



NEGOTIATION

Peter Nixon



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Acknowledgments

"Rise free from care before the dawn and seek adventures ..."

Henry David Thoreau (1854)

Thoreau's words got me traveling along a road to over 50 countries and territories. On my travels I have benefited from the assistance and wise counsel of fellow travelers. In particular. I wish to thank the partners and staff at Coopers & Lybrand (Montreal, Geneva, Hong Kong) where I got the chance to earn a professional degree and begin my international experience. Drs. David West and Robin Stuart-Kotze taught me the business of consulting. To learn from two of the world's best consultants continues to be a joy and a privilege. I learned a lot about negotiation as a client of Leo Hawkins and Michael Hudson at ENS who so impressed me, I joined them for five years. During this period in the early 1990s, I realized the need for people to improve their negotiation skills and became interested in contributing to the knowledge base in this subject. The ENS workshop continues to be one of the leading negotiation training courses in the world. Since that time, I have my clients, colleagues, and fellow researchers to thank. By sharing your challenges, I have been motivated to create solutions leading to more effective dialogue in the global marketplace of the 21st century.

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About the Series

This exciting series provides comprehensive coverage of primary business functions, as well as vital business topics. Each subject is dealt with in a unique Asian context, making it an ideal addition to the business library of all business professionals and MBA students.

Each book is written by an Asian-based thought leader and includes the names of many top consulting companies, business schools and Asian corporate giants. The authors in the series draw on their wealth of experiences to provide a comprehensive overview of the subject and crucial strategic advice for Asia's next generation of leaders.

This book is dedicated to family and friends who have participated over the years in the AJN Dinner School of Management. It was there that Albear and Winkie first taught us that the solution is in the dialogue. If readers of this book in turn teach their children that the solution is in the dialogue, the world will be a better place.

Preface

In the aftermath of the Enron, WorldCom, and other corporate governance failures that hit our capital markets in recent years, I approached Nick Wallwork at John Wiley & Sons with an idea to publish a book called "Whistle Blower." In the book, an Asian business owner named Kai comes to the realization that unless he does something to improve dialogue within his organization, there will be a few possible outcomes. One outcome, based upon luck, would see the company carry on much as before. The other possible outcomes were that something bad would be developing, but he wouldn't know and thus wouldn't be able to stop it; or that something good would be developing, but again he wouldn't know and thus wouldn't be able to support it. The situation described in the story is based on countless situations that I have witnessed in organizations in Asia and other parts of the world where dialogue is suffering. Nick counter-proposed that I write a book on negotiations as part of Wiley's "Mastering Business in Asia" series and you are now looking at the result of that early negotiation.

This book attempts to pull together negotiation best practices and case scenarios from throughout the 15 years I have worked as a negotiation consultant and trainer in Asia. I hope that you will find it useful for negotiating not just in Asia, but anywhere in the world. As a Westerner with a background, education, and family upbringing in the professions, studying negotiation in Asia has provided me with a constant bifocal lens through which I am able to compare West and East. Of particular interest to me is the long history of trading in Asia, of which many Asians – whether they be of Hindu, Buddhist, Confucian, or Muslim faith – have had first-hand experience.

One of the attributes of a successful negotiator is good communication skills. In Asia, with all the differences of race, culture, religion, economic development, language, and so on, great communication is critical to successful negotiating. The other attributes of successful negotiators that I cover in this book include the ability to use a variety of tactics, to process large amounts of information effectively, and to negotiate with different types of people (including those you dislike) in different types of situations. To help readers prepare beyond their own experience, I provide several negotiation case scenarios in Appendix 2 and invite you to try your hand at negotiating successful outcomes. The most practical tips will likely be taken from the five chapters covering the stages of negotiation. In these I outline how to prepare and introduce your negotiations, how to handle objection and conflict (in what Westerners refer to as conflict-averse Asia), and how to create value through synergies of differing ideas. Finally, I provide some tips for moving from dialogue to contract.

In the globally interconnected world of the Asian century, negotiation is the most important skill that people can learn. The problems we face will find their solutions in dialogue, and so our success in overcoming these problems will be determined by our ability to manage those dialogues. Only when the right people talk about the right issues in the right way, and at the right time and place, will optimal and sustainable outcomes be achieved.

I hope that you share some of my passion for the subject of negotiation and find some of the ideas and recommendations contained in these pages of relevance to and useful in situations you are faced with from day to day around the world and especially in Asia.

> **Peter Nixon,** CA, MSc. Hong Kong, 2005

Chapter 1

Negotiating in Asia: Introduction

I find negotiating in Asia to be more challenging than negotiating in other parts of the world, especially Europe and the United States. Sometimes the challenge is fun; other times it leads to tremendous stress and loss. The reasons I find negotiating in Asia to be more challenging derive, I believe, from the socio-economic history of the region and the cultural and linguistic diversity of its people. Indeed, in a world that is embracing globalization, Asia provides the blueprint for the future because of its diversity and intensity, and its need and desire to improve.

What do we mean by "Asia"?

Asia itself requires some defining. It is a vast region spreading from India, Sri Lanka, Pakistan, and Bangladesh up through the countries of Central Asia to Japan, down through Korea, Taiwan, and China to South Asia, where we find Indonesia, the Philippines, Myanmar, Cambodia, Laos, and Malaysia. The region also includes the international cities of Singapore and Hong Kong, and increasingly incorporates Australia and New Zealand as Asia-Pacific countries.

In terms of religious threads, the reader can tie together societies throughout the region that share Buddhist, Muslim,

Christian, and Hindu origins, as well as Tamil, Zoroastrian, Jain, and other religions. While religion might provide some commonality, within the religious common areas are found linguistic, economic, and cultural differences and customs that make places like Japan significantly different from, say, Sri Lanka. The cultural complexity of Asia makes defining negotiation in Asia very challenging. I make reference below to some of the cultural nuances typical of East Asian Buddhist and Confucian cultures, but I recognize that these don't necessarily apply to South and Central Asia where Islam has had a greater influence than Buddhism, or to the subcontinent where Hinduism and other religions are more common.

In negotiation we recommend focusing on the common ground, instead of looking at the differences. In Asia there is one aspect common to all countries (excluding Australia and New Zealand), which I believe differentiates this part of the world from any other. This difference relates to how thoroughly the population throughout Asia has had first-hand experience of trading goods and services throughout history. From the camel trains of the Silk Road, to the junks and sampans that have plied the waters from the Bay of Tokyo through the Straits of Formosa and Malacca, down to Sri Lanka and into the Bay of Bengal, Asians are truly experienced traders and, as such, skilled negotiators.

My experience of the trading culture common across Asia, as well as my exposure to the largely Buddhist and Confucian cultures typical of East Asia, have enabled me to identify some of the main differences between Asia and the rest of the world in terms of their negotiating styles. As I continue to study the habits of negotiators in Asia, I will be looking to add insights arising from the practice of negotiation in those parts of Asia where I have thus far had relatively less experience.

Some of the differences that I identify below will be obvious to most observers, while others will be apparent only to the seasoned negotiator. The impact of this knowledge, however, can be significant for anyone engaged in negotiating with an Asian trading partner. If you are aware of the differences and react appropriately, you can get rich, boost your career, reduce your stress levels, and increase your happiness. If you get it wrong, the opposite can occur. Every day, in ever-increasing numbers, people are disembarking at airports across Asia, especially in China and India, intent on making their fortunes in Asia. A large number of them quickly realize that they have no idea of how to negotiate in Asia, especially with seasoned traders, and they have to scramble to learn from experience before they have to pay too high a cost.

In this and the following chapters, I attempt to identify the differences that confront negotiators in Asia, together with the best practices that make seasoned Asian negotiators (traders) among the best in the world. In addition, I introduce practical tips that readers can apply both at work and outside work to improve their own negotiations and get goal for us life. The from individually organizationally is to reach our full potential. We are all advised to follow our calling, to explore different things until we find what we really want to do and then do it. Provided you have a clear idea of what you want, these pages will hopefully provide you with a roadmap outlining how to go about getting it.

Why Negotiating in Asia is Harder than in other Markets

The differences that characterize negotiations in Asia will ensure that your experience of negotiating in the region is challenging. While every market produces good negotiators, I would argue that Asia produces more good negotiators than do other parts of the world, if only because of the prevailing culture and trading environment. What is it that makes people in Asia so much better at negotiating, and why is negotiating in Asia so much more complicated than in other parts of the world? I outline below the main differences that characterize negotiation in Asia when compared with Western nations. The tactics and process steps that will help you to become an equally effective negotiator and to manage these differences are provided in the rest of the book.

The best way to consider the differences is to examine the main elements of negotiation: the people, the process, and the content.

People: Differences related to the people doing the negotiating

- Relationships are more important than contracts.
- The group is more important than the individual.
- Gender and hierarchy both matter.
- Diversity of race, culture, and language is an asset.
- There is a preference to keep things in the family.
- The age of the negotiators makes a difference.

Process: Differences related to how the negotiations are conducted

- Asians enjoy bargaining more than other cultures.
- Negotiations take place amid significant financial, security, health, and competitive risks.
- Owner-managed companies spend personal money.
- Face issues affect feedback.
- Things aren't always considered as being black or white.
- Negotiations take place amid a variety of legal, financial, and governance frameworks.

Content: Differences related mainly to what is being negotiated

- Conflict avoidance influences the agenda.
- Prices are subject to negotiation.
- Volume is significant, so small changes have big implications.
- Cyclical wealth causes a short-term focus.
- You are only guilty if you are caught.
- Multiple currencies add cross rates to the agenda.

The people

Relationships mean more than contracts

"Asians are very relationship based. They far prefer to trust the person with whom they negotiate rather than the contract they signed."

ROGER DAWSON

Secrets of Power Negotiating

One of the first challenges faced by people who are new to negotiating in Asia is the importance of relationships over and above contracts. This has many implications. First, it is difficult to get what you want without knowing the right people. This leads to the challenge of getting through to the decision-makers, finding out who knows them, and how to influence them to get what you want.

The second major implication arises when situations change and reality diverges from the contract. While Western negotiators might argue that something is in the contract and must therefore be adhered to, people with plenty of experience in Asia know that contractual terms are always negotiable. The ?ion reverts to the people involved and knowing who to influence in order to get something

done. This difference is reinforced by the fluid legal systems in Asia, which, depending upon the country, may or may not be considered helpful in getting things done. An example of the importance of relationships over contracts is found in the key role that families play in business in Asia. These relationships mean that important decisions affecting the governance of listed companies can be made without the consent of minority shareholders, much to the dismay of corporate governance advocates.

Collectivist versus individualist society

Another difference between Western and Eastern cultures that is often referred to relates to how people see themselves. In Asia, people tend to define themselves in terms of the group with which they are associated (for example, their company). $\frac{2}{3}$ This perception extends to their decision-making style, so that Asian negotiators will tend to check with everyone in the group before taking a decision. This approach can frustrate Western negotiators, who come to the table with a slightly different mindset. Westerners generally are more individualistic, which means they tend to define themselves as being unique. They are more prepared to change employers if their personal situation should dictate that a change is needed, whereas Asian employees might accept their current situation as their fate (Asians are considered more fatalistic than Westerners), defer to their boss (hierarchy plays a greater role in Asia than in the West), and stick with the group.

These cultural implications put a definite imprint upon negotiations in Asia. Negotiations tend to be more drawnout than in the West, with less obvious outcomes, and if a consensus isn't achieved, they may even stall. When negotiating in Asia, Westerners are well advised to look beyond the person with whom they are dealing and ask who else is involved in the decision so that they can also meet with them and understand their needs. (See the discussion on stakeholders in Chapter 11.)

Gender and hierarchy

Asian negotiations are affected by gender bias and deference to hierarchy. Gender bias may either be in favor of males (as in Japan, 4 Korea, India, and Muslim countries) or in favor of women (such as in Thailand, Indochina, and possibly the Philippines). There are few countries where equality matches what some might expect in Western economies. Gender plays a role in how negotiations are played out, either in a more masculine (demonstrated through power tactics) or feminine way (demonstrated through more empathizing). Gender also affects where and when negotiations take place. In more masculine-oriented markets, it is common to find negotiations extending into the evenings with the inclusion of social settings (golf clubs, karaoke bars, hostess clubs, and so on). In more feminine markets, negotiations tend to take place during working hours and with more emphasis on getting things done on site.

A multilateral aid agency operating in Asia found it very frustrating when negotiations were interrupted for meal times and the females and males were separated, according to religious custom. The head of the negotiating team was female; everyone else, apart from the secretarial staff, was male. The agency head was forced to choose between being cut off from her negotiation counterparts and eating with the secretarial pool, or breaking custom and insisting that she eat with the males – something that would have left a lasting negative impression.

A merger and acquisitions deal wasn't progressing, and the Swiss party that I was advising couldn't work out what was going wrong. Upon further analysis we learned that the father of the current chairman of the target company was still alive, and although he had retired from the business 20 years earlier and was now on his death-bed he insisted that as long as he was alive the company shouldn't be sold. True to hierarchy and filial piety, the son respected his father's wishes and refused to negotiate what up to that point had been perceived as a sure bet for the acquiring company.

Asia is multiracial, multicultural, and multilingual

While it can be said that the world is becoming a global village, Asia has forever contained more people, more races, more cultures, and more language groups than any other part of the world. In terms of negotiation, this means that Asians are generally more aware of the importance of differences when negotiating. These differences might arise through language - for example, how one says something can mean different things in different languages ("yes" may not mean "yes") - or culture (for example, conflict avoidance styles). People exposed to more diversity tend to have a better awareness of differences and of what these differences mean. Two benefits of being comfortable with diversity are a tendency to be better at reading body language in negotiations, and knowing how to make counter-parties feel more comfortable (and ready to say "yes") in negotiation situations.

While Confucian culture and Buddhism extend across a great number of countries, there are as many differences as similarities among these cultures in Asia. Readers are well advised to take a holiday in the market in which you might be negotiating. Get some exposure on the ground *before* you go in to negotiate on behalf of your company. Ask a lot of ?ions while you are visiting, and take notes. Even travel guidebooks offer useful tips for people who are new to a country, with information on history, rituals, and customs, as well as language tips.

Keep it in the family

While it is true that people the world over prefer to do business with people and organizations inside their network, in Asia this behavior extends to not wanting to transfer wealth outside their network to foreigners or strangers. This behavior derives in part from the belief that they will be able to exact future benefit from people inside their network and better control the delivery of products and services from people with whom they have had long-term relationships. 5

Vast numbers of sub-contractors working indirectly for big property developers in Asia are willing to wait for long periods (sometimes years) for payment, in the belief that their obedience and loyalty to the family of businesses owned by the developer will lead to future business. The ultimate owners at the top of these pyramids do their best to reward loyalty and to keep people in business, but sometimes this may be to the detriment of the efficient operation of both the developer and the sub-contractors.

Age of the negotiators

The age of negotiators is an important factor in Asia. Since respect for elders is part of Confucian belief, senior family members feel they have the right to tell their offspring what to do, and often do so. This extends into the business world, where it can be expected that older family members will impact on negotiations.

Youthfulness is another factor in negotiations in Asia. On average, businesspeople in Asia are younger than in Western countries. Positive aspects of this include boundless energy, enthusiasm, and willingness to work hard. Negative aspects include relative inexperience and a need to defer to their boss.

"Asians often consider promises made during the negotiation as being made to the individuals who negotiate, to the individuals who negotiate, not to their organization."

ROGER DAWSON

— Secrets of Power Negotiating

The process

Asians enjoy bargaining more than other cultures 6

People who grow up in price-variable markets learn that it pays to bargain. Obviously, if the price isn't fixed, people either have to bargain with or "trust" the other party's one-sided pricing. While it is true that some people in Asia "trust" their counter-party to offer them a fair price, it is common for Westerners in Asia to complain of paying exorbitant prices because either they didn't bargain, or they bargained but didn't know the market well enough and still over-paid.

Successful bargaining goes beyond variable pricing and introduces the value of linking other issues to price (for example, delivery date). Once you realize the importance of linking issues (see the discussion of concession exchange in Chapter 9), then smart bargaining also includes creating additional issues so that you have more to give and take in the process.

Some cultures teach their children that it is not "sophisticated" or "professional" to bargain, so they rely more on trust and may have a poor opinion of people who "haggle." Yes, culture matters in negotiation. Successful negotiators have learned, however, that it is possible to bargain in both the "old boys" culture and the "market culture." They know that it is possible to change *how* one negotiates without surrendering the necessity of linking issues. For example, it is possible to speak in a professional way and still recognize the existence of a price range in a negotiation. Successful negotiators know that if they are unwilling to negotiate, it is likely they will get something less than an optimal outcome in their transaction.

My consulting work has taught me that most negotiations will create around 10 different issues for each main category of negotiation. Issues categories include: pricing, quality, timing, personnel, scope, product, reporting, and so on. Don't just negotiate a sale price; link price to other issues. Examples of this include paying a higher price for faster delivery, or paying a lower price for second-hand goods.

Risk

Negotiating in Asia is a risky business. The main risks include:

- financial risk ("Will I ever get paid?");
- security risk ("They shot the last guy who tried to collect the money he was owed.");
- health risk (SARS, bird flu, stomach flu, and so on); and
- absentee risk.

While risks abound in developing markets, the confluence of risks in Asia may keep risk-averse organizations and people from doing business or traveling in the region. Despite these risks, it is possible not only to survive, but indeed to thrive, in these markets.

There are countless stories about organizations and individuals who have lost significant sums of money in Asia.

One need only look at the daily newspapers to read about the latest case of financial loss. One of the most significant was the collapse of Guangdong Enterprises Group (GDE), a US\$4 billion collapse and restructuring of a state-owned enterprise in China. 7

Security risks are also significant in Asia and, unfortunately, the newspapers also carry frequent reports of attacks and killings in relation to negotiations that have gone wrong. The saddest stories relate to the deaths of professionals hired by others to manage the affairs of companies. The recent attack on a liquidator who was attempting to sell a hotel in Mainland China brought back memories of the drive-by killing of a financial liquidator in Bangkok during the financial crisis of the late 1990s.

Health risks incorporate things like bird flu and SARS, but also the phenomenon of death from overwork in Japan. Negotiators aiming to succeed in Asia are forewarned to stay in shape, eat and drink wisely, and be prepared with back-up support if health risks should occur.

A fourth risk that is common to Asia is what I call absentee risk – the risk of NOT doing business in Asia. Asia is the fastest-growing market in the world and the one with the greatest growth potential for the foreseeable future, so if your competitor is doing business in Asia and you are not, the competitive risk you incur is substantial. Furthermore, since relationships are critical to success in Asia, the sooner you start doing business in Asia, the faster you will begin developing the crucial relationships you will need in order to succeed.

Owner-managed companies

Large companies in Asia differ from their American and European counterparts in that Asian companies tend to be more closely held and have less of a distinction between owner and manager. Family-owned businesses in Asia that

are worth billions of dollars tend to have many more family members in executive management than do similar large companies in Western markets. This ownership structure tends, therefore, to force tougher negotiations, because it is well recognized that people negotiate tougher with their own money than they do with other people's money. Asian business owners reward loyalty and compliance by setting up their executives with financial independence. If they do the right thing, Asian negotiators win both the respect of the owner and some financial benefit, be it in salary or in kind. However, if they negotiate poorly, the boss will soon know about it. In a culture that lacks performance management, negative implications. making mistakes has major Consequently, unless a decision is known to be correct, then the common outcome in negotiations is to do nothing.

Face issues affect feedback

Negotiators in Asia know all about the importance of saving face and giving face. Westerners might describe "saving face" as protecting someone's pride or honor. "Giving face" could be described as showing respect. In Asia this is especially important for one's elders and superiors. Negotiators new to Asia will want to read about the concept of face, and one book I can recommend is *Beyond the Chinese Fac*e by Michael Bond.8

Feedback is related to face, because if the feedback is good it gives face and if it is bad it can cause a loss of face. How one gives and receives feedback in Asia (I refer mainly here to Confucian cultures) tends to differ from other cultures, especially American culture.