

THE ART OF NEGOTIATION



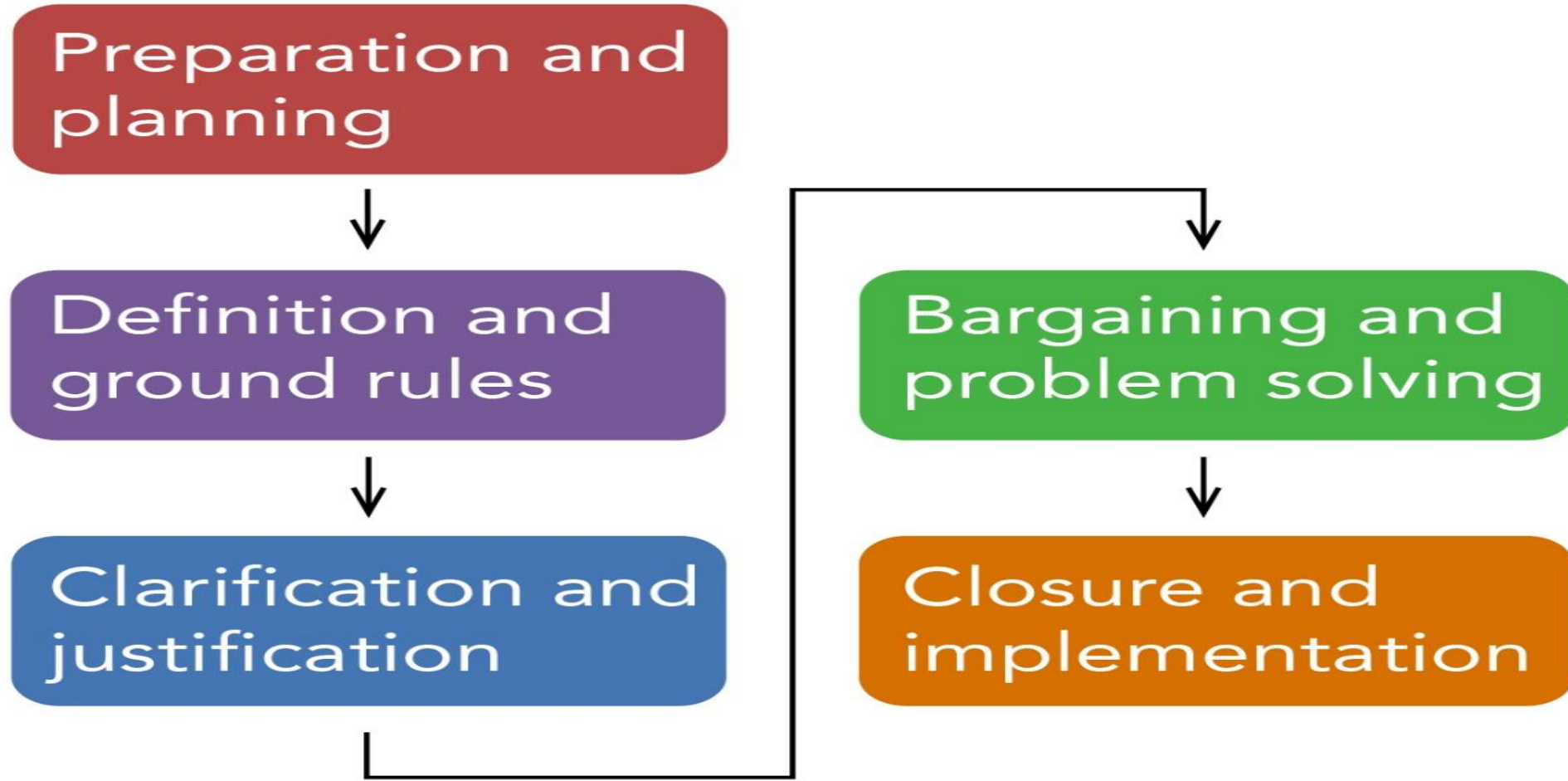
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- Legal Translation Institute
- MSAL
- Moscow, 2022

PLAN

1. Negotiations: structure, and stages.
2. Negotiating styles and language.
3. Negotiating across cultures.
4. Golden rules of negotiation for lawyers

A *negotiation* involves two or more parties attempting to reach an *agreement*

STAGES OF NEGOTIATIONS



Preparation and Planning

What do you want to walk away with?

What are their goals in this negotiation?

What will they ask for?

Do they have any hidden agendas that may come as a surprise to you?

What might they settle for?



Prepare a BATNA(best alternative to a negotiated agreement)

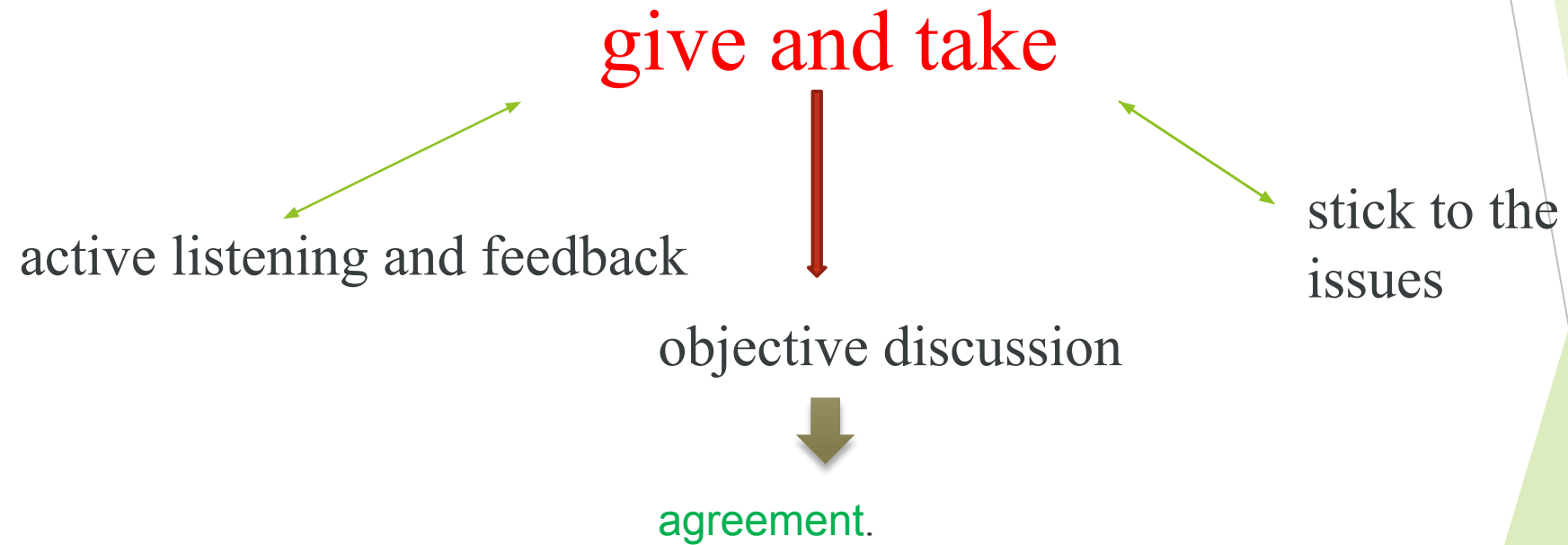
Definition of Ground Rules

- Who will do the negotiating—will we do it personally or invite a third party?
- Where will the negotiation take place?
- Will there be time constraints placed on this negotiation process?
- Will there be any limits to the negotiation?
- If an agreement can't be reached, will there be any specific process to handle that?

Clarification and Justification

- explain, clarify, strengthen and justify your original position or demands
- gain further understanding about the other party
- explain how you arrived at your current position
- include any supporting documentation.
- review the strategy you planned for the negotiation

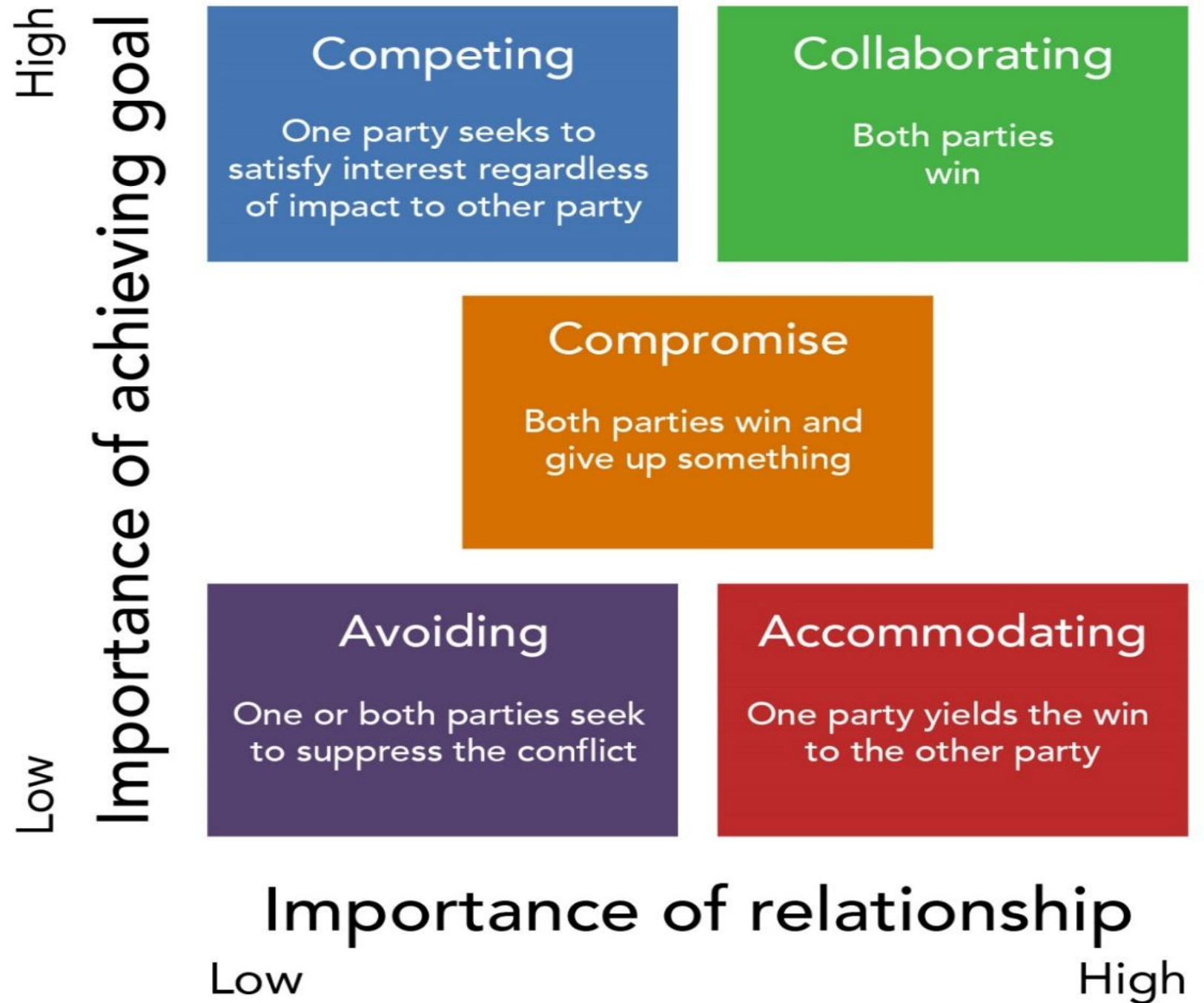
Bargaining and Problem Solving



Closure and Implementation

1. Identify the format acceptable to both parties
2. Implement and monitor the terms of the agreement
3. Formalize the agreement

► STYLES OF NEGOTIATING



Welcoming / Relationship building

I would like to welcome you to

On behalf of ... I would like to
welcome you to ...

It's my pleasure to welcome you to...

How was your flight?

Would you like something to drink?

Suggesting a procedure

- I would like now to begin by suggesting the following procedure / agenda.
- To start with, I think we should establish the overall procedure.
- Does that seem acceptable to you?
- Is there anything you'd like to change?
- Is this okay with you?

• **Proposing**

- Our basic position is ...
- There are several options ...
- We propose / suggest ...
- Regarding your proposal, our position is ...
- Would it be possible ...
- How do you feel about ...
- Do you think you could consider

Responding to suggestions

- As far as your proposal is concerned, we think that ...
- May we offer an alternative? We propose that ...
- We'd like to make an alternative proposal. We propose that ...
- From where we stand, a better solution might be ...
- Considering that I would like to suggest...(doing smth), that you/we do smth
- Now that you mentioned it ...-

Agreeing

- I agree with you on that point.
- That's a fair suggestion.
- You have a strong point there.
- I think we can both agree that...
- I don't see any problem with/harm in that.

Objecting

- I understand where you're coming from; however,...
- If you look at it from our point of view...
- I'm afraid we had something different in mind.
- That's not exactly how we look at it.
- From our perspective...
- We'd have to disagree with you there.
- I'm afraid that doesn't work for us.

Reasoning

This is because ...

The reason for that is ...

... is essential and vital for our customers.

We have to / must have ...

This is a must!

Money is all-important!

Reassuring

Let me reassure you that ...

We(I) can promise you that ...

Have no doubts that we will ...

• Giving a hint

- Our main concern is ...
- It is vital / crucial that ...
- Our intention is ...
- We might like to ...
- I am(we are) willing to accept ... if ...
- It would be an alternative to ...
- We can trade this against ...
- There a few things we can compromise

Clarifying

... is correct, isn't it?

Is it alright with you, if ...

It seems that ...

Are you suggesting that ...

Do you mean ...

Does it mean ...

If I understood you correctly ...

What exactly do you mean by ... ?

I'm not sure I fully understand your point.

I'm sorry. I don't follow you...

What do you mean by ...?

Could you clarify one point for me?

Could you be more specific?

So what you're saying is that you...

In other words, you feel that...

Let me make sure I understand what you're saying.

Is that an accurate summary of where you stand?

Would you say that is a fair representation of your position?

Can we summarize your position up to this point?

Identifying obstacles

- The main thing that bothers us is ...
- One big problem we have is ...
- The main obstacle to progress at the moment seems to be ...
- Let's take a closer look at this problem.
- What exactly is the underlying problem here?
- I would like to analyze this situation and get to the bottom of the problem.

Compromising

- How flexible can you be on that?
- We are ready to sign that if you can
- In return for this, would you be willing to ...?
- May we offer an alternative?
- We are ready to accept your offer; however, there would be one condition.
- We feel there has to be a trade-off here.
- We would be willing to ..., provided, of course, that ...
- We'd be prepared to However, there would be one condition.
- What do you think is a fair way to resolve the situation?
- Would you be willing to accept a compromise?

Delaying

- We would have to study this. Can we get back to you on this later?
- We'll have to consult with our colleagues back in the office. We'd like to get back to you on it.
- We'll have to get back to you on it.
- I'm afraid, I don't have the authority to make that decision by myself.

Refusing a proposal

I am afraid, we couldn't agree to that.

I'm sorry, we can't accept that.

I'm afraid, your offer doesn't go far enough.

I'm sorry, but we must respectfully decline your offer.

No, that's out of the question.

That would be very difficult for us because

That's not really a viable option for us.

That's totally unacceptable.

Unfortunately, we must decline your offer for the following reasons:

Accepting a proposal

We are happy to accept this agreement.

This agreement is acceptable to us.

I believe we have an agreement.

We are happy to accept this agreement.

I think we have a deal.

I think we will have to agree to ...

We can only agree with you there.

That wraps things up perfectly.

That sounds quite acceptable to us.

That's a deal!

It sounds like an alternative / option / possibility ...

That sounds reasonable.

Closing / summarizing

Can we review what we have agreed on so far?

Now, let's just take a moment to review what we've discussed.

So, what we've finally decided on is

Let's make sure we agree on these figures (dates / etc.).

Can we check these points one last time?

Let's just confirm the details, then.

Let's recap.

Let me go over the main points again

Final greetings

It has been a pleasure doing business with you.

We look forward to cooperating with you again.

I would like to thank you for very constructive and mutually beneficial negotiations.

Cross-Cultural Negotiations



polychronic cultures :Latin America, the Arab part of the Middle East, sub-Saharan Africa

- start and end meetings at flexible times
- take breaks when it seems appropriate
- be comfortable with a high flow of information
- expect to read each others' thoughts and minds
- sometimes overlap talk
- view start times as flexible and not take lateness personally

monochronic cultures: the USA, Canada, Northern Europe.

- prefer prompt beginnings and endings
- scheduled breaks
- deal with one agenda item at a time
- rely on specific, detailed, and explicit communication
- prefer to talk in sequence
- view lateness as devaluing or evidence of lack of respect.

Space Orientations

Northern European countries - **personal space(German, British, Swedish)**

Southern European countries - **personal space (Greek, Italians, Spanish)**

An American etiquette manual about personal space:

“When you meet someone, don't stand too close”.

(Remember the angry expression, "Stay out of my face!")

Mediterranean, Arab, and Latin American: more tactile ; more touching.

Asian, indigenous American, Canadian, and U.S. cultures: discourage touching outside of intimate situations.

In the Mediterranean, it is common to see men holding hands or touching in public, but not women.

Greeting rituals fit with these patterns, so awareness of local norms is important for negotiators.

High power distance

Arab countries, Guatemala, Malaysia, the Philippines, Mexico, Indonesia, and India.

Negotiators from these countries tend to be comfortable with

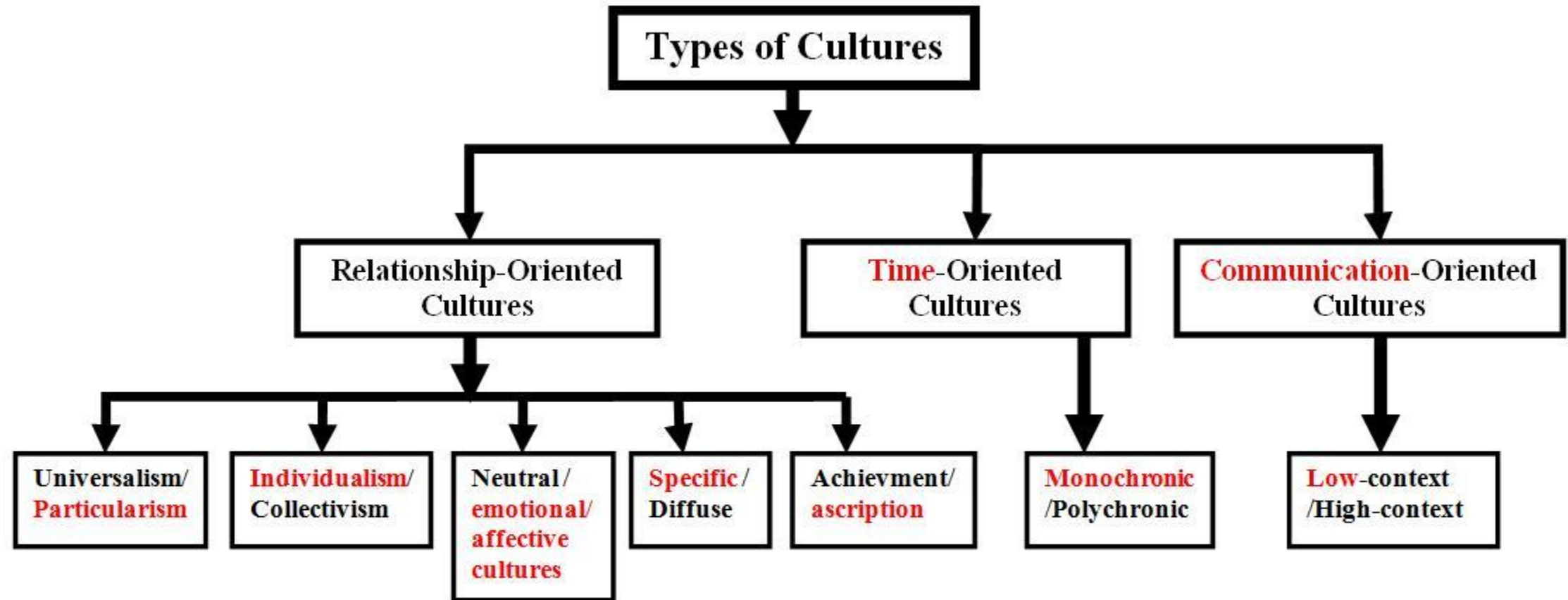
- hierarchical structures,
- clear authority figures, and
- the right to use power with discretion.

Low power distance

Austria, Denmark, Israel, New Zealand, Ireland, Sweden, Norway, Finland, Switzerland, Britain, and Germany.

Negotiators from these countries tend to be comfortable with

- democratic structures and flat organizational hierarchies,
- shared authority,
- the right to use power only in limited circumstances and for legitimate purposes.



JAPANESE NEGOTIATORS	AMERICAN NEGOTIATORS	CHINESE (TAIWAN) NEGOTIATORS	BRAZILIAN NEGOTIATORS
Dedication to job	Preparation and planning skill	Persistence and determination	Preparation and planning skill
Perceive and exploit power	Thinking under pressure	Win respect and confidence	Thinking under pressure
Win respect and confidence	Judgment and intelligence	Preparation and planning skill	Judgment and intelligence
Integrity	Verbal expressiveness	Product knowledge	Verbal expressiveness
Demonstrate listening skill	Product knowledge	Interesting	Product knowledge
Broad perspective	Perceive and exploit power	Judgment and intelligence	Perceive and exploit power
Verbal expressiveness	Integrity		Competitiveness

American negotiation style

(by John McDonald, diplomat, USA)

Impatient: “Impatience is such an ingrained, subconscious tendency in most Americans that they don’t even realize the rest of the world marches to the tune of a different drummer.”

Legalistic: very concerned with detail and less with general principles.

Arrogant: believe in their superiority and know what is best for others.

Poor Listeners: lack of patience

Insular: limited experience of other cultures

Naive: relaxed, informal approach and appearance (**CAVEAT!!!**)

Friendly: out-going , a sense of humor

Fair: Believing in fair play and honesty (**All is fair in war and love??????**)

Flexible: Good negotiators, expected by their headquarters to make decisions at the bargaining table.

Risk Takers: put forward new and innovative ideas and suggestions for compromise.

Pragmatic: want to get on with discussing the substance of the issues

Prepared: preparation often leads to positive results.

Cooperative: recognize the need to work cooperatively with other parties.

Russian Negotiating Style (Lighthouse Group)

1. The bargaining phase can be long and is more of a power-play.
- 2 Russians do not think in win-wins or give and take.
- 3 They usually consider that one person's gain is the other person's loss.
- 4 It is often about personal short term gain and short term objectives.
- 5 This is where the pride and aversion to weakness comes in.
- 6 Weakness is not shown and one always negotiates from a position of power.
- 7 Many misleading tactics may be used and you can be put under pressure.
- 8 Russians see this as part of the game and do not find that this conflicts with the personal relationship.

The Five Golden Rules of Negotiation for Lawyers

- **Information is Power — So Get It!**
- **Maximize Your Leverage**
- **Employ “Fair” Objective Criteria**
- **Design an Offer-Concession Strategy**
- **Control the Agenda**

Experience does not
equal expertise in
negotiations. It's never
too late to learn and
improve.

Marty Latz

Internationally recognized negotiation expert, speaker and author. Founder of Latz Negotiation, and author of “Gain the Edge! Negotiating to Get What You Want”

THANK YOU FOR YOUR ATTENTION

