuss the various elements of international negotiation.
- 2. Define the concept of power and types of power in the context of internationalnegotiations.
- 3. Identify the sources of power in international negotiation.
- 4. Discuss the uses of, and consequences of, power in international negotiation.
- 5. Explain the relationship between culture and international negotiations.
- 6. Identify and explain ways in which culture can influence international negotiation.
- 7. Explain the relationship between perception and international negotiation.
- 8. Identify and describe the personality styles in negotiations.
- 9. Identify the personality of successful or strong negotiators.
- 10. Discuss the characteristics and personality traits of weak negotiators.

### 3.0 MAIN CONTENT

## 3.1 Elements of International Negotiation

The negotiation process is influenced by many elements. In this unit, you will learn about these elements and how they influence the negotiation process.

# 3.2 Power and International Negotiation

The first element of international negotiation is power. Although the concept of power is as old as negotiation itself, the impact of power on negotiation is often under-studied. Power has many definitions. It can be defined as the capacity of a party to produce an agreement on its own terms. For the purpose of this course, power is defined as the ability to influence the negotiation process and results. According to Nieuwmeijer (1988) power building is a process that takes place in negotiation and is influenced by elements such as the manipulators or power builders in negotiation; the sources and channels through which power is exercised; the goal of power building and structure of power such as closed system, democracy or autocracy. Principles of power include: it is relative, it can be real or false, it can be exercise without action, it is always limited and power exist to the degree that it is accepted. Hence, power hinges on a relationship between at least two parties, and depends on the ability to apply sanctions when there is no compliance.

## 3.3 Sources of power in international negotiation

In the context of international negotiation, the sources which power originate or are built exist in the negotiation situation, the negotiator, or outside both.

- **A. Situational Power:** Nieuwmeijer (1988: 53) identified the sources of situational power to include:
- i. Power of expertise: this refers to the amount of knowledge that individuals or groups have relatively to one another.
- ii. Legitimate power: this refers to power emanating from internalized values in *Person* A that determine that *Person* B has a legitimate right to influence A that it is B's duty to accept that influence. An example of this includes cultural norms or values or ground rules laid down for the purpose of negotiation. Legitimate power emanates from traditional authority and can be transferred to a subordinate.
- iii. Referred power: this is power which a party obtains as a result of his or her association with a strong or authoritarian party that is highly regarded by the opposing party.
- iv. Power of reward: this is based on the ability to reward the other party. The strength of the power increases with the importance of the reward. The reward does not have to be tangible, it could be psychological.
- v. Coercive power: this form of power is the ability of a party to enforce actions which leave the other party with negative options only. This power is not often used in negotiating situations. However, threats are used.
- vi. Official power: this form of power is based on the office or position that a person or party holds. Official power is sometimes seen as and confused with legitimate power. Official power is vested in the office the person occupies.
- vii. Power of Coalition: this power is derived from banding together about a particular matter. Parties or individuals may decide to form coalition of power in order to achieve a specific goal. This formation provides the parties the strength or number and more and greater variety of resources, which could be used to influence the process of negotiation.

- viii. Team power: team power is similar to coalition. However, team power depends on the composition of the team. The team should therefore be carefully selected.
- ix. Situation power may also be sourced from commitment, competition, uncertainty, courage, bargaining skill, time and effort.

#### **B.** Personal Power

The motivation of the individual is another source of power. The individual can have sources of power such:

- Achievement, which is task directed;
- The need for power, which has strong influence on negotiation;
- Affiliation, which is directed at personal relations.

# C. Other sources of power

Some power sources are not found in people, teams, or in the negotiating situation. Examples of other sources are economic market and the possession of strategic resources. The market as a source of power is the ability to persuade the other party to follow a strategy envisaged by the negotiator. This is more applicable in international business negotiations and international economic relations, where the party with the advantage of market has more power in product or services monopolies, according to the law of demand and supply, than when there is competition in the market. Possession of strategic resources is when too little or limited amount of it is available. Such a resource gives power to the owner in international negotiation. An example here is the use of Nigeria's oil as a source of power in negotiation with other countries. Another source of power is the control of alternatives. When a country has alternative resources, it has more power than its opponents. For example, countries that have nuclear technologies control the alternatives and power in this field. The use of third party is another source of power. An example in this regard is the use of trade unions in negotiating with employers or the government. Meeting places or the negotiation venue is also a source of power. For instance, during the cold war period, a negotiation between the USA and Russia will never took place occur in either of the countries. Most countries prefer a neutral negotiation venue or country for fear of according advantage to the other party.

## 3.4 Uses of and consequences of power in international negotiation

Indicators of power in international negotiations could vary from verbal to non-verbal communication to positioning, physical location, representation at negotiations. Consequently, the negotiating situation determines the indicators. It is also necessary that a country accurately perceives the power of the other party by clearly answering questions such as: how much power do we have relative to the other state? How does the other state see its own power? And how do we influence the other state to support our goal? Negotiating goals are arranged between two positions, namely the base level and the aspirational level. The base level is the lowest possible offer that will be accepted, while the aspirational level is the goal towards which is strived or aspired. The positions are not static and may be moved many times during a negotiation situation.

The results of negotiation may not depend on how much power a party has, but on whether it can be perceived and whether it can be used, should the need arise. A state must be aware of the

extent of the power it has, how it is composed, how to build it and how to use it for it to be effective. The irony of power is that it is not always the obvious state or person who could utilize it that is the most effect in its usage. For example, Japan and Russia have on several occasions used power more effectively against the USA. The consequences of power use are unique to each situation. Inequality is an important result of power use and may also be the cause for power building.

# 3.5 Culture and International Negotiation

The term culture is defined as the total way of life of a people. Culture can be applied in many contexts, but with different meanings associated. In the context of negotiation, it is common to define culture in terms of an identifiable group of people sharing the same values and beliefs. In essence, culture is a group-level phenomenon, and is acquired by individuals from the group they belong to - either through socialization or acculturation. It is important to bear in mind that the values or beliefs are shared within sub-cultures. There are different types of sub-cultures, including educational culture, race culture, gender culture and religious culture. Two important elements are common to most definitions of culture. First, culture is a group-level phenomenon in that a defined group of people shares the same values, beliefs and behavioural expectations. Secondly, cultural values, beliefs and behavioural expectations, 'are learned and passed on to new members of the group'. People from different cultures interpret behavior such as proximity, eye contact during conversations, touch, and furniture arrangement differently.

According to Lewicki two important elements are common to most definitions of culture. First, culture is a group-level phenomenon in that a defined group of people shares the same values, beliefs and behavioural expectations. Secondly, cultural values, beliefs and behavioural expectations, 'are learned and passed on to new members of the group'. These elements are in line with a view on intercultural communication provided by Gudykunst and Kim. The authors have argued that, 'we communicate the way we do because we are raised in a particular culture and learn its language, rules, and norms'. In communication there are varying expectations and anticipations, depending on the identity of the person across the table. Gudykunst and Kim argue that predictions in communication are based on three levels. The first is the cultural level, which involves information about the other person's culture on a fundamental level. The socio-cultural level is the second level of information which relates to the other person's group or the group they wish to join. The last level is the psycho-cultural level involving information about the particular individual's typical characteristics. The first level of prediction incommunication and negotiation, especially in an interculturalnegotiation setting, relies heavily onstereotyping. A good exampleof stereotyping is Geert Hofstede'swork on cultural dimensions ininternational business. This involvesconceptualising culture by understanding central values and norms. Based on these values and norms, a model is built indicating their influence of negotiations within that culture. The research indicates four elements describing important themes; individualism/ collectivism, power distance, masculine/feminine (assertiveness) and uncertainty avoidance. This approach is also called 'culture as shared values'.

The characteristics of the individual must be considered when assessing the cultural impact on negotiation. The stereotype may be inaccurate or not applicable to a particular person. Categorising could lead to wrong assumptions about the individual. If the stereotype and the

individual's character do not correspond, the particular individual must be examined. Therefore, when a stranger sits on the opposite side of the table, one must pay attention to the individual's personal characteristics. As a consequence, intercultural negotiation requires increased awareness. Negotiators are likely to increase constructiveness and efficiency if open to adjusting their own approach and behaviour as information is gathered. By understanding the other party, the negotiator can modify their approach or reach a mutual understanding.

# 3.6 Ways in which culture can influence international negotiation

Cultures differ in the selection of negotiators. Criteria such as gender, age, status, experience, family connections, seniority and knowledge of subject matter are weighed differently, leading to different results and expectations. The ways in which culture can influence negotiations are discussed below.

- i. **Protocol:** The protocol criterion relates to a culture's formality. For example, the Norwegian negotiation culture is relatively informal and it is normal etiquette to greet a stranger by using both first and family names, unless the person has an academic title. This is an introductive stage until the Norwegian negotiator is comfortable with the other's presence and character.
- ii. **Communication:** This is an essential part of negotiation. It can take place both verbally and by body language and both types are influenced by culture. Since each culture has its own communication style, misunderstandings can occur in intercultural negotiations. The negotiator risks insulting, provoking or embarrassing the other party. The negotiator also risks not being understood, being misunderstood or having their message not register at all.
- Time sensitivity: A negotiator's relation to time is largely determined by culture. Cultures differ to a great extent on matters of time, varying from focusing on punctuality and time management to 'playing' with schedules, deadlines, and structure. For example the Norwegians are said to be extremely time focused, living by strict rules of punctuality and time management. Punctuality is a consequence of time-management and organised agendas.
- iv. **Risk propensity:** Willingness to take risks varies among cultures. Negotiators from highrisk cultures tend to move early and make decisions on a minimal platform of knowledge. A solid platform of knowledge, consulting with several people and thinking decisions through are typical features for low-risk negotiators. The extent of risk willingness influences both the negotiation agenda and outcome.
- v. **Nature of agreements:** Culture influences both the concluding agreements and the agreement form. Due to substantial reliance on codified commercial laws Norwegian agreements and contracts were traditionally informal, short and not focused on details. However, Scandinavian drafting tradition has lately been influenced by American type drafting. One example is due diligence. Due diligence was an unknown concept 10 years ago but is now undertaken on a regular basis. Today contracts are often lengthy and detailed, containing terms and conditions on both core agreements and contingencies. Verbal agreements and handshakes are usually respected and kept, even though they are not legally binding.
- vi. **Emotionalism:** The use and display of emotions in negotiation vary from culture to culture. Norwegians use of body language, which is rarely used in negotiation. Body

language often indicates strong emotions which could be uncontrollable by negotiators. These may jeopardise efficient, rational and practical negotiation processes. Therefore, emotions are rarely shown in a negotiation, but it is not a sign of lack of interest.

Different cultures have different perceptions of negotiation processes. Americans and Europeans tend to see the process in a linear way, going from the awareness of having a problem and the need to solve it, to exploration, pre-negotiation, agenda-setting, further exploration, selection of issues, give-and-take, decision-making, closure, implementation, evaluation, and perhaps renegotiation, etc. This view holds that there is a specific starting and concluding point. In Africa, and foremost in Asia, negotiators tend to see the process as a circular, and thereby neverending, stream. Connected to this is the importance attached to the relationship in that process, while Westerners often give priority to the issues at hand. Such differences in approaches have grave consequences for the flow of the process and thereby for its outcome.

## 3.7 Perception and International Negotiation

According to (Goodfield, 1999) perception determines reality. Perception is the process by which meaning is ascribed to information. It also refers to how a man or woman translates raw sensory data into meaningful experience. The importance of perception in the negotiation process, especially at the international level is such that negotiating states need to be able to predict accurately the perception and responses of one another. They also need to understand that the behavior of the other party so as to avoid losing at the negotiation table. Because people perceive differently, conflict arises, which must be solved through negotiation. The process of perception comprises three phases, namely, the obtaining of information, the evaluation of the information, the forming of associations and the assigning of meaning to these associations. Negotiators do not perceive passively, but assign meaning to the perceived information and places it in acceptable and useful patterns, known as negotiation tactics. It is the interpretative function of perception that may make negotiation a success or cause so many problems in the negotiation. Negotiators need to base their perception on knowledge, experience, understanding of culture and psychological conditions. The need to avoid stereotyping which is a serious perception problem and which leads to generalization about classes of people, objects or cultures and prejudices against opponents in the negotiation process.

### 3.8 Personality and International Negotiation

Not everyone is cut out to be a negotiator, and the demands for international work are more stringent than for domestic work. Negotiators must possess a wide variety of technical, social, communication, and ethical skills. The job demands not only mental capacity, but also a high degree of sympathy with the party on the other side of the negotiating table. One of the mistakes many countries make is to assign a member of their senior as a negotiator without actually considering his or her negotiating skills. In many cases, being the head almost precludes someone from being a good negotiator. Such a person may be used to getting their way without question and unable to engage in the give and take that's at the heart of true negotiations. Unless their management style is strongly based in consensus, they will be unwilling to allow for the needs of their counterparts. The negotiator must always inhabit the middle ground. He or she must enter the negotiation process with the understanding that both teams must leave the table

with a sense that they satisfied to some extent. The negotiator's job is to maximize the benefits for his or her country.

Different personality styles in negotiation have been identified by scholars. Hall (1971) identified personality styles in negotiations to include: win-lose (tough battler); integrative (problem solver); compromise, lose-withdraw (physically and mentally); concede-lose (friendly helper). Cummings (1972: 53) identified personality styles in negotiations such as the 'tough bargainer', the 'soft bargainer' and the 'equalizer'. According to Filley cited in Nieuwmeijer (1988); personality dimensions in negotiations are four dichotomies namely, placatory versus rebellious; risk evasive versus risk taking; and external control versus internal control. From the various personality styles provided above, Filley compiled three negotiating personality styles:

- i. Touch battler/bargainer: this negotiating personality style is also known as the Parent. This negotiator has high internal control. He or she is willing to run risk. He or she is rebellious and will do everything to win the negotiation and to protect his own ego.
- ii. Soft bargainer or friendly helper: He or she concedes and helps. He looks for acceptance and affiliation with others and will want to hang on to the relationship at the expense of his own goals. A high external control is present in this case and conflict cannot be resolved with mutual respect and understanding, as his is inclined to emotional instability.
- iii. Equalizer or problem solver: this negotiator believes that the party's objectives are not mutually exclusive and tries to maintain a sound negotiating relationship. He acknowledges the reality of facts and feelings as an essential ingredient in the solution of the problem High internal control, dependable behavior, reconciliation, and low risk seeking are characteristics of this negotiating style.

Negotiation is the face-to-face interaction between two or more parties, with the aim of reaching an agreement. The negotiating parties are made up of people with different emotions, values and perceptions of the real world. Although it is essential to separate the person and the problem in order to reach an agreement, it is also necessary to have insight in the participants' personalities so as to reach an effective agreement. Scholars, such as Nieuwmeijer (1988); Atkinson (1980); Chelune (1979), Druckman (1977), Zartman and Berman (1982) have identified the personality of successful negotiators to include:

- i. Motivation enables the negotiator to manipulate the situation
- ii. Integrity and dependability- the other party can trust you and work with you as a negotiator.
- iii. Flexibility in dealing with individuals and situations.
- iv. Ability to communicate effectively.
- v. An awareness of everything and everybody around him.
- i. Sensitivity knows positions of other States and coalitions.
- vi. Uses respect and diplomacy when presenting positions or commenting on another delegation's position.
- vii. Well-prepared, shows patience and listens.
- viii. Empathy, to understand the other party's standpoint and even improve one's own reaction.

- ix. Value adjustment and accommodation- because of the cultural differences, learning must be allowed to take place, in order to solve problems and accomplish effective communication.
- x. Ability to break bigger issues down into smaller ones.
- ii. Self-revelation— makes his position clear. Has knowledge of prior negotiations and their outcomes.
- xi. Ability to see the bigger picture. The negotiator looks for interest-based decisions and rejects weak solutions.
- xii. Good language and strong analytical skills.
- xiii. Self assuranceand courage is needed to succeed as a negotiator.
- xiv. Ingenuity the ability to proffer new arguments and alternative suggestions when differences arise.
- xv. Stamina especially under mental and physical pressure. Stamina to persevere is more important than any intelligent arguments.

According to Zartman and Berman (1982:22), the following personality traits are weak characteristics in a negotiator.

- a. The inability to control emotions.
- b. Involvement in personal situations- it is important to stick to the goal at hand.
- c. the need to be liked and to be seen as friendly to everybody- it is important to create the maximum clarity in terms of what the issues are what the options are and not to be seen as a submissive person.
- d. Insensitivity.
- e. Lack of preparedness. According to Benjamin Franklin "failing to prepare is preparing to fail".

## **SELF ASSESSMENT EXERCISE 14**

- i. Identify and discuss the various elements of international negotiation.
- ii. Explain the term power in international negotiation and discuss the types of power in the context of international.
- iii. Identify and explain ways in which culture can influence international negotiation.

## 4.0 CONCLUSION

In concluding this unit, we wish to reiterate that the international negotiation process is influenced by many elements. The major elements, namely power, culture, perception, and personality were discussed in detail and relevant examples cited in order to increase the students' understanding of the subject.

### **5.0 SUMMARY**

Many scholars have written on the elements of international negotiations. In this unit, we selected and discussed major elements of negotiations such as power, culture, perception, and personality styles of negotiators. The elements discussed in this unit influence the negotiation process and are in turn being influenced by the process and by each other. Power, for example, does not exist without perception. An understanding of culture is important for clarity of perception and communication. Although the elements are interdependent, for the sake of completeness and clarity, they were examined separately.

#### 6.0 TUTOR-MARKED ASSIGNMENT

- **Q.1.** Identify and discuss the various elements of international negotiation.
- **Q.2** What do you understand by power in international negotiation? Discuss the types of power in the context of international negotiations.
- **Q.3** Identify the sources of power in international negotiation.
- **Q.4.** Discuss the uses of and consequences of power in international negotiation.
- **Q.5** What is culture? Explain the relationship between culture and international negotiations.
- **Q.6** Identify and explain ways in which culture can influence international negotiation.
- **Q.7** Explain the relationship between perception and international negotiation.
- **Q.8** Identify and describe the personality styles in negotiations.
- **Q.9** Identify the personality of successful or strong negotiators.
- **Q.10** Discuss the characteristics and personality traits of weak negotiators.

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#### UNIT 3 NEGOTIATIONS AND INTERNATIONAL LAW

#### **CONTENT**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 Negotiations and International Law
  - 3.2 International Law of Negotiations and Dispute Settlement
  - 3.3 International Law and Humanitarian Negotiation
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Readings

### 1.0 INTRODUCTION

In the last unit, you studied the elements of international negotiation. In this unit, we shall focus attention on negotiations and international law. We shall attempt to answer questions such as: what is the effect of international law on the negotiating position of countries? Has the growing body of international law over the years made countries more inclined to seek peaceful settlements of international situations and disputes through negotiation rather than to resort to force? The answers to these questions will seem to be in the affirmative. Member nations of the United Nations have adhered to the Charter of the UN, under the terms of which they solemnly undertook "to settle their international disputes by peaceful means" and to "refrain in their international relations from the threat or use of force" in any manner inconsistent with the purposes of the UN.

#### 2.0 OBJECTIVES

At the end of this unit, you should be able to:

- 1. Discuss with relevant examples, the interplay betweennegotiations and international law.
- 2. Discuss with relevant cases or examples utility of international law of negotiations as means of dispute settlement.
- 3. Discuss the significance of international law in humanitarian negotiation.
- 4. Identify and discuss the elements of international law that are most relevant to humanitarian negotiations with armed groups.

### 3.0 MAIN CONTENT

# 3.1 Negotiations and International Law

To understand the relationship between negotiations and international law, one must first understand the difference between national and international law. National law is law that is adopted by the government of an individual country. In Nigeria, the most common examples of national law are federal and state legislation and judicial decisions. International law, on the other hand, concerns agreements among different nations, or between citizens or corporations of

different nations. Agreements or treaties among different nations are generally referred to as public international law. Contracts between private parties (corporations or citizens) residing in different nations are generally referred to as private international law.

In addition to the Charter of the UN, there are several hundred international agreements in force on the pacific settlement of disputes, although it should be borne in mind that most of them were negotiated in the late 19<sup>th</sup> century and early 20<sup>th</sup> centuries when the international community consisted of a circumscribed part of the world centered on Western Europe. These agreements, conventions, and treaties of the pre-World War II era still constitute to a considerable extent, the body of the international law, which flows from the four sources stated in Article 38 of the Statute of the International Court of Justice (ICJ). The four sources are:

- i. International conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
- ii. International custom, as evidence by a general practice accepted as law;
- iii. The general principles of law recognized by civilized nations;
- iv. Judicial decisions and teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

The four sources of law, which the ICJ applies in deciding disputes submitted to it, are considered by many nations to be in favour of the old group of Western nations which for centuries regard themselves as the core of the civilized world. As international conventions and treaties increasingly come to be negotiated on a broad base, and thereby include the views of states with different backgrounds, customs, legal systems, and traditions, the greater will be the impact of international law on the behavior of states.

Even though the number of broad based international conventions is growing, however, there are times when a narrow approach has been preferred to the broad based one in the making of international law. Two cases, which fall within the domain of the UN,provide use with examples in this regard. One is the matter of the neutralization of the Antarctica. This issue was initiated by the delegation of India to the UN. The matter was one of general interest since the Indian Ocean mingles with the waters of Antarctica, and military bases on Antarctica could create security problems for the states on the farther littoral of that ocean. The Indian delegation had hoped that the matter will be discussed by the Eleventh Session of the United Nations General Assembly (UNGA)on the basis of which a convention of neutrality would be drawn up to be adhered to by all states. Contrary to India's expectation, the Western powers and several of the Latin American states opposed to the discussion of this issue at the General Assembly. Instead, a conference was called at Washington and a handful of states, including the great powers drew up an agreement on the neutralization of Antarctica.

Another example, when a narrow approach has been preferred to the broad based one is exemplified in the steps towards the negotiation of a statute for the International Atomic Energy Agency (IAEA). In 1955, the United States announced at the Tenth Session of the General Assembly that together with a group of seven other states, all Western, it was drafting a statute for a proposed International Atomic Energy Agency and the draft statute would be circulated to all other governments for their comments before adoption. Not all countries were comfortable with this approach. The US eventually adjusted its position and enlarged the negotiating body to

include one state each from Latin America (Brazil), Asia (India), and two Communist states (Czechoslovakia and the Soviet Union). As a result of the broad based negotiation leading to the adoption of the statute for the establishment of the IAEA, it has been directed from the beginning by a Board of Governors on which all areas of the world are represented.

According to Lall (1966:349) independent states from Africa and Asia in general favour greater international cooperation in the peaceful sentiment of disputes in accordance with concepts of law and justice which they accept is valid. The process of creating widely acceptable international law is one which the Charter of the UN recognizes. The General Assembly is categorically instructed to initiate studies and make recommendations for the purpose of "the progressive development of international law and its codification". The General Assembly has created the International Law Commission for this purpose, and the Commission has achieved some significant results. As a result of the work of the Commission, the following were initiated or explored in its early stages:

- i. Convention on the High Seas September 20, 1962.
- ii. The Vienna Convention on Diplomatic Relations April 24, 1964.
- iii. Convention on the Continental Shelf June 10, 1964.

The process of revising antiquated instruments of international law can be tasking and slow. Meanwhile, the important political and international factors grow along side. The membership of the UN has increased to 193 and nearly, if not all, countries attend UN General Assemblies annually, and most countries have interest in ensuring that the broad based negotiation are upheld in the UN.

## 3.2 International Law of Negotiations and Dispute Settlement

In the 1924 case Mavrommatis Palestine Concessions ("Mavrommatis"), the Permanent Court of International Justice (PCIJ) famously defined a "dispute" as a "disagreement on a point of law or fact, a conflict of legal views or of interests between two persons."Once a disagreement rises to the level of a dispute, then the international law of dispute settlement will apply. The cornerstone of this law is that disputes must be settled peacefully, "in such a manner that international peace and security, and justice, are not endangered," and in the absence of the threat or use of force. Article 33 of the Charter of the United Nationsrecognizes various means of dispute settlement. In addition to such diplomatic means of dispute settlement as negotiation, enquiry, mediation, and conciliation, Article 33(1) lists arbitration and judicial settlement, both of which channel the parties, upon agreement, to resolve their dispute through, ultimately, the reaching of a legally-binding agreement (U.N. Charter art. 33, para. 1).

The text of Article 33 of the Charter does not specifically indicate whether the parties to a dispute must choose diplomatic or legal means of dispute settlement. It does not also indicate whether international law privileges particular means of dispute settlement over others. This is because, generally speaking, it does not. Rather, the general aim of Article 33 is to facilitate the peaceful settlement of disputes, and the means that the parties can choose to achieve this can be used either singly or in combination with each other. The Charter leaves the choice of means largely to the parties themselves. While it is clear that the Charter does not as such indicate whether the parties to a dispute must choose diplomatic or legal means of dispute settlement or suggest a hierarchy of means, international law can direct that particular disputes be settled

through particular means of dispute settlement, to the exclusion of others. A typical example of this would be when the United Nations Security Council "recommends" that the parties settle their dispute through particular means but does so without adopting a legally-binding enforcement measure under Chapter VII of the Charter.

The example to illustrate the point being made above is the ICJ's handling of a dispute in the mid- 1970s between Greece and Turkey that involved the delimitation of the continental shelf in the Aegean Sea. In exercise of its "primary responsibility for the maintenance of international peace and security," the Security Council adopted Resolution 395, which, inter alia, "called upon the Governments of Greece and Turkey to resume direct negotiations over their differences and appealed to them to do everything within their power to ensure that these negotiations will result in mutually acceptable solutions." Through this Resolution, the Security Council sought to channel the settlement of this dispute through a particular means of dispute settlement, negotiation, and when the dispute reached the ICJ, the ICJ expressed some reluctance to indicate provisional measures on the basis of this. Two years later, in 1978, the ICJ rejected Greece's application on the basis that it lacked jurisdiction. It did so, on technical grounds, however, grounds that were unrelated to the fact that Resolution 395 had expressed a preference for a negotiated settlement between Greece and Turkey.

Another example is the dispute between Georgia and Russia. Prior to its 2011 rejection of Georgia's application against Russia during the preliminary objections phase of Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia), the ICJ had spoken only generally about what international law requires for a negotiation to qualify as such as a means of dispute settlement. Although the ICJ articulated these legal parameters for negotiation as a means of dispute settlement within the particular context of the delimitation of the continental shelf, it seemed to have also been articulating the lexgeneralis of negotiation. The ICJ handed down its judgment rejecting Georgia's application against Russia during the preliminary objections phase in April 2011. It had previously, in October 2008, ordered provisional measures against both States, though it did acknowledge in its provisional measures order that it "need not finally satisfy itself, before deciding whether or not to indicate such provisional measures, that it has jurisdiction on the merits of the case, yet it may not indicate them unless the provisions invoked by the Applicant appear, prima facie, to afford a basis on which the jurisdiction of the Court might be founded." In its 2011 judgment, the ICJ ultimately held that it did not have jurisdiction to proceed to the merits because, upholding the second of Russia's four preliminary objections, the terms of article 22 of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (CERD) had not been satisfied. Thus, the case was dismissed.

Implicit in this is the idea that negotiation must be conducted in good faith. Although this legal principle is admittedly one that can seem irredeemably vacuous and question-begging in abstract, it is, as the ICJ has noted, "One of the basic principles governing the creation and performance of legal obligations, whatever their source," and international law has consistently reaffirmed the centrality of good faith under the law of negotiation. It is a primary law obligation that focuses mainly, though not exclusively, on process considerations, and when a treaty requires that the

parties to a dispute settle their dispute by negotiation, good faith "kicks in" by virtue of Article 26 of the 1969 Vienna Convention on the Law of Treaties (VCLT).

## 3.3International Law and Humanitarian Negotiation

Humanitarian negotiations are those negotiations undertaken by civilians engaged in managing, coordinating and providing humanitarian assistance and protection. Such negotiations are undertaken for the purposes of ensuring the provision of protection and humanitarian assistance to vulnerable populations; preserving humanitarian space; and promoting better respect for international law. The overall objective of humanitarian negotiations should be to secure the cooperation of an armed group in reaching an agreed outcome or understanding that will facilitate or enhance humanitarian action. There are certain situations when humanitarian organizations may need to adopt a more cautious approach to negotiations, including: when the negotiations could negatively impact humanitarian conditions; when armed groups attempt to use the negotiations to enhance their perceived legitimacy; and when armed groups are believed to be playing humanitarian actors off against each other for their own gain.

Humanitarian negotiations are a tool to enable, facilitate and sustain humanitarian action, and therefore they must be undertaken in accordance with the three core principles of humanity, neutrality and impartiality that underpin all humanitarian action. These three fundamental principles have their origins in operational humanitarian practice, and are reflected to varying degrees in the Charter of the United Nations, International Humanitarian Law, and International Human Rights Law. These principles have also been incorporated into voluntary codes of conduct and organizational mission statements guiding humanitarian agencies and donors. In addition to fundamental humanitarian principles, the provisions of international law including International Humanitarian Law (IHL), International Human Rights Law (IHRL), and International Criminal Law (especially The Rome Statute of the International Criminal Court), provide important framing elements for undertaking humanitarian negotiations. This section briefly reviews select elements of international law that are most relevant to humanitarian negotiations with armed groups, and suggests ways in which these legal provisions can guide humanitarian negotiations.

The provisions of international humanitarian law that relate to the actions of armed groups in times of non-international armed conflict constitute the legal basis for holding these groups accountable in cases where they fail to fulfill their duties and obligations under international law. Humanitarian negotiators should ensure that armed groups are aware of their duties and obligations under international law. In communicating the responsibilities of the armed groups, humanitarian negotiators should take care that this is not perceived by the armed group as a threat. Nonetheless, humanitarian negotiators should not give the impression that by entering into negotiations the group members will be absolved or exempt from being held accountable for past, ongoing or future abuses of human rights and breaches of international humanitarian law.

### **SELF ASSESSMENT EXERCISE 15**

- 1. Discuss with relevant examples, the interplay of negotiations and international law.
- 2. Discuss with relevant cases or examples,the utility of international law of negotiations as means of dispute settlement.

- 3. Discuss the significance of international law in humanitarian negotiation.
- 4. Identify and discuss the elements of international law that are most relevant to humanitarian negotiations with armed groups.

#### 4.0 CONCLUSION

A major point to be reiterated here is that international law, which is applied in deciding disputes at the international level, especially under the ICJ, are still considered by many nations, including African states, to be in favour of the Western nations, which for centuries regard themselves as the core of the civilized world. We also wish to reiterate that the broad based international conventions are favoured by majority of member states of the UN over the narrow approach which is favoured by Western powers. On the aspect of humanitarian negotiations, we wish to conclude by pointing out international law supports international negotiations as a tool to enable, facilitate and sustain humanitarian action. Consequently, they must be undertaken in accordance with the three core principles of humanity, neutrality and impartiality that underpin all humanitarian action.

#### **5.0 SUMMARY**

In this unit, we discussed negotiations and international law. We covered areas such as negotiations and international law; international law of negotiations as means of dispute settlement and international law in humanitarian negotiation. International law supports the process of settlement of international disputes through negotiations and peaceful settlement of dispute. It also helps to guide humanitarian negotiations by defining boundaries within which to seek agreement; framing thelegal obligations of armed groups; identifying the substantive issues for negotiation, and providing an entry point for discussion on these issues; providing reference benchmarks for evaluation of options and monitoring implementation; and providing incentives to armed groups to negotiate.

### 6.0TUTOR-MARKED ASSIGNMENT

- **Q.1** Discuss with relevant examples, the interplay between negotiations and international law.
- Q.2 Discuss with relevant cases or examples utility of international law of negotiations as means of dispute settlement
- **Q.3** Define the term humanitarian negotiation. Discuss the significance of international law in humanitarian negotiation.
- **Q.4** Identify the elements of international law that are most relevant to humanitarian negotiations and discuss any one of them.

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#### UNIT 4DIPLOMACY AND INTERNATIONAL NEGOTIATIONS IN THE UN

#### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1.Diplomacy and International Negotiations in the UN
  - 3.2Principal Organs of the UN
  - 3.3 Initiating Diplomatic Negotiations in the UN
  - 3.4Types of UN Meetings for Negotiations
  - 3.5 The Negotiating System at the UN: Negotiating Blocs
  - 3.6 Tactics and Trade-Offs in UN Negotiations
  - 3.7 The Nature of UN negotiations Outcomes
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Readings

### 1.0 INTRODUCTION

In this unit you will study the conduct of negotiations in the United Nations (UN). The UN was established in 1945. The founding fathers in their wisdom created a multilateral organization 'to save succeeding generations from the scourge of war'. The UN is unquestionably the most sophisticated diplomatic machinery ever created for the promotion and management of international peace and security. The UN, which is a product of international negotiations that took place after the WWII was assigned the following objectives:

- to maintain international peace and security;
- to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of people;
- to achieve international cooperation in solving international problems of an economic, social, cultural, humanitarian character; and to be a center for harmonizing the actions of nations for the attainment of these common goals.

#### 2.0 OBJECTIVES

At the end of this unit, you should be able to:

- 1. Identify the principal organs of the UN
- 2. Discuss the conduct of negotiations in the UN
- 3. Discuss the kind of meetings for negotiations in the UN
- 4. Identify the various negotiating blocs in the UN and their conduct in the UN negotiating system.
- 5. Identify and discuss the various tactics and trade-offs in UN negotiations.
- 6. Identify and discuss some common examples of UN decisions which are outcomes of negotiations.

#### 3.0 MAIN CONTENT

# 3.1 Diplomacy and International Negotiations in the UN

The United Nations (UN) is a product of international negotiation. The primary role of the UN, which was created in 1945, is to serve as an international forum for addressing a wide range of global concerns. Its work includes intergovernmental negotiations resulting in collective decisions that both guide the work of the UN and shape new international, regional and national policies and actions. Aside from governments, a wide variety of stakeholders, including non-governmental and civil society organizations and other actors, attend and in some cases contribute to UN negotiations and decision-making processes. They do this through formal and informal, direct and indirect negotiation and advocacy efforts. It is only governments that can vote and affirm or reject official UN agreements.

In article 33.1 of Chapter VI of the Charter of the UN, concerning the 'Pacific Settlement of Disputes', negotiation is mentioned as the first instrument of seven methods to be used in cases of conflict: 'The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice. Furthermore, in its 83<sup>rd</sup>plenary meeting on 8 December 1998, the United Nations General Assembly adopted Resolution 53/101 on 'Principles and Guidelines for International Negotiations'. In the preamble, it stresses 'the important role constructive and effective negotiations can play in attaining the purposes of the Charter by contributing to the management of international relations'. The resolution provides principles and guidelines, hoping that these will 'contribute to enhancing the predictability of negotiating parties, reducing uncertainty and promoting an atmosphere of trust at negotiations'. It reaffirmed the following principles of international law which are of relevance to international negotiations:

- a. Sovereign equality of all States, notwithstanding differences of an economic, social, political or other nature;
- b. States have the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter of the United Nations;
- c. States have the duty to fulfill in good faith their obligations under international law;
- d. States have the duty to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations;
- e. Any agreement is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter;
- f. States have the duty to cooperate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of nations and international cooperation free from discrimination based on such differences; (g) States shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

In its second operative paragraph, it 'Affirmsthe importance of conducting negotiations in accordance with international law in a manner compatible with and conducive to the achievement of the stated objective of negotiations'.

- a. Negotiations should be conducted in good faith;
- b. States should take due account of the importance of engaging, in an appropriate manner, in international negotiations the States whose vital interests are directly affected by the matters in question;
- c. The purpose and object of all negotiations must be fully compatible with the principles and norms of international law, including the provisions of the Charter;
- d. States should adhere to the mutually agreed framework for conducting negotiations;
- e. States should endeavour to maintain a constructive atmosphere during negotiations and to refrain from any conduct which might undermine the negotiations and their progress;
- f. States should facilitate the pursuit or conclusion of negotiations by remaining focused throughout on the main objectives of the negotiations;
- g. States should use their best endeavours to continue to work towards a mutually acceptable and just solution in the event of an impasse in negotiations.

# 3.2Principal Organs of the UN

The UN has three principal decision-making bodies:

- the General Assembly (GA),
- the Economic and Social Council (ECOSOC)
- the Security Council (SC).
- While the decision-making process is essentially the same across the three, each serves a distinct function and is structured and governed differently. The abiding principle in UN decision making isto try and reach consensus amongst all participating governments.

# 3.3 Initiating Diplomatic Negotiations in the UN

At the start of any decision-making process, governments propose, individually or collectively, that a particular issue be raised in the appropriate forum, such as the General Assembly, ECOSOC or through a world conference. The participating governments discuss the issue and negotiate the written language of a draft agreement, the decision being adopted in one of a variety of formats. The vast majority of UN decisions appear as resolutions, which are relatively short texts and documents that include a preamble background paragraphs followed by a list of operative paragraphs, or agreements on future actions. Other outcomes include declarations, which are fairly concise statements conveying a high level of political concern; programmes of action, which call upon governments to take a series of actions voluntarily; and complex and legally binding conventions and treaties, which may require countries to make changes in their own domestic laws.

Governments also make decisions on organizational issues, which are meant to guide the structure and administration of a negotiating process. These can include the election of officers for a meeting, the adoption of the agenda and the determination of who may attend negotiations aside from Member States. Whatever format a decision takes, it starts as a draft text that is prepared by one of several sources, generally based on advance inputs from governments. The initial draft can be prepared by the Secretariat, the chair of the negotiations, a group of

delegations such as the European Union (EU) or the Group of 77 developing countries and China (G-77 + China), an individual delegate or a facilitator specially appointed for the task (NGLS and Gretchen Sidhu, 2007). In the case of resolutions, one or more "sponsor" governments may draft the text, which the Secretariat then registers and distributes as an official document. Those responsible for drafting will work in close consultations with delegates before the formally scheduled negotiations begin. The draft text then becomes the focus of discussion and reaction among governments. Delegates go through the text from start to finish, agree on minor adjustments, identify those passages that they cannot easily accept and offer amendments that could be deletions or additions. The Secretariat may produce a compilation of all versions proposed. As the areas of agreement and disagreement become clear, a draft text is prepared denoting areas of disagreement usually in square brackets. Secretariat staff normally monitors and record changes as they occur (NGLS and Gretchen Sidhu, 2007). A succession of additional sessions is held, under the authority of the chair or a facilitator, where delegates narrow down their differences, eliminating the brackets when a portion of language is agreed. As negotiations near their conclusion, there may be some "give-and take" as delegates consider the balance of elements in the "package," and whether they can let go of some pieces in order to retain others. When all the participating governments finally reach agreement on the exact wording of all portions of the text, they adopt it officially. If all Member States are willing to accept the agreement, then it is adopted by consensus. In some cases, however, delegates cannot reach agreement and the Chair may finally call for Member States to vote either for or against the proposal or to abstain. On occasion, a Member State may call for a roll-call vote to place on the record the vote of individual Member States. During a roll-call vote, the chairperson will call each country's name, and the possible response is: Yes, No, or Abstain.

# **3.4Types of UN Meetings for Negotiations**

Negotiating processes at the UN usually take place in two sessions a day, in the morning and the afternoon. If the debate becomes protracted, extra evening sessions may be scheduled. Final sessions can be extended sometimes throughout the night to complete the negotiations. Sessions take place in two formats: *open or closed*. Open or formal sessions, which are part of the official record, can be attended by everyone with proper accreditation, including NGOs and the media. These usually include plenary sessions, where all delegates participate. Plenary sessions normally open an intergovernmental session, and are where Member States make their individual policy statements. They are also the forums where formal decisions are made, including the final adoption of an agreed text, by consensus or a vote, or the noting of reservations.

When governments reach the point in a negotiating process where they need to hitan agreement on particularly contentious topics, they may break into informal sessions, often called working groups. These can be closed to everyone except delegates and Secretariat staff. The deliberations in informal sessions are not included in the official record. Delegates maintain they will make more progress if they can speak and debate freely among themselves and deal with sensitive issues without the constraints of the public spotlight. A negotiating process that is working on a long document may ask delegations to break into a number of informal working groups, with each taking a specific issue or section of the text. In theory only two working groups can meet at any given time, in order to accommodate smaller delegations. In some cases, governments form contact groups, or hold informal, which are strictly off-limits to anyone except a core group of

delegates. These meet outside the main negotiation rooms, generally at a time and place announced in the working group, and bring together only those governments with a strong interest in a particular issue that has caused disagreement. Contact groups seek to bring widely conflicting positions closer together, before presenting the results of the discussions to the meeting at large. They also save time by allowing concerned delegates to have a detailed discussion while the rest of the working group continues its deliberations.

# 3.5The Negotiating System at the UN: Negotiating Blocs

The negotiating system at the UN functions in large part throughnegotiating blocs, or groups of countries speaking with a commonvoice. A number of Member States operate independently of negotiating blocs, but may also associate with them on occasion. According to NGLS and Gretchen Sidhu (2007: 31-32) some of the active groups include:

- **The Group of 77 plus China (G-77plus China):** The Group of 77 is a longstanding bloc established in 1967. The G-77 plus China has become the voice of most developing countries, representing the positions of its 130 members, particularly on economic issues.
- **Non-Aligned Movement (NAM):** The NAM was created in 1961 at the height of East-West rivalry to provide an independent forum for its mainly developing country members. NAM has 117 members from Africa, Asia, Latin America and the Caribbean. In the UN it focuses on political issues, while the G-77 plus China emphasizes development.
- **The African Group:** The African group is made up of member states of the A**frican Union (AU)** formerly the Organization of African Unity. It was formed to advance stability, development, trade and the wellbeing of the African continent.
- **The European Group:** This group is made up of member states of the European Union (EU). The EU members, under the terms of their Treaties, must negotiate together. The EU Members are currently 28.
- The Rio Group: This group was created in 1986 as a permanent mechanism for political consultation and consensus of the countries from Latin and Central America and some Caribbean countries.
- **JUSCANZ Group:** This group is made up of Japan, the United States, Canada, Australia and New Zealand (JUSCANZ). It functions a political grouping of the non-EU industrialized countries listed together with Iceland, Mexico and the Republic of Korea.
- **Southern African Countries:** These countries, all members of the G- 77 plus China, have not created a formal negotiating group, but they occasionally work and speak together on issues when there is not a G-77 plus China position, for example, social issues, women's rights.
- The Caribbean Community (CARICOM): Includes all English speaking countries of the region–Antigua & Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada,

Guyana, Haiti, Jamaica, Montserrat, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Suriname, and Trinidad and Tobago, with five associate members.

- The Alliance of Small Island States (AOSIS): AOSIS is an informal alliance of Small Island and low-lying coastal developing countries formed in 1990 to address member interests in negotiations on climate change and related issues. AOSIS has a membership of 43 States and observers, drawn from all oceans and regions of the world: Africa, Caribbean, Indian Ocean, Mediterranean, Pacific and South China
- Organization of Islamic Conference (OIC): The OIC is an intergovernmental organization set up in 1969 with 57 members that include Islamic States as well as countries with a significant Islamic community. It is the only grouping in the UN that recognizes the connection between religion and politics and is active on social and cultural issues and Palestine.
- Western European and Other Groups (WEOG): A geo-political grouping of States that share a Western-Democratic common denominator. It comprises 27 Member States plus the United States, who is not officially in WEOG.
- **Regional Groups:** UN Member States participate in regional groups for the purposes of identifying regional candidates for the UN intergovernmental bodies. The African and Latin American groups also discuss substantive positions.

In addition to negotiating independently or as part of a group, delegates also make alliances that never appear in the public view, as many negotiations take place long before delegates reach the conference room floor. Diplomats meet along the UN's corridors or during coffee breaks, cocktails, or gather in the delegates' lounge, and negotiate over the phones at their missions. Those who favourthese informal meetings are those who have served for a long period in any of the main UN locations, such as New York, have long histories together, and know exactly how far they can push their issues and who they can expect to offer support or opposition.

## 3.6Tactics and Trade-Offs in UN Negotiations

Diplomats, both individually and in negotiating blocs, use many strategies to advance their positions. According to NGLS and Gretchen Sidhu (2007: 33) some of the tactics and tradeoffs used in UN negotiations include:

- a. **Never Reveal All Your Positions:** This is standard diplomatic practice. Compromises at the UN fit together like a puzzle: delegates offer the pieces one at a time, keeping in mind the need to achieve a handful of their most desired objectives.
- b. **Offer Hard-line Language:** All government proposals must be considered, so some delegates will offer what they know is an unacceptable position in order to bring other countries closer to what they want, at which point they will trade it in for a compromise.
- c. **Hold Off Until the End:**The most difficult passages are always finished last. At this point, everyone will have a sense of the compromises everyone else has made, and will be able to assess how much room there is to maneuver on the stickiest points.

d. **Leave the Room:**Delegates who may not want to speak or vote for the record may simply decide to go out for a break.

Most Member States maintain permanent missions to the United Nations in New York. Some countries also maintain permanent UN missions in Geneva, Nairobi and Vienna. These missions are staffed year round with diplomats who attend to routine and ongoing processes and debates. The UN system is very interesting as High-level officials, such as Heads of State, generally do not participate directly in negotiations. They are more likely to be found in closed bilateral or small high-level meetings or delivering plenary speeches that outline their government's position on an issue. Different kinds of documents provide the substance and guide every aspect of the UN decision-making process. UN documents carry an official number and appear in the six official languages of the UN: Arabic, Chinese, English, French, Russian and Spanish (NGLS and Gretchen Sidhu, 2007: 35).

## 3.7The Nature of UN negotiations Outcomes

The type of instrument used to convey a decision is usually determined by the gravity of an issue and political implications. NGLS and Gretchen Sidhu (2007) identified common examples of UN decisions to include:

- **a. Resolutions:** This is the formal decision used by UN organs, such as the General Assembly, to express an agreement or conclusion. Resolutions include a preamble, which sets forth the basis on which action should be taken, and a series of operative paragraphs that spell out actions or directives.
- **b. Decisions:** This indicates formal action that is not a resolution and that usually deals with organizational matters such as elections, appointments or the place of meetings.
- **c. Agreements:** Agreements refer to all consensus decisions made by Member States, whether or not they are legally binding. Most international instruments are now designated as agreements.
- **d. Treaties:** A treaty refers generically to all instruments that are legally binding under international law. They normally involve ratification by each government in order to go into effect.
- **e. Conventions:** The generic use of the term "convention" is synonymous with the generic use of the term treaty. It can cover all legally binding international agreements. It may also refer to a group of laws apart from international customary rules and general principles of international law.
- **f. Protocols:** A protocol focuses on specific issues or areas within a treaty or convention. It includes several different instruments. A protocol of signature is subsidiary to a treaty and drawn up by the same parties.
- **g.** Charters: This is the most solemn and formal instrument of international agreement, generally reserved for treaties that create new international organizations, such as the 1945 Charter of the United Nations.
- **h. Declarations:** Declarations lie somewhere between resolutions and conventions and some can also carry the weight of customary law, such as the Universal Declaration of Human Rights. They convey a high level of aspiration and political commitment, usually adopted at the Head of State or Government level. A recent example would be the 2000 Millennium Declaration, a compilation of priority actions adopted by a record 189 Heads

- of State or Government at the Millennium General Assembly of the United Nations in 2000. An interpretative declaration may be annexed to a treaty to explain its provisions.
- i. Programmes for Action: These are blueprints for a series of actions that governments have agreed should be taken on a specific set of issues at the national, regional and international levels. As statements primarily of political will and commitment, they are not legally binding. Most world conferences have agreed on plans or platforms for action.
- **j. Agreed Conclusions:** In some cases, governments decide to conclude a meeting with a negotiated outcome but without commitments for action by governments. These "agreed conclusions" can set the basis for policy development.
- **k.** Chair's Summary: A chair's summary expresses the sense and direction of a meeting without including commitments for action by governments. It enables views expressed or the deliberations of a special segment to be included in the official record of a meeting.
- **l. Sanctions:** The Security Council may impose sanctions on one or more Member States in situations where it decides that these are the most effective way to maintain international peace and security. Mandatory sanctions generally follow the failure of diplomatic efforts. Sanctions may encompass comprehensive economic and trade measures or specifically target areas such as arms purchases, travel or diplomatic exchanges.
- **m. Memorandum of Understanding:** This is a less formal agreement that often sets out operational arrangements under an international framework agreement. A Memorandum of Understanding (MOU) typically does not require ratification, and can be entered into either by States or international organizations. The UN, for example, establishes an MOU with Member States to organize peacekeeping operations or arrange UN conferences.

## **SELF ASSESSMENT EXERCISE 16**

- 1. List and write short notes on the principal organs of the UN.
- 2. Discuss the conduct of negotiations in the UN.
- 3. List and discuss the negotiating blocs in the UN and their conduct in the UN negotiating system.
- 4. Identify and discuss the various tactics and trade-offs in UN negotiations.
- 5. Identify and discuss some common examples of UN decisions which are outcomes of negotiations.

#### 4.0 CONCLUSION

The United Nations UN, from its inception, has served as the primary international arena for governments to come together, discuss common global concerns, and make decisions on collective actions to take in response. States as dominant actors in the international system form the core of membership of the UN. They are always debating and negotiating on subjects from poverty to peace and development to security, from disputed borders to women's rights to the protection of fish in the sea, climate change, trade, terrorism and many others. Despite the often complex interplay of inter-state negotiations, Member States of the UN work together to reach consensus decisions in the belief that strong collective support can help transform written agreements into effective action and which in turn can lead to the creation of a better world for all humanity.

#### **5.0 SUMMARY**

In this unit, we examined diplomatic negotiations in the UN system. Specifically, this unit discussed how negotiations are initiated and conducted within the UN system. We identified the principal organs of the UN, the types of UN meetings for negotiations and the use of negotiating blocs in the UN. We also discussed the types of tactics and trade-offs in UN negotiations and the nature of UN negotiations outcomes.

## 6.0 TUTOR-MARKED ASSIGNMENT

- **Q.1**Identify the three principal decision making organs of the UN and write short notes on any two of the organs.
- **Q.2**Discuss, with relevant examples, the conduct of negotiations in the UN.
- Q.3List and discuss the negotiating blocs that African states are active in the UN.
- **Q.4** Identify and discuss the various tactics and trade-offs in UN negotiations.
- Q.5 Identify and discuss some common examples of UN decisions which are outcomes of negotiations.

#### 7.0 REFERENCES/FURTHER READINGS

- 1. UN Non-Governmental Liaison Service (NGLS) & Gretchen Sidhu (2007). Intergovernmental Negotiations and Decision Making at the United Nations: A Guide. Geneva and New York: United Nations
- 2. Dodds, Felix (2004) How to Lobby at Intergovernmental Meetings: Earthscan: London and Sterling, VA.
- 3. Zartman, I.W (2005) Multilateral Negotiations. Encyclopedia of Life Support, Conflict Resolution, Volume II.
- 4. United Nations General Assembly (1999) Principles and guidelines for international negotiations, Resolution Adopted by the General Assembly on the report of the Sixth Committee (A/RES/53/101 20 January 1999)

# MODULE 5: REGIONAL AND GLOBAL ISSUES IN DIPLOMACY AND INTERNATIONAL NEGOTIATION

#### INTRODUCTION

The main purpose of this module is to enable you gain in-depth knowledge on negotiations in regional organizations such as the African union and European union; relationship between diplomacy and international trade negotiations; international negotiations and conflict management; and climate change negotiations.

Under this module are four units, which contain comprehensive discussions for your study:

Unit 1Diplomacy and Negotiations in Regional Organisations: AU and EU

Unit 2 Diplomacy and International Trade Negotiations

Unit 3 International Negotiations and Conflict Management

Unit 4 International Environmental Diplomacy and Climate Change Negotiations

# UNIT 1DIPLOMACY AND NEGOTIATIONS IN REGIONAL ORGANISATIONS:AU AND EU

#### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1. Diplomacy and Negotiations in regional organizations: AU and EU
  - 3.2 Diplomacy and Negotiations in the African Union
  - 3.3 The Institutions of the African Union
  - 3.4 Initiating Negotiations and Decision Making in the AU
  - 3.5The Nature of Outcomes of Negotiations and AU Decisions
  - 3.6The AU in International Negotiations
  - 3.7 Diplomacy and Negotiations in the European Union
  - 3.8 Characteristics of the EU as a Negotiations Arena
  - 3. 9 Member States in the EU Negotiation Process
  - 3. 10Procedures of the EU Negotiation Process
  - 3. 11 Institutions in the EU Negotiation Process
  - 3.12 Negotiation of Enlargement and Admission of new Members into the EU
  - 3.13 EU in External Negotiations
  - 3.14 Strategies and Tactics in EU Negotiation Processes
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Readings

### 1.0 INTRODUCTION

In this unit you will study the conduct of diplomacy and negotiations in regional organizations, specifically in the African Union (AU) and European Union (EU). These regional organizations have served as platforms for the conduct of multilateral diplomacy of member countries and also to negotiate on issues and matters of common interests.

### 2.0 OBJECTIVES

At the end of this unit, you should be able to:

- 1. Discuss the conduct of diplomacy and negotiations in the AU.
- 2. Identify the key Institutions of the AU.
- 3. Explain the process of initiating and conducting negotiations and decision making in the AU.
- 4. Explain the nature of outcomes of negotiations and AU decisions.
- 5. Discuss with relevant case studies, role of the AU in international negotiations.
- 6. Discuss the conduct of diplomacy and negotiations in the European Union.
- 7. List characteristics of the EU as a negotiations arena.
- 8. Discuss the role of Member States in the EU Negotiation process.

- 9. Discuss the procedures of the EU Negotiation process.
- 10. Identify and write short notes on the institutions in the EU negotiation process.
- 11. Discuss the role of the EU in external negotiations.
- 12. Identify the strategies and tactics used by the EU in Negotiations.

### 3.0 MAIN CONTENT

# 3.1Diplomacy and Negotiations in the African Union

The African Union (AU) is a continental union consisting of 54 countries in Africa. The AU replaced the Organisation of African Unity (OAU) which was founded in 1963. The AU was established on 26 May 2001 in Addis Ababa and launched on 9 July 2002, South Africa. The most important decisions of the AU are made by the Assembly of the African Union, a semi-annual meeting of the Heads of State and Government of its Member States. The AU is planned to be a forum for the promotion of regional integration and African unity through socio-economic integration and the development of common positions on issues of common interest. The AU also establishes institutions that nurture solidarity among African peoples, coordinate its actions with sub-regional economic communities and forges a common front in international negotiations and cooperation.

### 3.2 The Institutions of the AU

As stipulated in the Constitutive Act, the AU has nine organs plus the Peace and Security Council that was created in 2003. They are:

- the Assembly of the Union;
- the Executive Council:
- the Pan-African Parliament;
- the Court of Justice:
- the Commission;
- the Permanent Representatives Committee;
- the Specialised Technical Committees;
- the Economic, Social and Cultural Council;
- the Financial Institutions.

Among these supporting institutions, the AU Commission plays a major role in the running of the AU. It is the Secretariat of the African Union and is entrusted with executive functions. Its structure represents the Union and protects its interests under the auspices of the Assembly of Heads of State and Government as well as the Executive Council. The Commission executes its functions through eight main portfolios, namely Peace and Security; Political Affairs; Trade and Industry; Infrastructure and Energy; Social Affairs; Rural Economy and Agriculture; Human Resources, Science and Technology; and Economic Affairs.

# 3.3Initiating Negotiations and Decision Making in the AU

Most negotiations on the platform of the AU take place at meetings, summits and especial sessions leading to decisions of the organization. Before the policy organs take any decision, the process starts either within the African Union Commission, other AU organs or from the Member States as policy proposals. The Commission can initiate proposals for consideration by

other organs in accordance with Article 3 (2) (b) of the Statutes of the Commission. The Commission prepares all the necessary documents that elaborates on that policy or proposal including the agenda and programme of work and convenes a meeting of experts from the African Union Member States from the relevant sectors in their respective countries. The experts meeting, which takes four to five days will debate extensively on the proposals and make recommendations that are submitted to the Ministers responsible for that particular sector. For instance, if the policy that is debated upon deals with health issues, the recommendations will be forwarded to Ministers of Health. The Ministers will then deliberate on the recommendations of the experts and may or may not agree with the recommendations, after which day they will be tabled before the Executive Council for approval. Most of the reports from ministerial meetings are submitted to the Executive Council for adoption however some proposals have to go through the Permanent Representatives Committee, which submits its recommendations to the Executive Council. Thereafter, the Executive Council tables the recommendations before the Assembly. The conduct of the AU Meetings involving following steps and procedures:

## Part I: The Conduct of AU Meetings/Summits and Negotiations

- a. Election of Bureau; this item shall normally be on the agenda of the meeting. The Legal Department of the AUC will guide the chair in the conduct of this election according to the set rules of the AUC. The Legal Department of the AUC will provide information on who is eligible for election or re-election, as set out in the rules and regulations of the AUC. The Bureau shall be composed of a Chairperson, three vice-Chairpersons, and a Rapporteur. Official participants of the meeting will conduct the election in a closed session. For Ministerial Meetings, members shall be elected on regional basis, having earlier agreed on which region will take which office on a rotational basis. Normally the country selected to host the meeting shall take the chair.
- **b.** Chairperson: The persons elected to that position during the election of the Bureau shall chair meetings. These persons will chair the meetings until the election of the next Bureau. In the absence of the elected Chairperson, the person holding the position of first vice-chair will chair the meeting. In the absence of both the Chairperson and the three vice-Chairpersons, the bureau will elect a Chairperson for that meeting from among themselves. For meetings of the department that do not have an elected bureau, the Commissioner of the department or her assistant, normally the Director of the department will chair the meeting or make arrangement for the same with the delegates of the meeting.
- **c. Rapporteur(s):** For a meeting that has an elected bureau, the person elected as rapporteur will be the official recorder of that meeting. In his or her absence the bureau will elect a rapporteur from among itself or among the official delegates of that meeting, for the recording of that meeting. For meetings of the Department, the Director of the department shall provide a rapporteur for the meeting from among the secretariat or from among the official delegates of the meeting.
- **d.** Official Language(s) of the Meeting: For Ministerial meetings of a continental coverage, the four official languages of the African Union, notably, English, French,

Arabic and Portuguese will be used. For regional meetings, only those languages common to the region concerned will be used. In either case the African Union or the hosting country or both will provide translation resources. For meetings other than Ministerial meetings, official language used will depend on the needs of the participants. Where more than one language is used the Department in charge of organising the meeting will arrange for translation resources as necessary.

- **e. Quorum of the Meeting:** Decisions and recommendations of the meeting shall only be binding if the meeting had attained a quorum of two-thirds of the Members States officially registered at the meeting. The Rapporteur, in consultation with the legal counsel of the African Union Commission shall record and report to the meeting the quorum status of the meeting.
- **f. Opening Ceremony:** A separate official opening ceremony programme will be produced. This programme will be at the beginning of the meeting unless circumstances require it to be rescheduled.
- g. Official Announcements and Procedural Matters: The secretariat of the Department in charge of organising the meeting will communicate with the Chairperson any announcement and procedural matters designed to guide the smooth running of the meeting. It will be the responsibility of the Director of the department or his/her designated assistant to guide the chair on procedural matters relevant to the meeting. A Note Verbale shall be prepared by the department and sent to all Members States and shall also be posted on the official website of the African Union Commission in the official languages of the African Union. The Note Verbale shall indicate the theme of the meeting, the expected delegates to the meeting, the place where the meeting was scheduled to be held and the dates of the meeting.
- h. Adoption of the Agenda: The adoption of the agenda shall normally be the second item on the provisional agenda of the meeting, after the election of the bureau. The Chairperson will present the proposed agenda to the delegates at the beginning of the meeting for a brief discussion and then adoption. Items on the agenda may be deleted or modified. Normally no new items will be added to the agenda. Where modifications are proposed on the agenda, the Department will guide the chair as to whether or not there was enough background documentation to permit informed discussion of the modified topic(s). Member States shall be encouraged to comment on the provisional agenda communicated to them to ensure the department prepared background documents for any revisions proposed.
- i. Adoption of the Work Programme: The Chairperson will present the proposed Work Programme, including procedural matters to the delegates at the beginning of the meeting for a brief discussion and then adoption. Normally no new items will be added to the Work Programme. Where modifications are proposed, the Department will guide the chair as to whether or not the modifications were feasible within the agreed period of the meeting.

- **j. Presentation of the Work Programme in the Meeting:** Items on the agenda shall be presented in the meeting as oral presentations, with effective use of visual aids, panel discussions, which may be preceded by an introductory presentation, which may be oral or film/video. These will be followed by plenary session discussion from which decisions and recommendations will emerge.
- **k. Points of Order:** During discussion of any matter, an official delegate may, at any time, raise a point of order. The Chairperson shall immediately rule upon the point of order. Any appeal against the ruling of the point of order shall immediately be put to the vote; otherwise the ruling of the Chairperson shall stand. A member raising a point of order may not speak on the substance of the subject matter under discussion.
- **l. Adjournment of Debate:** During discussion of any matter, an official delegate may move for the adjournment of the debate on the item under discussion. In addition to the person who proposes the motion, one other delegate may speak in favour and one against the motion, after which the motion shall immediately be put to the vote.
- **m.** Closure of debate: An official delegate may, at any time, move for the closure of debate on an item under discussion, whether or not any other delegate had signified the wish to speak. Permission to speak on the closure of the debate shall be accorded to only two delegates opposing the closure, after which the motion shall immediately be put to the vote.
- **n. Suspension or Adjournment of a Meeting:** During the discussion of any matter, an official delegate may move for the suspension or adjournment of the meeting. No discussion on such a motion shall be permitted. The motion shall immediately be put to the vote.
- **o. Order of Motions:** The following motions shall have precedence in the following order over all other proposals or motions before the meeting: (i) To suspend the meeting; (ii) To adjourn the meeting; (iii) To adjourn the debate on the item under discussion; (iv) To close the debate on the item under discussion.
- **p. Consideration of Reports:** The department in charge of organising the meeting shall prepare relevant reports of the meeting for presentation and discussion at the meeting. These will normally be an update on actions on the subject matter since the previous report if any. The reports will have been prepared by officers of the department directly related to the subject matter and, will be presented by the Commissioner or his/her representative.
- q. Voting Procedures: Should any vote be required for the adoption of report or opinion, the legal counsel of the African Union shall guide the meeting on the procedure to be followed and which people were eligible to vote as per rules and regulation of the African Union Commission. Each Member State shall have one vote. Unless otherwise decided,

voting shall be by show of hands. After the voting process has commenced, there shall be no interruption of the voting, except on a point of order by a delegate in connection with the actual conduct of the voting.

- **r. Any Other Business:** Any official delegate to the meeting may raise items for discussion under Any Other Business. The department will guide the chair on the relevance of the raised item to the current meeting. Where the item may need to be referred to another forum for discussion the secretariat will advise the chair according.
- s. Selection of Venue and Date of the next Meeting: The legal counsel of the African Union will guide the meeting on the selection of the venue of the next meeting. The secretariat will guide the chair on the most appropriate dates based on the rules and regulations of the African Union, and also based of commitments already on the calendar for the concerned persons and the secretariat.
- **t.** Adoption of the Report of the Meeting: The official rapporteur of the meeting will present a summary of the report of the meeting to the delegates towards the end of the meeting for adoption. Any corrections made and verified by the delegates will be made and presented to the secretariat for finalisation and dissemination.
- **u.** Closing Ceremony: A programme for the official closing ceremony will be produced by the secretariat of the department and circulated to the delegates a day before the closure of the meeting.

## **Part II: Immediate Follow-up Action on Decisions**

- i. **Finalisation of the Report:** The Secretariat shall finalize the report of the meeting within two days of closing the meeting at the site of the meeting. To minimise expenses, the head of the secretariat will identify the relevant persons to finalise the report and release the rest to travel back home. The report shall then be translated into the official languages of the African Union within three days of concluding the meeting.
- ii. **Distribution of Harmonized Report or Outcome of the Meeting:** This shall be done within one week of concluding the meeting
- iii. **Evaluation Meetings:** These meetings shall be conducted and attended by all departments involved in the meeting within two weeks of concluding the meeting. The meetings shall analyse and document the strengths, weaknesses; opportunities encountered and prepare comprehensive recommendations to be implemented to improve on the next meeting.
- iv. **Follow-up on Meeting Recommendations and Decisions:** Relevant officers of the department shall commence follow-up actions on the decisions and recommendations of the meeting and regularly brief the Commissioner on progress made

The Assembly also takes all its decisions by consensus or where there is no consensus, by a two-thirds majority of the Member States who are eligible to vote. The AU Commission implements and follows up on the implementation of all the decisions. Before every session of the PRC, Executive Council and Assembly, the Commission prepares progress reports and an implementation table indicating the status of implementation of decisions, constraints and challenges encountered in implementing the decisions. The progress reports are submitted to the Executive Council and Assembly through the PRC. However, there is no consistent mechanism to track the implementation of the AU decisions by Members States at national levels.

The signatures of the Chairperson of the Assembly and the Chairperson of the African Union Commission authenticate decisions adopted by the Assembly. Those decisions are then published in all working languages of the Union which include Arabic, English, French and Portuguese in the 'Official Journal of the African Union' within 15 days after the signatures and are transmitted to all Member States, other organs of the Union and Regional Economic Communities (RECs). Decisions taken by the policy organs are binding on all the AU Member States, organs of the Union and RECs.

# 3.4The Nature of Outcomes Negotiations and AU Decisions

- 1. Charters, Treaties, Conventions and Protocols: are legally binding if ratified by Member State. They enter into force only after they have been ratified by a sufficient number (15) of Member States.
- 2. **Decisions**: are binding on all Member States or relevant organs or individuals.
- 3. **Regulations**: are procedures and rules that govern the implementation of a decision. They are applicable to all Member States that implement the decisions.
- 4. **Declarations and resolutions**: are not binding but intend to guide and harmonise viewpoints of Member States.

Failure of any Member State to comply with any obligation under any instrument of the AU attracts sanctions that can be economic or political. They include, but not limited tosanctions for failure to pay contributions; sanctions for engaging in unconstitutional change of government; sanctions for failure to comply with policies.

## 3. 5The AU in International Negotiations

The AU with its 54 member states of constitutes about 28 percent of the UN membership. This provides a resource for the organisation to harmonize their individual negotiating positions on major international issues in order to turn their numbers into real political clout in international negotiations. African common positions distinguish Africa's participation in international diplomacy as a bloc through the African Union or the African Group from the activities of individual African countries in international forums including those conducted in the interest of Africa. These positions are often declared as official common policy approaches to especially contentious international challenges. Given the challenges of member countries with a high incidence of poverty, disease and conflict and its marginalization in international affairs especially during the Cold War, Africa has come to the realization that with growing multilateralism in the post- Cold War era, it needs to use its numbers better by advancing common positions in international negotiations.

The power of having large numbers of states would be of no value in multilateral diplomacy unless Africa took coherent and concerted negotiating positions during increasingly complex international negotiations on global challenges that tend to have Africa as their epicentre. There is no doubtthat the advantage of negotiating as a bloc outweighs that of negotiating as individual countries. Consequently, the number of common positions and platforms by African countries in international diplomatic forums has increased since the mid-1990s. This has enabled the African Group in the United Nations and other platforms to play a much more distinct role in international diplomacy than in the past. We shall examine two case studies that showcase Africa's negotiation position on global issues. The two major common positions discussed here are examples of the African common position in international negotions. These are the EzulwiniConsensus on the UN Reform of 2005 and the 2009 Common Position of theCommittee of African Heads of State/Government on Climate Change.

# Case Study I of AU in International Negotiations: The EzulwiniConsensus on the UN Reform

In response to the growing agitations for democratization of the UN, particularly it's Security Council, in 2005 the then UN Secretary-General, Kofi Anan, issued a report entitled: InLarger Freedom: towards development, security and human rights for all. The report recommended reforms of the UN Security Council, among other proposals, as are sponse to transnational global challenges including changing nature of conflict, terrorism, transnational crime, poverty, and disease epidemics. This led various groups of countries to develop their positions on the nature of reforms needed, especially in regard to the UN Security Council. In 2005, African countries met at Ezulwini in Swaziland on the UN Reform and produced a negotiating position on Africa's entitlement to permanent and non-permanent seats in a reformed Security Council as well as the reform of several other organs of the UN. The Ezulwini Consensus as the common position is called was a culmination of a protracted and difficult process of bargaining among major African states. Even after the collapse of the grand debate for reform of the UN in 2006, the Ezulwini consensus remains the official common position even though many African states are exploring alternatives being discussed in UNGA working groups including the idea of semi-permanent seats of ten-year terms. In the process, the big contenders for permanent seats, South Africa and Nigeria, have continued to project themselves as leaders of the African agenda through their effective roles as non-permanent members in the UNSC.

# Case Study II of AU in International Negotiations: The Common Position on Climate Change

In 2009, African Heads of State and Government directed ministersconcerned with environmental issues to work out a consensus position that African governments would use as a common position at the Conference of Parties under the auspices of the UN Framework Convention on Climate Changeto be held in Copenhagen in December of that year. Ministers were expected to build on consensus that had developed on environmental governance over the years as well as general agreement on climate changecobbled together in preparation of the COP 12 held in Kenya in 2006. The fundamental point that Africans had long agreed on is that Africa bears the bruntof the worsening environmental challenges, some of which were known to beman-made. For this reason, the consensus was that Africa ought to be biggestbeneficiary of

any international agreement on the mitigation of these challenges, so it's say need to be given a fair hearing in international negotiations. Specifically, the African Group Position towards COP 12 was consensus amongst African governments on the positions that the UNFCCC is the legitimate platform and the Kyoto Protocol the preferred legal framework for a negotiated global response to climate change, one that encompasses both mitigation and adaptation measures. Africa also argued that any future commitment must be based on substantial, concrete and observable reduction of carbon emissions by Annex 1 parties-industrialized countries.

## 3.6Diplomacy and Negotiations in the European Union

The European Union (EU)traces its origins from the European Coal and Steel Community (ECSC) and the European Economic Community (EEC), formed by the Inner Six countries in 1951 and 1958, respectively. It started as a confidence-building measure between the French and the German Federal Republic shortly after the World War II. Both countries wantedto createthe European Coal and Steel Community as an economic arrangementbeneficial to the countries in orderto prevent another war in Europe. Germany and France needed neutral partners to help them forge a durable balance, so Italy and the three Benelux countries namely, Belgium, the Netherlands and Luxembourg, stepped into the process. This multilateral framework for international negotiation has been expanding ever since. The Maastricht Treaty established the European Union under its current name in 1993 and introduced European citizenship. The latest major amendment to the constitutional basis of the EU, the Treaty of Lisbon, came into force in 2009. As at 2015, the EU had grown into an economic-political union of 28 member states that are located primarily in Europe, covering an area of 4,324,782 km<sup>2</sup>, with an estimated population of over 508 million. However, when the UK eventually withdrew from the EU, the body will be reduced to 27 members. This came about as a result of BREXIT as UK citizens voted for the UK to leave the EU. Its institutions include: the European Council, the Council of the European Union, the European Parliament, the European Commission, the Court of Justice of the European Union, the European Central Bank, and the European Court of Auditors. The EU has developed an internal single market through a standardised system of laws that apply in all member states. Within the Schengen Area, passport controls have been abolished. EU policies aim to ensure the free movement of people, goods, services, and capital, enact legislation in justice and home affairs, and maintain common policies on trade, agriculture, fisheries, and regional development. The monetary union was established in 1999 and came into full force in 2002. It is currently composed of 19 member states that use the euro as their legal tender. Our task in this unit is to examine the diplomacy and negotiation in the EU as a mode of reaching agreements and implementation of common policies.

# 3.7 Characteristics of the EU as a Negotiations Arena

There are several characteristics of the EU negotiation process.

- i. First, the EU mainly governs through inter-governmental and trans-governmental negotiations and political competition between states and regions.
- ii. Second, the EU negotiation process, which it shares with other strong international organizations, is its continuity.
- iii. Third, the number of issues dealt with in the EU and the consequences of its decisions for the member states are incomparable to other international regimes.

- iv. Fourth, an important characteristic of the EU is that this coalition of states is more homogeneous than most of the other international negotiation groups.
- v. The fifth element that distinguishes the EU from other international institutions is that the union's negotiation process is based on more than a community of interests.
- vi. The sixth important characteristic of the EU negotiation is the Union's democratic dimension. Indeed, in 'regular' international negotiation processes, the people play only an indirect role through governmental and non-governmental institutions. In the European Union, democratic actors like political parties are involved in the negotiation process

Negotiations are always taking place in the EU and they essential to its functioning. Virtually every activity of the EU was set in motion through a process of negotiation. In one way or another, these negotiations include every type of actor in the EU, including most notably the governments of the member states, the Union's supranational bodies, and national parliaments, civic associations and industry lobbies.

# 3. 8 Member States in the EU Negotiation Process

There are only limited possibilities for member states to influence EU negotiators. Hence, states have to operate within strict legal limits in these areas. Strategic planning is therefore of paramount importance. This brings up the point of qualified majority voting (QMV), a decision rule that has increasingly been applied as a tool for making progress in EU negotiations. Without this instrument, the EU would not have been as successful in decision-making as it is today. However, the fact that countries can be out-voted puts a great deal of pressure on their negotiators. Coalition-building is one of the answers in this context, as is a change in attitude. Negotiators will have to show an increased willingness to accept compromises, something that is not too common among the actors entering the EU negotiation scene after a new round of enlargement.

# 3.9Procedures of the EU Negotiation Process

A major difference between EU and non-EU negotiations is the common understanding of EU negotiators that: EU decision-making is a non-zero-sum process; that the Commission is the agenda setter, with the European Council as the major body for strategic decisions, and will therefore enhance the possibility of coordinated solutions; and that the existence of the Court of Justice of the European Union guarantees implementation of the decisions agreed upon by the member states. An additional factor is the long-standing influence of these understandings on the negotiation process and, as a consequence, on the development of an EU negotiation culture with characteristics that cannot be found elsewhere. This evolution of cooperation creates an integrative bargaining process in which non-cooperation and tit-for-tat tactics are rare. As negotiators meet each other on a day-to-day basis, EU negotiations are more personalized than other international negotiations. This, in turn, creates a chemistry that furthers integrative bargaining, just as the collective gathering of information shapes a common referential frame.

## 3. 10 Institutions in the EU Negotiation Process

The EU member states often needed the supranational bodies as facilitators in reaching agreements. Although a non-supranational body, the Council Secretariat has been especially influential in this respect, which has to do with its expertise, as well as the fact that it is often ahead of the member states as far as information is concerned. Its skills are needed by the EU member states' negotiators who, especially those from the smaller powers, often lack the apparatus to match their opponents. They may alternatively use the facilities of the Secretariat, which in turn creates a power base for the Council. Furthermore, trust plays an important role. The legitimacy of the Secretariat puts it in a central role as a neutral broker that can be trusted and will therefore be used by the players. The European Commission, however, has not always had the trust of the other actors, because it is a player itself, with its own interests to defend. As the Commission compensated for this lack of trust by taking extremist positions, the effect has been a further loss of legitimacy and therefore of influence on the negotiation processes in the intergovernmental conferences.

For the process of EU negotiation, this growing distrust in the European Union implies less assured outcomes in a relatively weakened Union. In addition, the Presidency, the European Council, the Council of Ministers, the EU Parliament and the Commission, play varying roles in the negotiation process of the EU.

- i. The Presidency, is the highest political level of the European Union, with a term-in-office of two-and-a-half years and the option of one extra term of the same length. As the European Council represents the EU, the President contributes to the stability of the Union and to the effectiveness of its negotiation processes.
- ii. The European Council: is a sort of Board of Directors of the EU, with the task to enhance 'mutual understanding and confidence between governments of the EU Member States.
- iii. The Council of Ministers: together with the European Parliament is the legislature of the European Union. It plays a major role in agenda-setting and initiating the impact of procedures (including voting rules) on negotiation behaviour and coalition-building, different mediating roles, and the effect of the institutional context on the negotiation process are vital ingredients in understanding the EU menu.
- iv. The EU Parliament: it scrutinizes the Commission and the Council within this system. It also has a role to play in the enlargement procedure, so its powers have grown so much that EU member states, the Council of Ministers and the European Commission include the Parliament and the positions of its parties into account. As a consequence, the European Parliament has become a party in the EU negotiation processes.

## 3.11 Negotiation of Enlargement and Admission of new Members into the EU

The EU also negotiates the admission of new members. First, an applicant has to be declared as an official candidate, which requires that the country satisfies the political aspects of the Copenhagen Criteria. Secondly, the country has to adopt and implement the whole body of the EU rules and regulations in force (also known as acquiscommunautaire). According to the Copenhagen Criteria from 1993, later amended at the European Council in Madrid in 1995, the new member state will have to be a European country with stable state institutions, respecting democratic principles, human rights and minorities. An applicant state should have a functioning market economy that can meet competition at the European internal market, and it has to adopt

the *acquiscommunautaire* and apply it accordingly. Even with these seemingly objective criteria, the perceptions of the parties in the enlargement process can differ substantially and will therefore influence the negotiation process.

With the growth in the number of EU member states, any external negotiations will be more difficult to deal with in terms of alternatives to the positions already taken by the Union. These positions will become more rigid than they are today, especially if external negotiations are about issues that will have a profound impact on the EU. The EU is broadening in two ways. It is multiplying its policy areas and increasing the number of partners to be integrated. New countries have entered the EU in several waves: Denmark, Ireland and the United Kingdom in 1973; Greece in 1981; Portugal and Spain in 1986; and Austria, Finland and Sweden in 1995. The fifteen members then decided to accept ten new members in 2004: Cyprus; the Czech Republic; Estonia; Hungary; Latvia; Lithuania; Malta; Poland; Slovakia; and Slovenia. In 2007 Bulgaria and Romania entered, and Croatia followed in 2013.

## 3.12 EU External Negotiations

The EU's external negotiations are multi-level. There was an initiative from 2003 of reaching out to minimize some of the negative consequences of EU enlargement (Clingendael, 2015: 243), to lower the need for states to become EU members and to attempt to stabilize the regions around the Union. Another level is the negotiation processes with advanced industrialized countries, for example, the G7, with advanced and advancing countries namely, the G20, and with developing countries such as the African, Caribbean and Pacific group of states (ACP). The EU also participates in the negotiation processes with the UN institutions and the UN family, for example in the World Trade Organization (WTO). The result of all this is enormous complexity, one reason being that the internal and external processes of the EU's negotiations are becoming intertwined. Thus, in an age of global markets and communications, it is more than ever apparent that the internal and external developments of the EU are inseparable. This has the consequence of a growing linkage between internal and external EU negotiation processes, creating ever more complexity.

# 3.13 Strategies and Tactics in EU Negotiation Processes

According to Andreas Warntjen (2010: 655–679) there are different modes of decision-making that are employed by EU member states and institutions.

- i. The first mode is distributive bargaining: In this mode, actors aim to elicit as many concessions from their negotiation partners as possible, while making as few as possible themselves.
- ii. The second mode is cooperative exchange, or trade-offs and package deals, which are also labelled integrative bargaining or value creation. The third one is norm-guided behaviour: 'Through a process of socialization, actors internalize norms which become part of their identity and prescribe appropriate behaviour for certain types of situations. This mode can also be named 'Brusselization', as the dynamics of the processes in Brussels force negotiators to adjust and thereby become more ready to wheel and deal.
- iii. The third mode is deliberation: 'deliberation establishes through truth-seeking discourse what "the right thing to do" would be' (Warntjen, 2010: 670).

According to Bailer (2010: 743–757) voting power, economic size and domestic constraints create the context in which EU negotiators have to operate. Negotiators look for opportunities to form coalitions to strengthen their power, they lean on the institutional power that they have and use skilled negotiators who are well informed, working on as many levels and with as much frequency and reciprocity as possible in order to create optimal effectiveness and defend the interests of their country or institution.

## **SELF ASSESSMENT EXERCISE 17**

- 1. Discuss the conduct of diplomacy and negotiations in the AU
- 2. Identify the Institutions of the AU.
- 3. Explain the process of initiating and conducting negotiations and decision making in the AU
- 4. Explain the nature of outcomes negotiations and AU decisions
- 5. Discuss with relevant case studies, role of the AU in International Negotiations
- 6. Discuss the conduct of diplomacy and negotiations in the European Union List characteristics of the EU as a negotiations arena.
- 7. Discuss the role of Member States in the EU Negotiation process.
- 8. Discuss the procedures of the EU Negotiation process.
- 9. Identify and write short notes on the institutions in the EU negotiation process.
- 10. Discuss the role of the EU in external negotiations.
- 11. Identify the strategies and tactics used by the EU in Negotiations.

#### 4.0 CONCLUSION

In concluding this unit, we want to underscore the fact that both the African Union (AU) and European Union (EU) are important organizations in their respective regions. These regional organizations have served as platforms for the conduct of multilateral diplomacy of member countries and also to negotiate on issues and matters of common interests. We have learned in this unit that the major difference between EU and non-EU negotiations is the common understanding of EU negotiators that the EU decision-making is a non-zero-sum process and that negotiations in the EU is becoming more complex with the growing number of issues in the age of globalization and with the negotiations for admission of new members. We have also learned in this unit that the AU provides a platform for the conduct of African diplomacy and negotiations. The idea of common negotiating positions adopted by the AU represents a growing realization by African countries that they stand to lose ininternational negotiations unless they harmonized their positions.

#### 5.0 SUMMARY

In this unit, we examined the link between diplomacy and negotiations in the AU and EU. We began by discussing the conduct of diplomacy and negotiations in the AU. Issues covered include the Institutions of the AU; the process of initiating and conducting negotiations and decision making in the AU; the nature of outcomes negotiations and AU decisions, and role of the AU in international negotiations. We also examined the conduct of diplomacy and negotiations in the EU. Issues covered under the EU include characteristics of the EU as a negotiations arena; the role of Member States in the EU negotiation process; the procedures of

the EU negotiation process; the institutions in the EU negotiation process; the role of the EU in external negotiations and the strategies and tactics used by the EU in negotiations.

## 6.0 TUTOR-MARKED ASSIGNMENT

- Q.1.Discuss the conduct of diplomacy and negotiations in the AU.
- **Q.2.** Identify the Institutions of the AU.
- **Q.3.**Explain the process of initiating and conducting negotiations and decision making in the AU.
- **Q.4**Explain the nature of outcomes negotiations and AU decisions.
- **Q.5**Discuss with relevant case studies, role of the AU in international negotiations.
- **Q.6** Discuss the conduct of diplomacy and negotiations in the European Union List characteristics of the EU as a negotiations arena.
- **Q.7**Discuss the procedures of the EU Negotiation process.
- **Q.8**Identify and write short notes on the institutions in the EU negotiation process.
- **Q.9**Discuss the role of the EU in external negotiations.
- **Q.10**Identify the strategies and tactics used by the EU in Negotiations.

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#### **CONTENTS**

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  - 3.1. Diplomacy and International Trade Negotiations
  - 3.2International Trade Negotiations under General Agreement on Tariffs and Trade (GATT).
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  - 3.5 Strategy and Tactics Use by States and Coalitions in International Trade Negotiations.
  - 3.6 Areas of Contention in Trade Negotiations between Developed and Developing Countries.
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#### 1.0 INTRODUCTION

In this unit, you will learn aboutdiplomacy and international trade negotiations. International trade negotiations have existed since the foundation of GATT in 1948 to WTO in 1995, but these negotiations have become more complex and important for both developed and developing countries. Trade between developed and developing countries, previously largely regulated by unilateral concessions, is increasingly being moved into negotiated agreements. These negotiations conducted by diplomats or negotiators have expanded to encompass previously excluded areas such as agriculture and to new types transaction such as services, patents and copyright, product and regulatory standards.

#### 2.0 OBJECTIVES

At the end of this unit, you should be able to:

- 1. Describe the relationship between diplomacy and international trade negotiations.
- 2. Discuss international trade negotiations under general agreement on tariffs and trade (GATT).
- 3. Discuss international trade negotiations under the World Trade Negotiations (WTO).
- 4. Discuss international trade negotiations between developed and developing countries.
- 5. Identify areas of contention under the Doha Development Rounds of trade negotiations.

#### 3.0 MAIN CONTENT

# 3.1. Diplomacy and International Trade Negotiations

Both developed and developing countries have participated in trade negotiations despite the differences in power. The liberal conception of international trade suggests that countries involved in a trading relationship can benefit mutually within a free market situation based on

comparative advantage. Unfortunately, the market is usually not perfect and nations possess different goods and services and different power to negotiate their interest in the international system. Currently, the global trade and trade agreements have remained skewed in favour of the industrialized nations that occupy the centre of international production of goods, services and trade. Because of the structural inequality in the world, especially between the developed and developing countries, negotiation of trade agreements became a defining characteristic of international trading relations.

# 3.2International Trade Negotiations under General Agreement on Tariffs and Trade (GATT)

The failure to establish an International Trade Organisation (ITO) after World War II necessitated the initiation of negotiation of arrangements known as the General Agreement on Tariffs and Trade (GATT). GATT was established in 1948. Its main purpose was to achieve a free and fair trade through the reduction of tariffs and elimination of other trade barriers. GATT operated on the basis of three principles, namely:

- i. Non-discrimination, multilateralism and the application of the most-favoured nation (MFN) principle to all signatories.
- ii. expansion of trade through the reduction of trade barriers
- iii. unconditional reciprocity among all signatories.

The rules of GATT provided a framework for periodic negotiations in respect of reduction of trade restrictions. GATT produced periodic conferences also known as Rounds of Negotiations. There have been the Rounds in Geneva, 1947; Arnecy, 1949; Torquay, 1950-51; Geneva, 1959; Dillon, 1960-61; Kennedy, 1963-67; Tokyo, 1973-79; and Uruguay, 1986-93. The Uruguay Round culminated in the Marrakesh Agreement, which brought about the establishment of the World Trade Organisation (WTO). The Uruguay round of negotiation was the first to include agricultural trade under GATT supervision while also addressing the problem of trade in services. It was also the first round of trade in which a large number of developing countries participated in the negotiation. The convention in the trade negotiation during this period is that decisions are arrived at by consensus; however, the reality is that developed nations often have the advantage when it comes to making crucial decisions. Unfortunately, unlike the developed countries, the underdeveloped countries sometimes did not present a united front within GATT. Hence, the developed countries had an edge in the negotiations of trade agreements. Traditional issues that dominated GATT negotiations included textiles and clothing, but these were removed from GATT rules in the latest rounds. New rules covering issues under trade in services and agriculture, environment and investment, have been introduced in order to enhance the dominant advantage of the developed countries in the global economy.

# 3.3International Trade Negotiations under World Trade Organisation (WTO)

The World Trade Organisation(WTO) was established in 1995 at the end of the Uruguay Round of trade negotiations under GATT regime, which started in September 1986 and ended in Marrakesh in December, 1994. The WTO was established as a single institutional framework designed to encompass the GATT, as modified by the Uruguay Round and all agreements reached on trading rules. The WTO official responsibilities include 'administering trade agreements, acting as a forum for trade negotiations, settling trade disputes, reviewing national

trade policies, assisting developing countries in trade policy issues through technical assistance and training programmes and cooperating with other international organizations' (Viotti and Kauppi, 2006:389). All of these were supposed to lead to an open if not free-trade and uplift the living standards of people in the world.

The WTO has been criticized by most developing countries as having become domineering to the extent that it determines how governments frame and implement trade legislations and regulations in their countries. It also provides a platform on which trade relations between developed and developing countries are debated, negotiated and redress sort. The WTO, which has its headquarters in Geneva, Switzerland, operates on the basis of non-discriminatory most-favoured nation treatment. What it means is that any privileged, favoured or immunity that is granted by one WTO member to another has to be granted immediately and unconditionally to all other members. The WTO advocates for progressive liberalization of trade through the reduction of trade barriers and has regulations requiring that imported products meet local standards on matters of recycling, use of food additives, labeling, meat inspection, and many others. Given these huge conditions placed, most developing countries find it difficult to meet the standard set by WTO to sell their commodities which are mostly agricultural products in the developed markets.

Under the WTO trade regime, the developed countries have been blocking the exports of developing countries into the North, through imposition of anti-dumping measures, especially in the USA and European Union. Developed countries have not yet faithfully implemented the Agriculture Agreement, which was suppose to result in import liberalization and reduction of subsidies for agricultural products, especially in rich countries. This was meant to enhance market access of the countries in the South that export agricultural commodities. Also, there is no justice in the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), because this regime prevents local firms in developing countries from borrowing or absorbing some modern technology over which other corporations in the developed world have Intellectual Property Rights (IPRS).

As developing countries did not play a significant role in GATT proceedings, the fundamental interests of developing countries did not receive substantial consideration during the GATT negotiation process and outcome. This realization served as a primary force for establishing the first World Trade Organization (WTO) round, the Doha Development Agenda in November 2001, as the WTO Doha round formally sought to focus on the needs and interests of developing countries. As the Doha round evolved, developing nations became more involved in these negotiations. The power of developing countries first became evident at the fifth WTO Ministerial conference held in Cancun, Mexico in September 2003. At this meeting the EU insisted that the so-called "Singapore issues" (trade facilitation, rules on investment, transparency in government procurement and competition policy.

# 3.4The Character of International Trade Negotiations between Developed and Developing Countries

Developing countries face a mix of opportunities and obstacles toachieving their goals in WTO negotiations. This WTO provides a platform for developing countriesto negotiate, however, the space for negotiationhas been growing quiet slowly at the expense of traditional industrialstates. Presentpolicies are blocking trade that would otherwise flow in response to differences in comparative advantage. Exchanges of concessions onremaining goods tariffs and barriers to services trade would allowthose differences to expand trade and improve economic efficiency inmany countries. This could include substantially greater flows among developing countries and China as well as in the traditionalNorth—South channel. The most obvious obstacle to developing countries' efforts to achieve their goals, at least their distributive ones is that international distribution of power is one tilted against the many developing states. Developing states, notwithstanding the weakness of most, do have their numbers, their legal equality, and the WTO consensus norm. In this institutional setting there is a strong norm that decisions are made by consensus, defined as the absence of expressed dissent. This norm gives the smallest member the authority, at least, to block the whole. But the strength of negotiation has grown with the formation of a coalition of states.

Bargaining coalitions have become common in the WTO, though they vary on several dimensions. Many select members according not to geography but to a common interest in a trade sectoror specific product, or a common concern about the international trade rules. Some operate for a short time and do not become institutionalized. Some of the coalitions have developed more capacity to negotiate better by staying unified. Some of the coalition groups that have been formed to negotiate their interest in international trade include: the Quad countries (US, the EC, Japan, and Canada); the Textile and Clothing Bureau, formed in 1984 (consists of 25 developing countries); the Cairns Group of agricultural trading countries (consists of 18 developed and developing members); the Association of Southeast Asian Nations (ASEAN); and the African Group, amongst others.

The WTO membership also gives a state or coalition an additional potential distributive negotiation tactic: filing a legal complaintagainst an adversary under the Dispute Settlement Understanding. This tactic has been used most often to bring a respondent country to the table and influence settlement negotiations among the parties to the dispute, by worsening the respondent's alternative to settlement. But recent complaints by Brazil, India, Thailand, and others against the EU and US Generalized System of Preferences (GSP) and agricultural programs seemed partly aimed at leveraging earlier or greater concessions from Brussels and Washington in the Doha talks. This negotiating setting, then, gives developing countries tangible incentives to negotiate for improvements in the world trading system, and some legal and institutional assets to mobilize, either effectively or poorly. Some leaders have favored the most inclusive possible coalition of developing countries, to unify the most voices possible and capture the legitimacy to speak for the entire developing world. The Group of 77 and the Informal Group of Developing Countries in the GATT during the 1970s and 1980s are examples.

## 3.5 Strategyand Tactics Use by States and Coalitionsin International Trade Negotiations

States and coalitions often chose strategies and tactics to follow in international trade negotiation. One of such strategy used in international trade negotiation is a strictly distributive strategy. This is a set of tactics that are functional only for claiming value from othersand defending against such claiming, when one party's goals are partly in conflict with those of others. These tactics include opening with high demands, refusing all concessions, exaggerating one's minimumneeds and true priorities, manipulating information to others' disadvantage, taking others' issues hostage, worsening their alternative agreement, making threats, and actually imposing penalties. Another Strategy is a purely integrative strategy which would be a set of tactics instrumental to the attainment of goals that are not in fundamental conflict and hence can be integrated for mutual gain to some degree. One subset of these tactics involves sharing information relatively openly to explore common problems or threats in a search for mutual gain solutions.

Anotherwell-known integrative move is proposing an exchange of concessionsor fallbacks that might benefit more than one party - as opposed todemanding a concession without compensation. In WTO talks,proposing a formula for cutting all tariffs, including those of the speaker's state, can embody such an exchange of concessions. A thirdsubset of integrative tactics involves reframing the issue space itself ina way that eases impasses. Another possibility is bringing in a mediator. These are behaviors for gaining -through cooperation withothers, not ways of giving up value to others. A mixed strategy combines elements from both ends of this spectrum, either in sequence – say distributive first then integrative – or simultaneously. The mixed strategy allows other delegations somegains to show their constituents, moving the deal above the others' reservation values, and hence is less likely to produce a breakdown. It may also permit discovery of ways to craft joint gains that would notbe discovered if all held strictly to distributive behavior.

Evidence suggests that from the Dillon and Kennedy rounds indicates that developing countries that offered concessions on their imports gained far more fortheir exports than passive countries. Brazil, defending itself in a bilateral dispute with the US over instant coffee in 1969, began strictly distributive and gained nothing at first, but afteradding an integrative move, escaped without much damage to itstrade interests. Likewise Mexico in NAFTA talksin the early 1990s and the 2001 WTO coalition for TRIPS and publichealth opened with distributive tactics, later mixed in some integrative moves, and captured some gains as aresult. The Like Minded Group held to the strictly distributive strategythroughout 2001. The superpowers offered separate deals tomembers, who then achieved little as a group. Many developing countriesfeel too weak to turn down such lesser offers. Strictly distributive tactics may be effective temporarily for somedeveloping country coalitions, if the goal is only to block inferior proposalsand force discussion on their own proposals. The initial G20agriculture proposal in August 2003, while not purely distributive, was tilted strongly in favor of developing countries, and had theseeffects in Cancún. The risks of refusing to blend in integrative tactics eventually, however, are that the coalition will gain little eitherbecause the coalition breaks down, or because it deadlocks the entireround permanently, reducing the WTO's credibility and pushing otherstates to seek alternatives to the WTO.

One item in the Doha agenda promised special attention to theneeds of least developed countries. This was a response to credibledemands by their large coalition, meeting separately at ministeriallevel for instance in Zanzibar in July 2001. In Hong Kong ministersadopted several decisions in favor of least developed countries (conditionalon agreement on the rest of the Doha package). One wouldallow them to maintain or add new measures inconsistent with the Trade-Related Investment agreement, until 2020. The most notablewas a decision that all developed members, joined by any developingmembers who felt able, will grant duty-free and quota-free access totheir markets for LDC exports in 97 percent of tariff categories – amajor demand of this group. It had also been agreed that the leastdeveloped could be exempt from new obligations of their own to liberalize agricultural and services trade, and in non-agriculturalmarket access (NAMA) they would be obliged only to increase substantiallythe number of tariffs they bind.

# 3.6 Areas of Contention in Trade Negotiations between Developed and Developing Countries

Our focus here will be on the Doha development round of trade negotiation. From the beginning the Doha "development" round was troubled by an ambiguity regarding its central objectives. The apparently new emphasis on development as a goal was a classic example of using ambiguity to promote a negotiated agreement. One school believed that trade liberalization is always an effective means to development and the more liberalization the better. Affirming development as a goal, interpreted this way, added nothing to the traditional GATT/WTO agenda and required no special treatment for the poor. A second school believed that more trade liberalization can damage or distort existing human development, at least in some circumstances, or that undertaking it quickly in a poor country without adequate domestic institutions and preparations can produce excessive adjustment costs. In 2002 the Director General and members established eight negotiating groups to work simultaneously on the main agenda items: agriculture, trade and development, non-agricultural market access, WTO rules, services, dispute settlement, intellectual property rights, and trade and environment. The heavy meeting schedule meant that many small countries were unable to participate seriously in many sessions. Many could afford only one or two professional diplomats in their Geneva missions, and some 30 members had no mission in Geneva at all. Some of the major issues that stalled the Doha development round of negotiations include:

**Agriculture:** Border barriers against farm exports remain far higher than those facing industrial goods, in developing as well as industrial countries. The EU, Japan, and the US spend huge sums to subsidize their farmers, something developing countries cannot match. This sector is still not integrated like others under the main WTO rules.

**Non-agricultural market access (NAMA):** Manufactures now account for more than two-thirds of the exports ofdeveloping countries in the aggregate, with over 40 percent of thoseexports now going to other developing countries. The larger tradersamong them are increasingly concerned about South–South as well asNorth–South trade. Average tariffs in rich countries are already quitelow. But four months after Doha the Bush administration took a stepbackward here too, temporarily increasing protection against steelimports.

Services: Talks on liberalizing services trade, a top priority for the Quad, laggedbehind those on agriculture and industrial goods. Undoubtedly many governmentswere discouraged by the strength of social resistance to immigrantsinside developing countries as well as elsewhere. Hardly any of themmade significant offers in mode 4, even though most would be unlikely to experience much inflow. Furthermore, India's emphasiswas on exporting skilled labor, while many poor countries suffersevere shortages of skilled professionals and may fear brain drain

Singapore issues and summary: The EU, supported by Japan and the US, spentyears beginning in 1996 campaigning to add new issues to the WTO agenda, attempting to use the WTO to regulate more behind-the-borderpolicies on international investment, competition, transparency ingovernment procurement, and trade facilitation. The advocates framedthese proposals as prodevelopment, but the World Bank's staff estimated that the proposed agreements would do little to promoted evelopment (World Bank 2003: xxv-xxvi). Many poor members were still struggling to comply with resource-intensive obligations they hadaccepted in the last round.

# **SELF ASSESSMENT EXERCISE 18**

- i. Describe the relationship between diplomacy and international trade negotiations.
- ii. Discuss international trade negotiations under General Agreement on Tariffs and Trade (GATT).
- iii. Discuss international trade negotiations under the World Trade Negotiations (WTO).
- iv. Discuss international trade negotiations between developed and developing countries.
- v. Discuss the strategy and tactics used by states and coalitions in international trade negotiations
- vi. Identify and briefly discuss the areas of contention under the Doha Development Rounds of trade negotiations

## 4.0 CONCLUSION

The developing countries negotiating trade in the WTO are many. Because of their huge number and the issue of diversity, it is often a big challenge creating a heterogeneous coalition. As for negotiation strategy, governments and coalitions can continue to attempt to frame negotiations in public opinion by reference toprinciples that favor their positions and counter the campaigns of their diversaries, calling on NGOs and the media for help. But the diplomat who seeks agreement will often want to consider shifting off purely distributive tactics and blending in some integrative tactics, at least by the final stage. All governments seek to derive maximum benefit from international trade system, consequently negotiation of trade between countries and coalition formation remains a feature of global trade.

## **5.0 SUMMARY**

In this unit, we examined the interplay ofdiplomacy in multilateral trade negotiations. We have argued that the global trade and trade agreements has historically been tilted in favour of the developed nations that occupy the centre of international trade. Because of the structural inequality in the world, negotiation of trade agreements have became a defining characteristic of international trading relations. In this unit, we examined international trade negotiations under General Agreement on Tariffs and Trade (GATT). We also discussed international trade negotiations under World Trade Organisation (WTO) and international trade negotiations

between developed and developing countries. We pointed out thatbargaining coalitions have become common in the WTO. Examples of coalitions that have emerged include; the Quad countries, the Textile and Clothing Bureau, the Cairns Group of agricultural trading countries, the Association of Southeast Asian Nations (ASEAN), and the African Group, amongst others. We also examined strategy and tactics used by states and coalitions in international trade negotiations in this unit.

## 6.0 TUTOR-MARKED ASSIGNMENT

- **Q.1** Briefly describe the relationship between diplomacy and international trade negotiations.
- **Q.2**What do you understand by international trade negotiations
- **Q.3** Discuss international trade negotiations under General Agreement on Tariffs and Trade (GATT).
- Q.4 Discuss international trade negotiations under the World Trade Negotiations (WTO).
- Q.5 What is the character of international trade negotiations between developed and developing countries?
- **Q.6**Discuss the strategy and tactics used by states and coalitions in international trade negotiations
- **Q.7** Identify and briefly discuss the areas of contention between developed and developing countries in recent trade negotiations

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#### UNIT 3INTERNATIONAL NEGOTIATIONS AND CONFLICT MANAGEMENT

#### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1. International Negotiations and Conflict Management
  - 3.2 Factors that Influence the Process and Outcome of International Negotiations and Conflict Management
  - 3.3 The Role of Negotiations in the Case of Israeli-Palestinian Conflict
  - 3.4 The Role of Negotiations in the Case of Liberian Conflict
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Readings

# 1.0 INTRODUCTION

This unit focuses on international negotiations and conflict management. The knowledge acquired from the study of international negotiation and conflict management will prepare you to assess, negotiate, and resolve disputes involving transnational issues, states and peoples. The unit will help you to develop the ability or capacity to use professional negotiation skills to resolve disputes.

## 2.0 OBJECTIVES

At the end of this unit, you should be able to:

- 1. Describe the linkage between international negotiations and conflict management.
- 2. Identify and discuss the factors that influence the process and outcome of international negotiations and conflict management.
- 3. Use relevant case studies to discuss the role of negotiations in conflict management.

## 3.0 MAIN CONTENT

## 3.1. International Negotiations and Conflict Management

Conflicts and crises are sometimes seen as recurring events that cannot be simply wished away in international politics. Of all the processes of international politics, conflict is undoubtedly ever-present and the violent conflict often leads to the destruction of lives and properties. As a characteristic of every kind of international interaction, conflict manifest in many forms, from trade embargoes to genocidal warfare. Once a conflict arises, international actors such as the state and non-state actors, global bodies such as United Nations (UN), continental and regional bodies such as the African Union (AU) and Economic Community of West African States (ECOWAS) etc seek ways of resolving the conflict through possibly diplomatic means. International actors can deal with it using one or more possible modes namely, unilateral, bilateral or with the help of a third party. The unilateral mode may involve attempt to win over the opponent through violent struggle or it may involve withdrawal or avoidance. The bilateral

mode implies some form of negotiation and the third party assistance means the intervention of a party not directly involved in the conflict through mediation.

Negotiation is the principal means of handling all international disputes and is employed more frequently than all other techniques of conflict management put together (Jackson, 2000:323). As a mode of conflict management, bargaining and negotiation is the primary method by which social actors settle their disputes. In the international arena, where conflict can escalate into highly destructive and destabilizing wars, and where there is absence of any generally accepted 'rules of the game', negotiation by diplomacy is as common as conflict itself. Thus, negotiation by diplomacy has been used for conflict management since relations between states began many years ago. International conflict negotiations can be between different parties or actors. The first example is negotiations between states such as India and Pakistan over separatist conflicts in Kashmir. Secondly, between states and international organizations, for example Iraq's negotiation with UN over weapons inspection; Iran's negotiation with UN over nuclear weapons inspection. Third example is between states and liberation movements, such as Serbia's negotiations with Kosovo separatists. The fourth example is between local militias with a state, a good example is between the Niger Delta militants and the Nigerian state. Less formal and noninstitutionalized negotiations occur on daily basis in the corridors of the UN, through electronic communication between diplomatic officials, and in embassies around the world.

# 3.2 Factors that Influence the Process and Outcome of International Negotiations and Conflict Management

International negotiation is a social process where the parties to a conflict employ social influence strategies to alter the perceptions and behaviours of their opponents. Sometimes, in the process of exchanging proposals, the parties attempt to manipulate their opponents. By factors influencing the negotiations, we are referring to the way the negotiation is uninitiated and conducted, the environment it occurs in and the actual negotiators who attend the talks. Some of the important variables or factors that influence negotiations are discussed as follows.

**Timing of Negotiation:** One of the most important process factors is the timing of the conflict management or the stage of the conflict. Some argue that negotiation is more successful early on in the conflict, before the adversaries have crossed the threshold of violence, inflicted serious loses on each other and become entrenched in their positions. Others have argued that later stages of a conflict are better for conflict management because the parties have reached a stalemate and may be will to moderate their intransigence and revise their expectation.

The Environment of Negotiation: The physical and social environment in which talks take place is another important process factor. A neutral environment, free from external pressures and the influences of constituencies and the media, can create a level playing field and allow the parties to concentrate on the more substantive issues. A non-neutral environment on the other hand, can appear to favour the party whose territory it is in and cause the opposing party to harden its position in order to compensate.

Initiator of the Negotiation: When both parties to a conflict are willing to deal with it constructively and take steps of initiating conflict management, this represents a

favourablecondition for success. Initiation of conflict management indicates a willingness to commit to the conflict management process. When the negotiation is initiated by only one of the disputing parties, the chances of successfully concluding the talks may not be quick. Sometimes even when the talk is initiated by a third party, it still requires the commitment of both parties to succeed. Mutual willingness is therefore a prospect for success in the conflict management.

**Negotiator Rank:** The rank as well as identity of the actual negotiators in the conflict management can also affect its success or failure. When summit negotiations are successful, the ground will often have been prepared by previous dealings involving high leveled officials. If a state sends a junior official to the negotiation table, he or she may want to consult the superior officials at the Permanent Mission or Ministry of Foreign Affairs or at the state level before committing the state to any agreement. This could delay the process of the negotiation. On the occasions that talks become deadlocked, senior officials can sometimes play an important role in restarting negotiations and possibly reaching agreements.

The Nature of the Dispute: The nature of the dispute will have significant impact on the success or failure of a negotiation. Unfavorable dispute characteristics are likely to defeat even the best conflict management efforts. The nature of the dispute could be in terms of intensity, complexity and the issues involved. In terms of intensity of the dispute, international negotiations are likely to be more successful in low intensity conflicts compared to high intensity conflicts. Closely related to intensity is complexity of the conflict. As conflicts intensify and drag on, they draw in neighbouring states or invite intervention by an international organsiation such as was the case with UN in Somalia, ECOWAS in Liberia and Sierra Leone. One measure of complexity, therefore, is the number of additional parties that are drawn into the fighting. Intervening parties sometimes complicate the conflict expanding the interests of the disputing parties, adding issues, widening constituencies and complicating communication. The issues under dispute could also influence the success or failure of the negotiation. Issues could include vital national interest such as sovereignty over territory, resources, money, and intangible ones such as ideology, beliefs, principles, legitimacy and national image. It could also be over ethnoreligious identity issues, socio-economic issues or even cultural identity. Self determination disputes are fought by countries seeking to liberate themselves from another state or power and to determine their own national statehood. Example in this regard is Eritrea's war of liberation from Ethiopia's control. Resource disputes involve issues of access to and control of resources. An example here is Syria and Iraq's 1975 conflict over Euphrates river. Ethnic disputes are motivated by extreme forms of ethno-nationalism, usually ethnic hatred. An example here is the Rwandan genocide in 1994.

The Nature of the Parties and their Relationship: The nature of the parties and their past and ongoing relationship will greatly affect the way that they perceive each other, bargain with each other and accept or reject the outcome of negotiations. The nature of relationship could be in terms of relative power. It is argued that successful negotiation requires power parity between the parties. In cases of clear power disparity, the stronger adversary may not be prepared to countenance any concessions or compromises which are essential to the negotiation success. In essence, conflict could be more easily resolved when there is a mutual recognition of power differential and legitimacy. The alignment of the parties to the conflict is also important to

negotiation success or otherwise. When parties to a conflict to not share the same political system, cultural norms and values, or membership of a bloc, these could also affect negotiations between them. Membership of a bloc could be in terms of parties to a security arrangement such as NATO, AU or African Group, EU and many others. Previous relationships and ongoing relationships are also important in that parties in an ongoing relationship are more willing to preserve it than those in a short term relationship. It is also argued that parties with a history of friendship will approach conflicts more cooperatively.

# 3.3The Role of Negotiations in the Case of Israeli-Palestinian Conflict

The conflict between Israeli and Palestinian is a long-running one (Bar-Siman-Tov, 1994). The conflict is a frequently cited example by analysts of disputes, negotiation and mediation. First, the parties concerned and the 'facilitator' agree that the conflict is intractable but seem to realize that it can only be resolved through negotiation. Second, acceptance of 'direct talks' appears borne out of realization that the current situation is unsustainable and not in the best interest of either side. Third, to avoid risk of failure, the resumption of 'direct talks' mirrors a cautious 'step-by-step approach' preceded by confidence-building efforts through a Special Envoy. Fourth, acceptance by President Obama to 'facilitate' the talks confirms the traditional involvement by successive US Presidencies and the view that, despite well-known complexity, the US is seen as an 'ideal facilitator' capable of pressuring Israel,a key ally, to make compromises. The timing of the talks also confirms the reasoning that facile actors/mediators, especially those at Head of State level, tend to accept the task in the early part of their tenure in office when they have sufficient time to see the deal through. Fifth, while 'mediators' are an active partner with ability to impose a solution, in this case President Obama bears a lower profile title of 'facilitator.' This is possibly due to a carefully calculated political risk should there be no deal, particularly just a few months into mid-term elections and the later bid for second term.

The imposition of a one year 'deadline' for negotiation also conforms to the tradition that a specific timetable is crucial in keeping momentum, signal a sense of resolve and building public confidence and hope. However, the killing of the four Israeli settlers just ahead of the talks is testimony that those feeling left out and adamantly opposed to negotiation are determined to undermine the peace process. But by staging a joint parade with the parties and key regional partners namely Egypt and Jordan, as well as Mr. Tony Blair representing the Quartet, the 'facilitator' sought to demonstrate to a global audience that the talks are widely supported and not as unpopular as some may think. Moreover, the usual suspicion on publicity was also evident when President Obama, the parties and partners seemed well advised that at the opening of the talks they should just make a 'propaganda parade' before television and not take any questions from the anxiously waiting press. At the time of finalizing this paper, secrecy prevailed and very little information was coming out as to what was really going on behind scenes, apart from diplomatic utterances from President Osama's team that discussions were 'constructive.

# 3.4The Role of Negotiations in the Case of Liberian Conflict

The civil war in Liberia was one of West Africa's tragic events. The neighboring countries endured a decade of civil war that resulted in many deaths and refugees spilling across the borders. Liberia slipped into civil war after many governance challenges especially in the 1980.

It was in 1980 that a group of soldiers led by Master Sergeant Samuel K. Doe overthrew the government of William Tolbert in a bloody coup d'état. Tolbert's regime was the last in succession of 133 years of rule by the Americo-Liberians. The Americo-Liberians were descendants of freedslave emigrants from the United States of America. In terms of cultural mix, Liberia is highly diverse. The country consists of about sixteenmajor indigenous African ethnic groups in addition to the Americo-Liberians, who account for about five percent of the country's population. Master Sergeant Samuel K. Doe was from the Krahn tribe, and other factions and ethnic groups in the country rallied over the next decade to oppose his government.

Beginning in December 1989, Doe's regime was challenged by insurgents led by Charles Taylor's powerful National People's Liberation Front (NPLF), and a period of civil war broke out despite the military intervention of neighboring West African states, led by Nigeria, in August 1990. Taylor's forces battled Doe's throughout the country, and another faction led by Prince Johnson entered the civil war further complicating the conflict situation. A lot of other armed groups also emerged in the course of the civil war which lasted from December 1989 to January 1997. Not less than eight factions emerged in the Liberian civil war namely Charles Taylors NPFL; the Independent National Patriotic Front of Liberia (INPFL); The NPFL-Central Revolutionary Council (CRC); the Armed Forces of Liberia (AFL); Two Wings of the United Liberation Movement of Liberia for Democracy (ULIMO); the Liberia Peace Council (LPC); and the LofaDefence Force (LDF) (Adebajo, 2008). For the period the lasted, not less than 150,000 were killed and an estimated 1.3 million refugees and Liberia became known as a failed state. It took the Economic Community of West African States Monitoring Group (ECOMOG)'s peacekeepers seven years to disarm Liberian factions and organize elections in July 1997, elections were subsequently won by Liberia's most powerful warlord, Charles Taylor.

The Economic Community of West African States (ECOWAS), United Nations (UN), nongovernmental organizations and humanitarian bodies all played significant roles in the negotiations for peace in Liberia. The UN launched several mediation initiatives among the factions. The warring factions eventually reached an agreement in 1995, brokered by the ECOWAS. The peace negotiations led to the established a provisional government based on power sharing among the faction leaders. In early 1996, however, the fighting renewed and the country underwent another period of strife until a fresh Peace Treaty (Abuja II) was clinched in August 1996, again mediated by West Africanleaders with the support of the UN. The second peace agreement reached in July 1997 provided the bedrock for elections which was won by Liberia's most powerful warlord, Charles Taylor. It took the Economic Community of West African States Monitoring Group (ECOMOG)'s peacekeepers seven years to disarm Liberian factions and organize elections inLiberia. The examination conflict negotiation in Liberia suggestedan increase in regional diplomacy by the ECOWAS in the mediation of armed conflicts. The negotiation of peace in Liberia was at a huge cost. Another lesson drawn from the negotiation of peace in Liberiais the role of relatively powerful states such as Nigeria which played a key role by sacrificing hugefinancial resources estimated US\$4 billion and personnel including soldiers, police and civilians for the restoration of peace in Liberia. Nigeria played the role of mediator in the conflict and facilitator in the negotiation to seek peace. Nigeria also provided a neutral environment, free from external pressures and the helped to create a level

playing field for the factions in the Liberian conflict to reach an agreement leading to elections and subsequent restoration of democracy in the country.

## **SELF ASSESSMENT EXERCISE 19**

- i. Describe the relationship between International Negotiations and Conflict Management
- ii. Identify the Factors that Influence the Process and Outcome of International Negotiations and Conflict Management
- iii. Using any relevant case study, discuss the role of negotiations in conflict management

# 4.0CONCLUSION

In concluding this unit, it is important to reiterate the points made that majority of conflicts are usually dealt with by negotiations through diplomatic channels. However, negotiations are not always successful. It can become dead-locked or even fail to get underway if the level of hostility between the parties is too high, if there is serious power imbalance between them and if one party fails to recognize the legitimacy of the other. It can also fail if the negotiations process is tainted by misperception or miscommunication. Negotiations can also be hampered by relationship blockages, such as ongoing rivalries, historical enmity or lack of effective communication channels.

## **5.0 SUMMARY**

In this unit, we examined international negotiations and conflict management. We began by highlighting the relationship between international negotiations and conflict management. We also identified and discussed the factors that influence the process and outcome of international negotiations and conflict management. Finally, we examined the role of negotiations in conflict management using the cases of Israeli-Palestinian conflict and the Liberian conflict.

#### 6.0 TUTOR-MARKED ASSIGNMENT

- Q.1 Describe the relationship between International Negotiations and Conflict Management
- **Q.2** Identify the Factors that Influence the Process and Outcome of International Negotiations and Conflict Management
- **Q.3** Using any relevant case study, discuss the role of negotiations in conflict management

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# UNIT 4 INTERNATIONAL ENVIRONMENTAL DIPLOMACY AND CLIMATE CHANGE NEGOTIATIONS

#### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1. International Environmental Diplomacy and Climate Change Negotiations
  - 3.2 Major Diplomatic Events and Agreements towards addressing the Environment and Climate Change
  - 3.3 Complexity of Negotiations on the Environment and Climate Change
  - 3.4 Equity Concerns in Negotiations on the Environment and Climate Change
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Readings

#### 1.0 INTRODUCTION

The international community is engaged in a continuous process of technical negotiations to agree on the appropriate global response toenvironmental challenges and climate change. Surrounding these formal negotiations, however, diplomats conduct a series of separate meetings and interactions around the world. Their activities run in parallel to the UN talks and seek to shape both the substance of the negotiations and the global response to the environmentalchallenges and climate change. While developed nations have long appointed Special Climate Envoys and other diplomats to undertake this work, the relatively less developed countries (LDCs) have often lacked the influence, capacity and financial resources to successfully engage in these diplomatic negotiations.

## 2.0 OBJECTIVES

At the end of this unit, you should be able to:

- 1. Discuss the nature of international environmental diplomacy and climate change negotiations.
- 2. Identify diplomatic initiatives towards addressing the environment and climate change.
- 3. Discuss the complexity of negotiations on the environment and climate change
- 4. Discuss the issue of equity concerns in negotiations on the environment and climate change.

## 3.0 MAIN CONTENT

# 3.1. International Environmental Diplomacy and Climate Change Negotiations

In recent years, scholars and concerned organisations including nongovernmental organizations have issued warnings that the impacts on the environment of the economic expansion and prosperity of the last half-century are beginning to impact negatively on the natural cycles upon which life on Earth depends. The growth in population, in consumption, and in use of land and

other natural resources have resulted in environmental problems that are significantly different from those of the past. This has led to the emergence of an environment movement that is today quite different from twenty to thirty years ago. In the past, environmental movement was fully preoccupied with such essentially localized issues as urban air pollution, unsafe water supplies, and waste disposal. However, the environmental challenges of which we have become more recently aware are quite different in scope.

Climate change has emerged as the most pressing challenge facing the human race. Climate change is leading to thinning of the stratospheric ozone layer, spread of dry-lands and soil erosion, pollution of oceans and depletion of fish stocks, massive destruction of forests, widespread extinction of plant and animal species, persistent organic pollutants that spread their poison all over the globe: these problems represent a new kind of threat to human well-being. The Inter-governmental Panel on Climate Change's (IPCC) assessment of impacts identified some regions "at risk" from climate change, based on a current assessment of vulnerable regions, mostly dry lands, and preliminary climate model projections of regional reductions in soil moisture. In Africa, the Magreb, West Africa, Horn of Africa and Southern Africa are among the areas identified as regions at risk from climate change. The immediate impact of global warming is likely to result in further fluctuations in rainfall patterns. It is predicted that global warming will make dry areas drier and wet areas better. The expected sea level rise may also spell danger to many countries such as Nigeria, Mozambique, Kenya, Gambia and Egypt. Thus, global environmental change is another factor that may well add to the deteriorating food production problem in Africa. The global dimensions of the risks from climate change have awakened calls for more far-reaching solutions, for new levels of international cooperation.

# 3.2Major Diplomatic Events and Agreements towards addressing the Environment and Climate Change

The past few years have witnessed an increase in multilateral negotiations aimed at addressing the new global environmental issues. These include:

- 1900 Convention for the Preservation of Animals, Birds and Fish in Africa.
- 1909 International Congress for the Protection of Nature.
- 1911 The North Pacific Fur Seal Treaty.
- 1913 Consultative Commission of the International Protection of Nature.
- 1940 Convention on Nature Protection and Wildlife Conservation in the Western Hemisphere.
- 1946 International Convention for the Regulating of Whaling.
- 1954 International Convention for the Prevention of Pollution of the Sea by Oil.
- 1958 Convention on the High Seas (provisions on maritime pollution).
- 1959 Antarctic Treaty (banning weapons tests and dumping nuclear waste in the Antarctic).
- 1963 Partial Test Ban Treaty.
- 1968 Biosphere Conference.
- 1972 London Dumping Convention (ocean pollution).
- 1972 The UN Conference on the Human Environment (The Stockholm Conference).
- 1973 International Convention for the Prevention of Pollution from Ships.
- 1975 Convention on International Trade in Endangered Species of Wild Fauna and Flora.

- 1979 Geneva Convention on Long- Range Transboundary Air Pollution.
- 1985 Vienna Convention for the Protection of the Ozone Layer.
- 1987 Montreal Protocol on Substances that Deplete the Ozone Layer.
- 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.
- 1985 Vienna Convention on Protecting the Ozone Layer.
- 1987 Montreal Protocol on Substances That Deplete the Ozone Layer.
- 1989 Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes.
- The establishment in 1991 of the Global Environment Facility.
- 1992 UN Conference on Environment and Development, and its offshoots, Agenda 21 and the Commission on Sustainable Development.
- 1992 UN Framework Convention on Climate Change.
- 1992 Convention on Biological Diversity.
- 1993 UN Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks.
- 1994 UN Conference on Sustainable Development of Small Island Developing States.
- 1994 UN Convention to Combat Decertification.
- 1994 International Conference on Population and Development.
- 1997 Kyoto Protocol on Climate Change.
- 2001 Stockholm Convention on Persistent Organic Pollutants.
- 2002 World Summit on Sustainable Development (Johannesburg Action Plan).
- 2009 Copenhagen Accord.
- 2015 Paris Climate Change Conference/Paris Agreement; and numerous intergovernmental negotiations and working groups on such subjects as sustainable forest management, land and water resources, economic instruments, and biotechnology.

The United Nations Climate Change Conferences are held yearly in the framework of the United Nations Framework Convention on Climate Change (UNFCCC). These conferences serve as the formal meeting of the UNFCCC Parties - Conferences of the Parties (COP) to assess progress in dealing with climate change. These conferences began in the mid-1990s and seek to negotiate the Kyoto Protocol to establish legally binding obligations for developed countries to reduce their greenhouse gas emissions. As from 2005 the Conferences have also served as the 'Conference of the Parties Serving as the Meeting of Parties to the Kyoto Protocol' (CMP). Note that parties to the Convention that are not parties to the Protocol can participate in Protocol-related meetings as observers. As from 2011 the meetings have also been used to negotiate the Paris Agreement as part of the Durban platform activities until its conclusion in 2015, which created a general path towards climate action. By 2018, the United Nations Climate Change Conferences and Meeting of Parties held include:

- 1. COP 1: The Berlin Mandate.
- 2. COP 2: Geneva, Switzerland.
- 3. COP 3: The Kyoto Protocol on Climate Change.
- 4. COP 4: Buenos Aires, Argentina.
- 5. COP 5: Bonn, Germany.
- 6. COP 6: The Hague, Netherlands.

- 7. COP 6: Bonn, Germany.
- 8. COP 7: Marrakech, Morocco.
- 9. COP 8: New Delhi, India.
- 10. COP 9: Milan, Italy.
- 11. COP 10: Buenos Aires, Argentina.
- 12. COP 11/CMP 1: Montreal, Canada.
- 13. COP 12/CMP 2: Nairobi, Kenya.
- 14. COP 13/CMP 3: Bali, Indonesia.
- 15. COP 14/CMP 4: Poznań, Poland.
- 16. COP 15/CMP 5: Copenhagen, Denmark.
- 17. COP 16/CMP 6: Cancún, Mexico.
- 18. COP 17/CMP 7: Durban, South Africa.
- 19. COP 18/CMP 8: Doha, Qatar.
- 20. COP 19/CMP 9: Warsaw, Poland.
- 21. COP 20/CMP 10: Lima, Peru.
- 22. COP 21/CMP 11: Paris, France.
- 23. COP 22/CMP 12: Marrakech, Morocco.
- 24. COP 23/CMP 13: Bonn, Germany
- 25. COP 24/CMP 14: Katowice, Poland

Environmental diplomacy truly came of age at the 1992 UN Conference on Environment and Development (UNCED) in Rio de Janeiro. This conference also known as the "Earth Summit," UNCED was the largest gathering of Heads of State ever held up to that time with not less than 180 nations participating, 118 at Head-of-State level. In addition, there were large numbers of and other intergovernmental organizations, United Nations observers nongovernmental organizations and media sources from different parts of the world. Even as the environment captured global headlines for the first time over a sustained period, the subject matter itself became too important to be left to only the "environmentalists." The forty chapters of "Agenda 21," negotiated during two years of preparations for the Rio conference, covered nearly every realm of human experience. The journey to Rio began with the initiation of negotiations in 1982 that led to the signing of the Montreal Protocol in 1987. The ozone protocol was the first international agreement to mandate worldwide preventative actions beforeany environmental harm had occurred. The accord contained unprecedented provisions that significantly influenced future environmental negotiations and that, taken together, represented a sea-change in international diplomacy. A major factor that distinguishes the new environmental diplomacy is the complexity of the negotiations and to this we turn our attention.

# 3.3Complexity of Negotiations on the Environment and Climate Change

The fact that negotiations on the environment and climate change are becoming more complex is not in doubt. For example, only twenty-four nations signed the Montreal Protocol in September 1987 and less than five years later in Rio de Janeiro, more than 150 nations signed both the climate change and the biodiversity conventions. By the mid-1990s it has become common for up to 180 nation-states, not to mention dozens of intergovernmental organizations, to take part in environmental negotiations. Similarly, nongovernmental actors in unprecedented numbers are

finding roles in the new multilateral diplomacy. These organizations became linked electronically on the Internet, enabling them to prepare and coordinate positions before and during negotiations in the same manner as government delegations. During the 1992 UNCED negotiations, hundreds of NGOs were active, representing the interests of environmentalists, women, religion, industry, science, academe, youth, labor, parliamentarians, indigenous people, agriculture, and local community governments. This development has been paralleled by a growing media interest that can attract thousands of journalists to a major international environmental conference. All of this makes for increasingly complicated negotiations. For the traditional diplomat, it can mean negotiating in a goldfish bowl.

Observers from NGOs, parliaments, and media carefully monitor the diplomatic maneuvers, ever alert to signal their misgivings back to the home capital in an effort to influence the government's position in the ongoing negotiation. The sheer number of official governmental negotiating parties makes it imperative for the negotiation to be disaggregated into discrete topics, rather than attempting to resolve all outstanding issues in a single plenary or committee of the whole. Thus evolves huge number of working groups, informal contact groups, smaller closed meetings of key delegations, as well as complementary meetings of nations from a given region or grouping such as the African Group and European Union, wherein likeminded countries attempt to hammer out common principles and positions in advance of the broader global negotiations. The growing complexity of environmental issues is thus reflected in the structure of the negotiations. Negotiations for UNCED took place over a period of two-and-a-half years, with seven sessions of up to five weeks in duration.

The process of global negotiation of the Kyoto protocol has been very complex. In spite of a deepening knowledge of the increasing damage to the climate system, action to reduce emissions of greenhouse gases is not accelerating. The opposite is actually true in both developed and developing countries where emissions are currently increasing. A school of thought in the industrialized North believes that it doesn't matter if climate change is real, since it is simply uneconomical to reduce emissions. The "Southern view" believes that the current state of the negotiations continues to deny the developing world their right to benefit equally from the protection of what is a common resource belonging to the entire global population. Also, interest groups in the South are willing to participate in such deals to boost their expectations for increased development. One of the root causes of the divide between the developed and developing countries is a fundamental difference in the perception of climate change itself. In the industrialized North there is a widely held "ecological view" of the problem. Climate change is perceived as a problem of polluting the environment, of degrading the eco-system. The chief victim from this perspective is Nature; mankind's role is primarily that of culprit. The reality in the South is quite different. Climate change has primarily come to be seen as a human welfare problem. The harm is against humans. In short, according to the South, the chief victim of climate change is not 'Nature', but people.

The international efforts to date have resulted in a series of negotiations among nations from developed and developing countries. This has resulted in the formation of different negotiation groups with varied interests. The main UNFCCC negotiation groups are:

a. Central Asia, Caucasus, Albania and Moldova (CACAM);

- b. Environmental Integrity Group (EIQ);
- c. European Union (EU);
- d. Group of 77 and China;
- e. African Group
- f. Organization of Petroleum Exporting Countries (OPEC) Members and,
- g. The Umbrella Group.

According to Ologunorisa (2011: 56), 'all the groups can be categorized into developed and developing countries'. There are variations and differences among the countries and groups of countries, even though there are also areas of common concerns. Ologunorisa further argues that the 'key areas for dialogues among parties include':

- 1. Funding of adaptation activities in developing countries. Finance has been identified as a key issue for the discussion on a post-2012 climate change agreement. Estimating the exact costs of adapting under various scenarios, as well as the ability of countries to self finance faces a number of challenges such as:
- 2. Differences in adaptive capacity
- 3. Adaptation measures may not be solely for the purpose of adapting to climate change
- 4. Uncertainties associated with methodologies, and
- 5. Existence of adaptation deficit, which is the gap between the adaptation that is possible without additional policy or projects and the level that is needed to avoid adverse effects of climate change.

Some sources of funding presently available for developing countries include:

- Special Climate Change Fund (SCCF);
- Least Developed Countries Fund (LDCF);
- Adaptation Fund; and Strategic Priority on Adaptation.

# 3.4Equity Concerns in Negotiations on the Environment and Climate Change

Environmental diplomacy entails some rather unique issues of equity. The global environmental threats have their historical origins in the production and consumption over the last half-century of a relatively small number of industrialized nations that have achieved remarkable levels of economic prosperity. But in the process they have inflicted great potential damageon the global environment, through their use of energy, their generation of hazardous wastes and chemicals, and their huge demand for forest products, beef cattle, fish supplies, and other natural resources. The much greater number of poorer countries, which currently account for four-fifths of the world's population and over 90 percent of future population growth, are developing in the same economic patterns. These developing countries are thus imposing ever greater ecological strains on the planet, even as the industrialized nations become more sensitive of the need to change patterns of production and consumption. It is estimated, for example, that because of developing countries' growing demand for energy, their emissions of greenhouse gases will surpass those of the North in about twenty years. This situation has led to considerable mistrust between North and South. Most developing countries have argued that it is the responsibility of the rich nations to first change their own policies, while at the same time providing new and additional financial resources, as well as modern technologies, to the South.

#### SELF ASSESSMENT EXERCISE 20

- i. Discuss the nature of international environmental diplomacy and climate change negotiations.
- ii. Identify diplomatic initiatives towards addressing the environment and climate change.
- iii. Discuss the complexity of negotiations on the environment and climate change
- iv. Discuss the issue of equity concerns in negotiations on the environment and climate change.

#### 4.0 CONCLUSION

Since the 1990s, governments have tried to form a comprehensive system for managing the environment and climate change. Their efforts have produced a complex of regimes which includes the United Nations Framework Convention on Climate Change (UNFCCC), the Intergovernmental Panel on Climate Change (IPCC) and various other bilateral and unilateral initiatives. To engage effectively with this complex system, nations must go beyond established forms of diplomacy. Effective climate diplomacy merges climate and foreign policy by proactively linking national interest debates and international cooperation on climate change. Developed nations have long practised climate diplomacy in an effort to shape climate negotiations to deliver outcomes that are consistent with their priorities. Their special envoys travel to meet with partners and form agreement prior to negotiations. These meetings often take place outside the established UNFCCC negotiations but can vastly influence their results. In contrast, developing countries such as the Least Developed Countries (LDCs) often lacked sufficient capacity to actively engage in this form of diplomacy. Thus, their ability to shape negotiations is limited.

## **5.0 SUMMARY**

We conclude by reiterating that for any meaningful progress to be made in breaking the deadlock in large and multilateral negotiation forums, the developed world must be ready to shift their present position and make further commitments to emission cuts, and they should be ready to offer assistance to vulnerable countries in developing world. Emerging economies such as Brazil, Russia, India and China should be ready to make emission cut. After all recent studies have shown that China is now leading USA as the leading emitter of greenhouse gases in the world. The lack of political will among major emitters is a major problem to addressing global environmental challenges and climate change.

## 6.0 TUTOR-MARKED ASSIGNMENT

- **Q.1** Briefly discuss the nature of international environmental diplomacy and climate change negotiations.
- **Q.2**Identify diplomatic events and agreements towards addressing the environment and climate change.
- **Q.3**Discuss the positions and relationship between the developed and developing countries in context of negotiations on the environment and climate change.
- **Q.4**What do you understand by equity concerns and why is it critical in the negotiations on the environment and climate change?

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