



Outline

1. Initial Preparation
2. The UNFCCC Negotiating Process
3. Coalitions
4. Notes on Draft Text
5. Negotiating a Draft Text

Initial Preparation



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- **Most critical** phase of the negotiation process.
 - Begins even before the negotiation itself,
 - Develop a negotiating position based on their country's :
 - instructions,
 - its core interests.
- Three Elements;
 1. Familiarization,
 2. Mobilization,
 3. Documentation.



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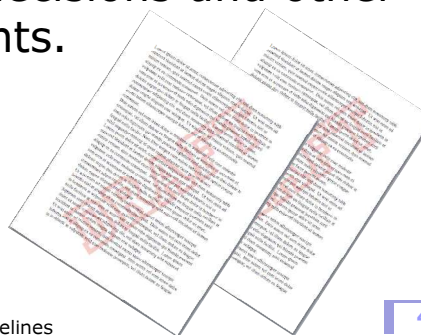
Initial Preparation: Familiarization



1

Negotiators should familiarize themselves with:

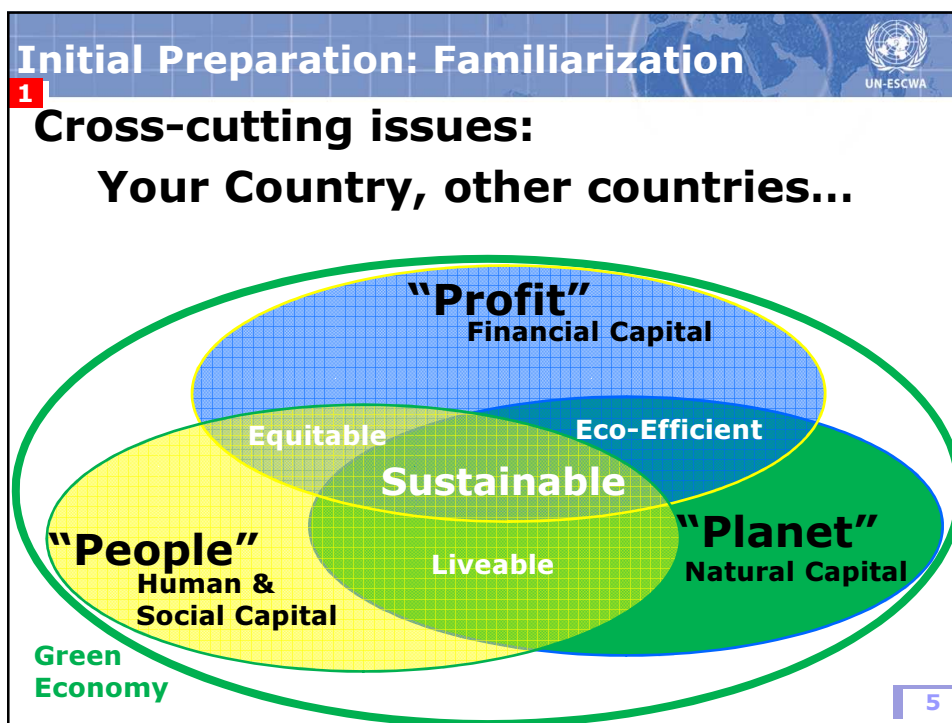
- Relevant convention text, rules of procedure, COP decisions and other relevant documents.



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Initial Preparation: Familiarization

1


Familiarity with key concepts:

- **"Risk"**, **"Uncertainty"**, ...
- Ex-Ante / Ex-Post:
 - Speed Limit / Apply Breaks.

Don't take the "meaning" of a word for Granted.

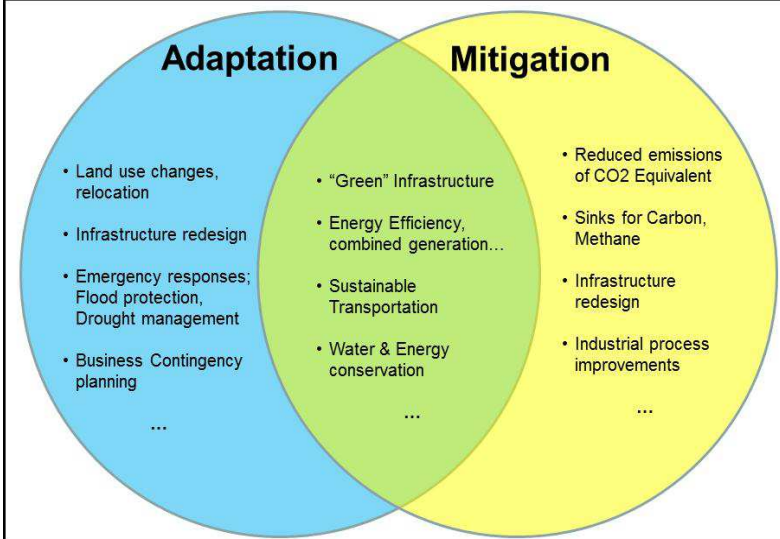


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Initial Preparation: Familiarization 

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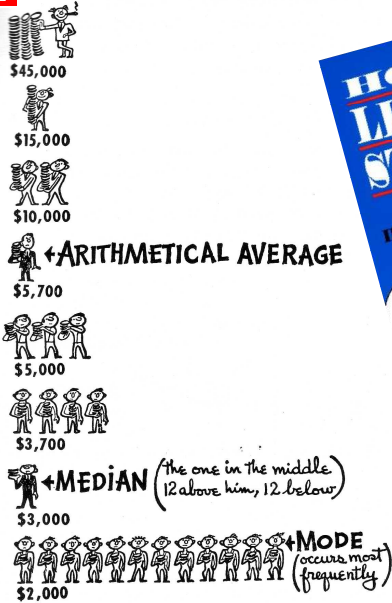
Cross-cutting issues:



<p>Adaptation</p> <ul style="list-style-type: none"> • Land use changes, relocation • Infrastructure redesign • Emergency responses; Flood protection, Drought management • Business Contingency planning • ... 	<p>Mitigation</p> <ul style="list-style-type: none"> • "Green" Infrastructure • Energy Efficiency, combined generation... • Sustainable Transportation • Water & Energy conservation • ... 	<ul style="list-style-type: none"> • Reduced emissions of CO2 Equivalent • Sinks for Carbon, Methane • Infrastructure redesign • Industrial process improvements • ...
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Initial Preparation: Familiarization 

1



+\$ ARITHMETICAL AVERAGE
\$5,700

+\$ MEDIAN (the one in the middle)
\$3,700

+\$ MODE (occurs most frequently)
\$2,000



HOW TO LIE WITH STATISTICS
Darrell Huff
Illustrated by Irving Geis



MAN BITES DOG!

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Initial Preparation: Mobilization



1

mobilize negotiating team well in advance.

- Need sufficient time to become familiar with the arcane details of the process.



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Initial Preparation: Documentation



1

Prepare a set of briefing papers and statements can be prepared initially

- Help initiate the negotiation process,
- Potentially pre-empt any positions from other parties that run counter to the home country's core interests.
- Identify a checklist of items and basic materials to bring along the negotiations.



- Key Items:
 - Agenda item number and title,
 - Documents for discussion,
 - Articles and provisions of the UNFCCC and/or the relevant protocol,
 - previous decisions, conclusions or recommendations, with a focus on the immediately preceding session,
 - If known, the positions of other Parties or interest groups, especially relative to the national goals,
 - The national outcome that is sought

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Negotiation: **Distributive Bargaining**

2 Positional; hard-bargaining...

- Assumes a "fixed pie"
- ZOPA: Zone of Possible Agreement




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Negotiation: **Integrative Bargaining**

2 interest-based or principled

- "increase the size of the pie"
- mutual gains: "win-win"
- Focus on:
 - commonalties
 - not differences
 - Needs & Interests,
 - not positions
 - Exchange information & ideas
- Use **objective criteria** for **performance standard**.




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The UNFCCC Negotiating Process

UN-ESCWA

2

- Easily resolved issues: addressed and resolved first,
- More complex / difficult issues:
 - referred to contact groups or working groups.
 - Existing bodies,
 - Established at the session. Their task is to meet and carry out their mission, and then report back to the plenary on their results.
 - All interested Parties are invited to participate in these bodies and groups



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The UNFCCC Negotiating Process

UN-ESCWA

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Negotiators may make Oral "*Interventions*" as the negotiations move towards various "*expected outcomes*".

1. representative must be **recognized** and granted **permission** by the President or Chairperson of the negotiating session.
 - Raises their country's name placard, or "country flag" in the air, or sets it on its end in its card holder.
 - The representative is placed on a speaking list.
 - Raising a point of order in case in case of concerns that proper rules of procedure were not followed; making a "T" sign with country placard and hands.
2. **Then**, once a representative has been granted permission to speak:
 1. Put forward their country's position;
 2. Raise a point of order;
 3. Table a motion.



delaying tactics: motions can deflect the discussion from substantive issues under discussion

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The UNFCCC Negotiating Process

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Addressing the Plenary Session

- Ensure that:
 - Representatives have been granted permission by the head of delegation to speak on their country's behalf,
 - Coalition representatives have first taken the floor.

An intervention to the Plenary Session is made up of:


1. Brief acknowledgement of the President/Chairperson;
2. Statement whether the motion is either on associated with the position of a larger group, or is on behalf of a larger group;
3. Importance of the issue at hand for the country or coalition;
4. Remain positive and remark on positive aspects of the negotiation;
5. Make a clear and concise statement;
6. if necessary: offer alternative viewpoints to previous interventions;
7. concluding remarks that highlight the reasonableness of the expressed position


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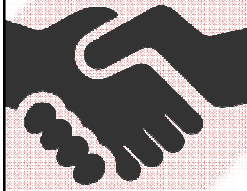
The UNFCCC Negotiating Process

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Expected Outcomes

 **"Declarations"** that merely reflect a form of a consensus or majority opinion,

 **"Conclusions"** or **"Recommendations"** that represent the outcomes of subsidiary body negotiations,


 **"Decisions"** are the only legally binding conclusions.

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Coalitions

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By consolidating many parties into **fewer negotiating groups**, they help make the negotiations more **manageable**.

Membership in one regional or interest-based negotiation coalition does not preclude membership in others



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Coalitions: +/-

3

(-) Membership can have some disadvantages,

- **Consensus** can be difficult to achieve, or to shift once it has been reached.
- Risk of **conflicting interests**, since one country can be member of many coalitions.
- Risk of "**lock in**"; parties may find it difficult to move between coalitions.

(+) Coalitions play a valuable role for **smaller developing countries**.

- Help both increase **negotiating leverage**,
- Help avoid duplication of efforts through **synergies**, reduced costs.
- **Highlight** points of views that might otherwise be overshadowed.

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Coalitions

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Coalition	ESCWA Member Countries
G-77	Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Sudan, Syrian Arab Republic, Tunisia, United Arab Emirates, Yemen.
LDC	Yemen
OPEC	Algeria, Iraq, Kuwait, Libya, Qatar, Saudi Arabia, United Arab Emirates.


- **G-77 and China,**
- **Small Island Developing States (SIDS),**
- **European Union (EU),**
- **Africa Group,**
- **Organization for Petroleum Exporting Countries (OPEC),**
- **Least Developed Countries (LDCs),**
- **Other Groups...**



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Notes on Draft Text: Key Elements

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- Notes on the Negotiating Language
 - Highly technical language.
 - Be **mindful** of the **subtleties of the language**.
- Phrases that appear innocuous at first reading actually, have a “long history” and often “**mean more than they seem**”,
- **Grammatical formulations** have a significant difference in country commitments:
 - verb tense (“should” and “shall” or “may” and “must”) can convey vastly differing levels of commitment.
- “**Qualifying language**” can enable, lessen, or even undermine the mandatory nature of actions to be undertaken.
 - “as appropriate” lessens the obligation,
 - “as necessary” may minimize,
 - “to the extent practicable” would allow it to be entirely avoided.



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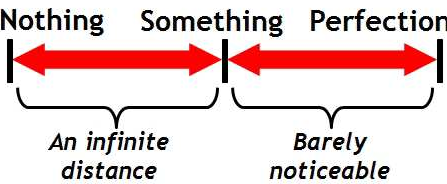


5. Negotiating a Draft Text

Negotiating a Draft Text

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- Prior to evaluating the text:
 - “Best Alternative to Negotiated Agreement” (BATNA);
 - What's the “walk-away” position?


- Then, go through a checklist of items to verify

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Notes on Draft Text: Resolution Structure

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1. **Title:**
 - Simple statement that reflects the content and purpose of the resolution or decision.
2. **Preamble (no binding legal value):**
 - Offers a "background" to justify the need for the resolution or decision text.
3. **Decision Text (legally binding):**
 - Operative part; prevails over the preamble,
 - Paragraphs of decision text often begin with "action" words such as "decides to" or "decides that".



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Negotiating a Draft Text: Origin

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- **Formally**, a text is
 1. Brought back to the plenary session for formal adoption
 2. After having been presented at contact group deliberations.
- **Alternatively:**
 1. A draft text is usually first circulated informally to a range of delegations or coalitions.
 2. As the draft gathers the necessary support, it is then tabled for broader discussion,
 3. At this point:
 - it may be circulated by the Secretariat to all delegations as official conference documents.
 - The initiating party delegation or entity would formally introduce the proposed text for consideration before the plenary body or the relevant contact group.
- This generally ensures substantial support. A text introduced without preparation risks being bogged down in protracted negotiations.

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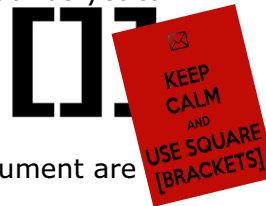
Negotiating a Draft Text: Disagreeing



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Disagreements over portions of text are dealt with in a step-by-step, iterative approach:

1. Putting contentious words, sentences or paragraphs in "**square brackets**".
 - Clearly reflect those portions of the text that has yet to be agreed upon by all Parties.
2. The document will then keep growing:
 - Parties requests new text to be included,
 - Others requests that other parts of the document are bracketed.
3. After a document has incorporated contains most views:
 - The text can then be "**unbracketed**"



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Negotiating a Draft Text: Key Tips (1/2)



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- Clearly identify all the text related to the home country's negotiating position,
 - Ensure its **integrity** is maintained.
 - Prepare **alternative** drafts or brackets.
- **Avoid an excessive focus on "words"**
- **Watch the brackets:**
 - Has [shall] morphed into [should] or [may]?
 - One negotiating strategy is to **bracket multiple paragraphs**.
- **Do not to agree to:**
 - The removal of text in any given part,
 - Unless it is still inserted in another portion of the document.

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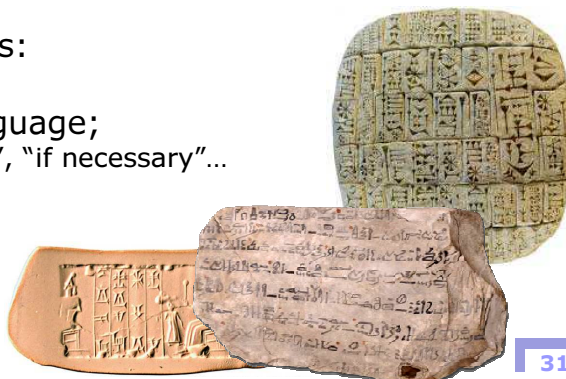
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Negotiating a Draft Text: Key Tips (2/2)



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- **Ensure** that:
 - Maintain general sense.
 - The substance of a sentence or paragraph is not “traded away”
- **Monitor** Additions:
 - weakening language;
 - “if appropriate”, “if necessary”...
 - New Concepts



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Thank you for your attention

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