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Diplomarbeit

## INDENTIFICATION OF CAUSES OF STRATEGY SHIFTS IN INTERNATIONAL NEGOTIATIONS

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**Ass.-Prof. Mag.rer.soc.oec. Michael Filzmoser, PhD**

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**Fakultät für Maschinenwesen und Betriebswissenschaften**

von

**Ing. Dragos-Cristian Vasilescu, BSc**

0727558 (066 482)

Arndtstrasse 11

1120 Wien

Wien, Oktober 2013



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## **Kurzfassung**

In dieser explorativen Studie werden die potenziellen Ursachen die zu Strategieänderungen, während internationaler Verhandlungen, analysiert führen können. Basierend auf fünf Fallstudien im Bereich internationaler Verhandlung wurde eine komparative Vorgehensweise zur Datenanalyse verwendet.

Unter Verwendung derselben Methode für jede Fallstudie wurden Ursachen, Verhandlungsveränderungen und Konsequenzen identifiziert. In der ‚cross-case analysis‘ wird eine Häufigkeitsanalyse durchgeführt um Verwendungsmuster zu erkennen.

Neue Einsichten wurden gewonnen durch den Vergleich zwischen Strategieveränderungen und Konsequenzen als auch durch den Vergleich der Ergebnisse von Taktiken, Kultur und Motivation der individuellen Fallstudien.

Die erzielten Ergebnisse lassen sich auf fünfzehn Hypothesen, unterteilt in vier Kategorien, zusammenfassen. Sie beziehen sich auf Ursachen für die Strategieänderungen, Vorhersagen für die Nähe einer Einigung, verschiedene Arten von Verhandlungen und Strategien die den Lauf der Verhandlungen ändern können.

## **Abstract**

In this exploratory study, causes that lead to strategy shifts during international negotiations were analyzed. Based on five cases of international negotiations, a comparative case study approach has been used in order to achieve the maximum data generating potential.

By using the same method to analyze each case, the causes, negotiation shifts and consequences were identified. During the cross-case investigation, a frequency analysis was conducted to determine usage patterns for the causes identified earlier.

New insights were gained by cross comparing the strategy shifts and consequences as well as comparing the results of tactics, culture and motivation from the individual cases.

The generated results contain a series of fifteen propositions divided into four categories that illustrate causes for strategy shifts, predictions for when an agreement is nearby, critical judgments on specific types of negotiations and strategies that could alter the course of negotiations.

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## **Index of Abbreviations**

BATNA	Best Alternative to a Negotiated Agreement
CIS	Commonwealth of Independent States
NATO	North Atlantic Treaty Organization
OSCE	Organization for Security and Co-operation in Europe
RADPAC	Rapport, Analysis, Debate, Propose, Agreement and Close
TP	Turning point
U.S.	United States
UK	United Kingdom
UN	United Nations
USSR	Union of Soviet Socialist Republics
WTO	World Trade Organization
ZOPA	Zone of Possible Agreement

---

## **Introduction**

*"Let us move from the era of confrontation to the era of negotiation." Nixon, Richard M.*

The human being is a negotiator. We devised as a species such an intricate system of balancing everything that more often than not, we fail to recognize how often we use negotiation. From the internal negotiation regarding decisions every individual has to make on a daily basis – like which shirt to wear today or what to eat for breakfast based on the available time and disposition – up to the way the global economy works with continuous negotiations between buyers and sellers, stock exchanges based on buy and sell decisions and so on - every part of our life is filled with some sort of a negotiation<sup>1</sup>.

Generally, some cultures stimulate negotiating between individuals while others see it as an awkward process<sup>2</sup>. For example Arab cultures thrive in negotiations – starting from the streets of Morocco and up to the governmental offices of Saudi Arabia: they would openly negotiate almost anything, always starting with extreme offers and then backing down with generosity. The cultures have also developed accordingly, to the point where the spoken word is more binding than written agreements and insisting on such a written contract can be seen as insulting. But not only Arab culture is prone to negotiate, with Indian and even Central and South American cultures preferring to negotiate when they have the chance<sup>3</sup>.

Yet even the best negotiators can end up on the losing end of the straw during a negotiation if the other party is better prepared to negotiate<sup>4</sup>. Thus in order to maximize the success potential, or even to enable the possibility of success –

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<sup>1</sup> Doye/Love/Hyer (2004): p. AGE-198-1.

<sup>2</sup> Lewis (2006): pp. 2-5; Graham (1985): pp. 82-85.

<sup>3</sup> Gelfand/Brett (2004): pp. 158-172.

<sup>4</sup> Hall (1992): p. 3.

depending on the situation, stake and potential benefits, negotiators would employ the use of tactics and strategies<sup>5</sup>.

## Research Question

Theories regarding the negotiation process like the stage models and episodic phase models<sup>6</sup> seem to generally accept the idea that in order for an agreement to happen either one or multiple parties involved in a negotiation need to shift their initial negotiation stances. This conclusion can be drawn also from a logical standpoint as typically negotiations arise when the parties have disagreements on one or multiple subjects – and in order for an agreement to happen, at least one strategy shift is mandatory.

The objective of this master thesis is precisely the identification of the potential causes or factors that can lead to shifts in the strategies used by the negotiators in international negotiations. In order to be able to identify such causes, a method will be chosen and adapted to identify the strategy shifts and the factors leading to them. The consequences of the shifts will also be analyzed in order to provide additional information that could potentially lead to a broader identification of causes based on past shifts.

There are two reasoning's for choosing the field of international negotiations over the general field of negotiations, one being the need to restrict the domain being analyzed in order to achieve more relevant results and the other being data availability<sup>7</sup>. Thus, the research focused on international negotiations as there is a wealth of instances in which such negotiations are well described and analyzed.

Through the process of case sampling, a number of international negotiation cases exhibiting multiple strategy shifts will be chosen to be investigated. To increase the chances of successfully identifying potential causes for strategy shifts and for data

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<sup>5</sup> Weingart/Hyder/Prietula (1996): p. 1215.

<sup>6</sup> Koszegi/Pesendorfer/Vetschera (2008): p. 388.

<sup>7</sup> Yin (1981): pp. 62-63.

validation and verification, two differing types of cases will be chosen: ones that end up with agreements and ones that remain unsolved.

By analyzing the cases individually using the chosen method, strategy shifts will be found and the causes that determine them identified. Through a cross-case analysis of the generated results, it will be attempted to find correlations between causes, strategy shifts and consequences and based on the findings, propositions will be generated.

## **Structure of the Thesis**

This master thesis is structured in the following way: in Part A, the theoretical background is elaborated. The section contains basic information about different types of negotiations, types of negotiation strategies and the role of emotion, motivation and culture in negotiations. Part B of the thesis elaborates the reasoning behind using case studies to identify the causes that potentially lead to the strategy shifts. Also, the method used to analyze the case studies is developed and adapted to specific prerequisites in the light of the research question.

Part C presents the results and is divided into three sections. The first section begins by exposing the selection of case studies to be analyzed. Following, an extensive analysis of the negotiations is presented, highlighting the causes for the strategy shifts as well as their consequences. Each analysis concludes with a summary of the results as well as a concise dissection on the findings. The second section of the results is allotted to a cross-case analysis that analyzes the data of all cases from multiple points of view by using a comparative method while trying to determine correlations between findings. Based on the correlations, propositions are made and tested for integrity against the rest of the available data. Section three of the results contains a discussion on the findings, while a conclusion based on the new insights together with the limitations but also an outlook for potential future research completes the main part of the thesis.

# Part A

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## Theoretical Background



*"Firmness in support of fundamentals, with flexibility in tactics and methods, is the key to any hope of progress in negotiation."*

Dwight Eisenhower

## **A. Theoretical Background**

The field of negotiations can be very broad and covers political, economic, social and other environments<sup>8</sup> and thus can be very important in modern society. Based on the importance of such a vast domain, a large number of research directions have been created, one of which encompasses negotiation strategies. Yet before exploring the field of negotiation strategies, a few basic notions about negotiations should be brought to attention, the first one being the different types of negotiations.

### **A.1 Classification of negotiations**

The negotiation processes can be classified in a variety of ways. In the following section, a classification based on the number of parties and types of relations involved will be presented. Kersten (2010) divides negotiations in the following categories<sup>9</sup>:

- *bilateral negotiations*: two parties negotiating with each other (e.g. price haggling in the market)
- *multi-bilateral negotiations*: a single party is negotiating with more than one opponent (e.g. one buyer and multiple sellers)
- *multilateral negotiations*: several parties with differing interests are involved (e.g. peace talks between multiple countries)
- *nested negotiations*: negotiations at different levels (e.g. adjusting the ticket prices for the public transportation based on negotiations with the finance ministry on one side and the city representatives on the other).

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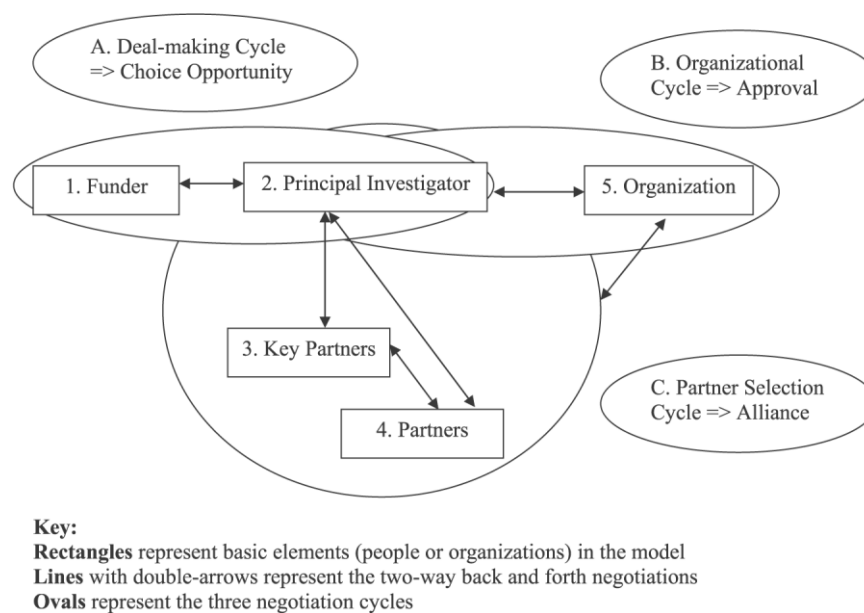
<sup>8</sup> Lim/Benbasat (1992): p. 28.

<sup>9</sup> Kersten (2010).

In addition to the above classification, negotiation experts or negotiation helpers can be used to ease the negotiation process or to help a certain party:

- *mediated negotiation*: using a neutral third party as an alternative to a bilateral negotiation can prevent lockdowns in fast escalating negotiations (e.g. in case of divorce settlements)<sup>10</sup>
- *advocated negotiation*: a skilled negotiator can act as an advocate for one party in a negotiation in an attempt to obtain the most favorable result for that party<sup>11</sup> (e.g. during the merger of two companies, the director of one of the initial companies employs an advocate to obtain the highest number of shares from the new company).

The various types of negotiations discussed above can be represented graphically as shown below:



**Figure A-1: An example for different types of negotiations<sup>12</sup>**

In the above figure, all the lines with arrows on both ends symbolize a bilateral negotiation, the Principal Investigator, the Key Partners and the Partners find themselves in a multi-bilateral negotiation while the Principal Investigator in regards to group C is in a nested negotiation. Because the Organization not only negotiates with the Principal Investigator but also with all entities in group C, it can

<sup>10</sup> Kressel/Deutsch/Jaffe (1977): p. 9.

<sup>11</sup> Abramson (2005): pp. 107-109.

<sup>12</sup> Diagram representing different types of negotiations with different parties. Retrieved April 26, 2013 from <http://www.emeraldinsight.com>



be concluded that the Organization finds itself in a multilateral negotiation. The negotiation picture can be refined even more if the Principal Investigator is considered a mediator or an advocate for the funder.

## A.2 Types of negotiations

The various types of strategies and tactics that will be explained in this chapter will be sorted according to types of negotiations in which they most commonly appear<sup>13</sup>. In their seminal work, Walton and McKersie<sup>14</sup> identified four types of negotiations: distributive bargaining, integrative bargaining, attitudinal structuring and intraorganizational bargaining.

From the four, the two types that are used most frequently are the distributive or hard bargaining and the integrative or soft bargaining approaches. There are also other types of classifications, like lose-lose negotiations<sup>15</sup> that will be analyzed later. Generally, multi-party negotiations will take place with experienced bargainers that will try to prevent at all costs a breakdown in the negotiation process, usually by switching tactics and negotiation styles.

### A.2.1 *The distributive negotiation*

The distributive negotiation<sup>16</sup> is comprised of a set of techniques that have as goal achieving the best potential outcome while compromising the least. They are often perceived as a sport, much like haggling in a market where each side adopts an extreme starting position knowing that it will be not accepted by the counterpart. Individuals who use this tactic will use a combination of guile, bluffing and brinkmanship and will typically ignore the interdependencies between the different negotiating objects. Such tactics leave from the assumption that the negotiated element is fixed in nature<sup>17</sup> and thus no better result can be obtained than owning as much as possible from the said negotiated element.

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<sup>13</sup> Although this does not mean by any means that these tactics and strategies cannot appear also during other negotiation types.

<sup>14</sup> Walton/McKersie (1965): p.4.

<sup>15</sup> Thompson/Hrebec (1996): pp. 396-398.

<sup>16</sup> Also known as positional bargaining, competitive orientation or win-lose negotiation style.

<sup>17</sup> Called the "fixed pie" assumption.

Such tactics bear a high risk of lockdowns and even breakdowns in negotiations when the parties refuse to cede anymore and do not care much about the future relationships between the negotiating partners<sup>18,19</sup>. A study conducted by Barry and Friedman<sup>20</sup> shows that extraversion and agreeableness could be potential liabilities for negotiators in distributive scenarios. While extraversion has a particularly negative effect in the beginning of such negotiations<sup>21</sup>, later on becoming less of a factor, agreeability can be very costly for negotiators with low aspirations.

### **Tactics associated with the distributive bargaining style**

Tactics in the context of negotiations are defined as: „*the detailed methods employed by negotiators to gain an advantage over other parties. Tactics are often deceptive and manipulative and are used to fulfill one party's goals and objectives - often to the detriment of the other negotiation parties. This makes most tactics in use today 'win-lose' by nature*“<sup>22</sup>. What the above definition subtly states is that tactics work because they influence the perception of the negotiators. Perceptions<sup>23</sup> as well as emotions are very strong tools as they influence the decision-making of the negotiators. These topics will be approached later on in this chapter.

While the tactics *per se* are not the main part or the focus of this thesis, they are the building blocks of the more complex strategies. Thus explaining a few of them could be useful in better understanding the analyzed case studies. One of them is *anchoring* – a salient value which is prominent but not necessarily pertinent to the choice of decision alternatives<sup>24</sup>. Another, *framing* – is used to shape the perception on people and events by focusing attention on some aspects while excluding other relevant ones; skilled negotiators will try to frame the situation in terms of gains and highlight the opportunities for success, describing the

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<sup>18</sup> Brazeal (2009): p. 3.

<sup>19</sup> A typical scenario here is the case in which the negotiating partners do not have a continuous relationship nor are likely to have one in the future.

<sup>20</sup> Barry/Friedman (1998): pp. 346-354.

<sup>21</sup> Because of the anchoring possibility – a tactic described later on.

<sup>22</sup> Negotiation tactics definition. Retrieved April 23, 2013 from <http://www.negotiations.com>

<sup>23</sup> De Dreu/Koole/Steinel (2000): pp. 977-978.

<sup>24</sup> Ritov (1996): p. 10.

counterparts as winners rather than losers<sup>25</sup>. *Entrapment* is described as a form of escalation whereby parties involved in an interactive, non-violent decision-making process with others with whom they have both common and conflicting interests find themselves unable to escape from the costs and investments they have already made<sup>26</sup>. *Bogey* is a tactic where a negotiator pretends an issue is important when in fact it is not and will only work well if the chosen issue is important for the counterpart. Later on this issue can be traded as a concession for another of actual importance<sup>27</sup>. And lastly, *the nibble* – is a tactic used to get small concessions at the end of the negotiations without negotiating; the logic behind this tactic is that when the deal is almost complete, one party might agree to one last compromise just to see the negotiations finalized<sup>28</sup>.

### A.2.2 *The integrative negotiation*

This type of negotiation aims at creating value during the course of the negotiation. Also called the principled, cooperative, win-win or interest-based negotiation, it uses tactics and strategies that bear the role of increasing the quality of the outcomes as well as increasing the chances of reaching an agreement.

The underlying negotiation principle in this case is that the negotiation parties do not have the exact same goals and the different value orientations towards the various negotiation items allows them to maximize their own outcome without hurting the outcome of the other party<sup>29</sup>. Indeed for such an approach, a certain amount of cooperation should be present. If a relationship between parties is not present from the beginning, it is very likely that it will be created during the negotiations.

This concept is vividly represented as a comparison to the distributive approach, through the following sketch:

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<sup>25</sup> Dewulf et al. (2009): pp. 155-156.

<sup>26</sup> Meerts (2005): p. 103.

<sup>27</sup> Howze (2002): s. 8.

<sup>28</sup> Howze (2002): s. 9.

<sup>29</sup> Brazeal (2009): p. 3.

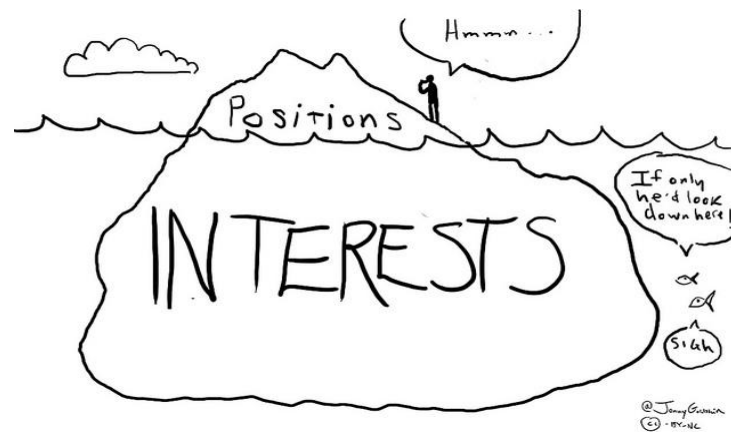


Figure A-2: The potential interests underlying a negotiation can be very complex<sup>30</sup>

This shows that the parties will generally have to come up with innovative solutions for mutual gains, employ problem-solving attitudes and approach the negotiation as a shared problem as opposed to a personalized battle. A study published by Barry and Friedman shows that interestingly, extraversion and agreeability have no effect on the outcomes, while the cognitive ability of both parties positively influences the result of a negotiation in an integrative approach<sup>31</sup>.

There are other established negotiation models that help develop a healthy and long-term negotiation between parties like the RADPAC model for the corporate environment. This model consists of a series of six phases that increase the chances of a successful negotiation<sup>32</sup>. These are, in order: *rappport*, *analysis*, *debate*, *propose agreement* and *close*. While during the *rappport* a relationship between parties should be established and ideally both parties should become comfortable with each other, during the *analysis* each group should investigate the needs and interests of the opposing party – either by asking questions or by researching data. During the *debate* phase, both parties should discuss what they need, pros and cons of their ideas and find a common ground with the others while trying to convince the negotiating partners of their own position. In the next phase, the *proposals* should be made, making sure to include a negotiation package that is based on the previous debates and mindful to the needs and interests of the other party. The proposal stage precedes the *agreement* phase, where the groups should

<sup>30</sup> Joney Gacmin – Relative correlation between the positions chosen during a negotiations and personal interests. Retrieved on April 26, 2013 from <http://pagalguy.s3.amazonaws.com>

<sup>31</sup> Barry/Friedman (1998): pp. 354-357.

<sup>32</sup> Jeremovič (2011).

discuss the negotiation packages proposed and harmonizing the results. Finally the *closing* phase is represented by the signing of the agreements after they have been drafted and the parties leave the negotiation table. Such a model is typically used for multi session negotiations, where both parties can have the time necessary to draft proposals and research the necessary data. Even if the above model seems to be an idealized scenario compared to the more practical approaches of different strategies, it serves as a good reference to follow.

### **Tactics associated with the integrative bargaining style**

There are some basic principles or tactics that the parties should adhere to in such a type of negotiation based on the recommendations of Doye et al. (2004)<sup>33</sup>: (1) separate the people from the problem, (2) focus on interests rather than positions, (3) generate a variety of options before deciding what to do and (4) base your result on some objective standard. Based on such principles, other authors built corresponding tactics. Thompson and Leonardelli postulate that value-creating tactics like (1) asking diagnostic questions, (2) expanding the issues on the table, (3) revealing information about interests and priorities, (4) making multiple offers of equivalent value simultaneously, (5) searching for post-settlement settlements and (6) leveraging differences through contingency plans offer good ways to address the other party<sup>34</sup>. By *asking diagnostic questions*, a negotiator accomplishes two goals, first to acquire information about where the pie can be expanded and secondly to show concern about the other parties interests. The *expansion of the issues on the table* tactic enables a different mindset: instead of being fixed on a single issue, both parties could brainstorm as many issues as possible so that they can conduct tradeoffs on the issues they deem less important. The *tactic of revealing information about own interests and priorities* insures that the other party does not end up in a distributive scenario because of perception.

Moving on to the tactic of *making multiple offers of equivalent value simultaneously* – by offering multiple packages of the same value it will show the other party that the negotiator is flexible whilst not making any concessions on the

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<sup>33</sup> Doye/Love/Hyer (2004): p. AGE-198-3.

<sup>34</sup> Thompson/Leonardelli (2004): pp. 5-6.

key points. Such a tactic covers up to a degree the highest value items of a party by concealing them in a package deal.

The last two tactics are used more rarely, yet they are very effective if put in the right context. One of them is *searching for post-settlement deals*. Typically both parties have the chance to further improve their individual outcome of the negotiations without hurting the other side and also further strengthening the relationship between them for future negotiations. The other tactic, namely *leveraging differences via contingency contracts* is used for almost unsolvable issues where the parties risk going into a distributive approach. Contingency contracts based on future results might be the solution (e.g. for a car supplier that rents the space from the manufacturer, certain goals will have to be met to receive performance payments. While the manufacturer is not yet certain on the supplier's capabilities, it would like to keep the performance payments low, while the supplier would like to get as much as possible from the start. The solution in this case could be a contingency contract, where performance payments vary according to the performance of the supplier).

Interestingly, this is not the most used negotiation type<sup>35</sup>, even if it features the most advantages for both parties like developing long-term relationships, having a relaxed negotiation atmosphere and good quality and efficiency of the outcomes.

### A.2.3 *The lose-lose negotiation*

During such a negotiation type as the name already suggests, neither of the parties come out with a benefit and the negotiation outcome is zero. Typically, hard negotiators often end up in lose-lose scenarios – because their lack of flexibility and concessions. In the end the parties are worse off than they otherwise might have been. A study conducted by Thompson and Leonardelli shows that up to 20% of all negotiations end up in lose-lose situations<sup>36</sup>. In such a scenario, de-escalating tactics should be used in order to reduce the emotional response of the opposing

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<sup>35</sup> Barry/Friedman (1998): p. 348.

<sup>36</sup> Thompson/Leonardelli (2004): pp. 2-3.

party. Cognitive approaches based on logic, integrative tactics and concessions will reduce the risk of a negotiation ending up in the “dead zone”.

In order to further the understanding about the negotiation strategies, an analysis on a couple of the most important factors that lead to the choosing of specific strategies and tactics by the negotiators will be described further.

### **A.3 Emotions in negotiations**

Skilled negotiators will use emotions as an effective influencing tool. Knowing the personalities, cultural backgrounds and negotiator types could provide an edge in decision-making. While most of the research done in this area covers intrapersonal effects of emotions on the behavior of the negotiator, later studies investigated the effects of intrapersonal effects of emotions in negotiations<sup>37</sup>.

Dispositional affects<sup>38</sup> influence the various stages of the negotiation process. Thus a positive affect will increase the concession making, stimulate creative problem solving, foster joint gains and increase the use of cooperative negotiation strategies. While a negative affect will decrease joint gains, promote the rejection of ultimatum offers, increase the use of competitive strategies and decrease the desire to work together in the future<sup>39</sup>.

When analyzing intrapersonal emotions and their result on negotiations, Van Kleef et al. showed that in negotiations with angry opponents, the opposing negotiators will lower their demands and make larger concessions than in negotiations where the opponents were in a happy mood. Further solidifying the findings, negotiations where both parties were emotionally neutral achieved intermediate results. The same study shows that the negotiators use the tracking tactic as a way to determine the limits of the other party. Negotiators used the opponents' emotions to detect the location of their limits and used the information as grounds for their counteroffers<sup>40</sup>.

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<sup>37</sup> Van Kleef/De Dreu/Manstead (2003): p. 3.

<sup>38</sup> For a better understanding of the term I recommend the article: Dispositional Affect and Job Satisfaction: A Review and Theoretical Extension (2001) by T. A. Judge and R. J. Larsen.

<sup>39</sup> Van Kleef/De Dreu/Manstead (2003): p. 3.

<sup>40</sup> Van Kleef/De Dreu/Manstead (2002): pp. 7-14.

### A.3.1 *Strategic display of emotion in negotiations*

The above research opens the door to yet another kind of strategy: the strategic display of emotion in order to sway the course of a negotiation. A study done by Kopelman et al.<sup>41</sup> illustrates the advantages of strategically displaying emotions: (1) such emotions may convey information and influence strategic information processing (e.g. by conveying positive emotion while talking about a specific issue, the negotiator may infer to the other party that this issue is of vital importance to himself, opening the door to some potential integrative tactics) and (2) emotions may serve as means of persuasion and thus act as a manipulative tactic (e.g. strategic emotional display by the focal negotiator may engender an emotional reaction in the target negotiator that leads him to concede on a negotiable issue).

Even with such evidence, there is some research done that shows the negotiators' emotions do not necessarily affect the negotiation process, but it is a joint combination of the cognitive ability to recognize such tactics and motivation that determines how much a negotiator will be influenced by emotion<sup>42</sup>.

## A.4 **Motivation in negotiations**

Motivation is a strong factor in negotiations. Barry and Friedman show that both extraversion and agreeability are serious liabilities if the negotiators have low aspirations and low expectations regarding a negotiation<sup>43</sup>.

Moreover, the higher the motivation of a negotiator, the more likely is that he will adopt a rational bargaining style. Research shows that people engage in more effortful, systematic screening of the persuasive message when they feel the need to be accurate. The need for accuracy is even higher when the topic has personal consequences or when the negotiator will be held accountable for their own decisions<sup>44</sup>.

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<sup>41</sup> Kopelman/Rosette/Thompson (2006): pp. 82-83.

<sup>42</sup> As an example: Albarracin/Kumkale (2003): pp. 467-468.

<sup>43</sup> Barry/Friedman (1998): p. 353.

<sup>44</sup> De Dreu/Koole/Steinel (2000): p. 977.



Typically, individuals enter negotiations with fixed-pie perceptions and in order to revise their own perceptions they would have to resort to their cognitive ability. De Dreu et al. shows that the information exchange, as part of the social motivation, might not be enough for a negotiator to revise his original perceptions and that a certain level of nondirectional motivation<sup>45</sup> is necessary for someone to revise their own fixed-pie perceptions. Moreover, the variation in nondirectional motivation affects not only perceptions but also the quality of the negotiated items<sup>46</sup>.

## A.5 Cultural aspects of negotiations

One of the predominant factors in choosing strategies is the culture from which each negotiator comes. The cultural background is very important in determining how the negotiations will typically take place. The values and norms, but also even basic assumptions and beliefs, can influence the way negotiators will act to different stimuli. Schein's model<sup>47</sup> brings valuable insights on what each person is aware and less aware about its own culture, way of thinking and interaction mode:

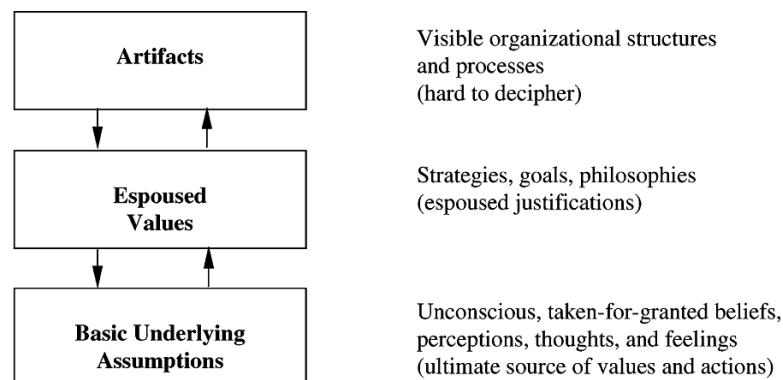


Figure A-3: Schein's model of organizational culture<sup>48</sup>

The cultural background affects more than just the way negotiators respond, but also play an important role in intercultural negotiations. Predominantly, intercultural negotiations use fewer problem-solving and cooperative tactics than intracultural negotiations. Moreover, the achieved profits seem consistently lower in intercultural negotiations<sup>49</sup>.

<sup>45</sup> It is defined as motivation to acquire knowledge *per se*, rather than a specific type of knowledge – derived from Motivational Science: Social and Personality Perspectives (2000) by E. T. Higgins and A. W. Kruglanski, p. 304.

<sup>46</sup> De Dreu/Koole/Steinel (2000): p. 978.

<sup>47</sup> As described in: Vroom/Von Solms (2004): pp. 195-196.

<sup>48</sup> Schein (1992): p. 17

<sup>49</sup> Gelfand (2008): pp. 89-91.

## A.6 The interdependence of factors

Only a few strategies, tactics and models were described in this chapter. This only demonstrates how vast the negotiations research field is even if only considering the various strategies and their motives. Considering the variety of factors that take into consideration the generation of the strategies, various authors have tried to corroborate multiple factors in models of their own. Such models, like the dual-concern model or the conflict behavior model try to simplify the factors by predicting what type of strategy the negotiators might follow.

In the dual-concern model developed by Carnevale and Pruitt tries to predict the strategies that the negotiators might follow based on their basic attitude towards the situation. In this case four different behavioral models can be distinguished that take into account in various amounts the negotiator's concerns about his own outcome as well as the concerns about the outcome for the other party<sup>50</sup>. The conflict behavior model builds upon the dual concern model: there are five specific negotiating modes (competing, collaborating, compromising, avoiding and accommodating) and multiple interpersonal dimensions (assertiveness, outcome importance, cooperativeness and relationship)<sup>51</sup>.

While both models try to postulate predictions based on the parties' negotiation styles, they are both criticized by scientists as they can only describe generalized approaches. The negotiation process is still a major source of research, as it depends on a plethora of factors and relationships that are still not fully comprehended. From the basic emotions up to intrinsic motivations, culture and self-actualization needs, the strategies employed by negotiators can be as diverse as the human genome. In such an environment, analyzing strategy shifts during negotiations to determine potential causes is considerably difficult.

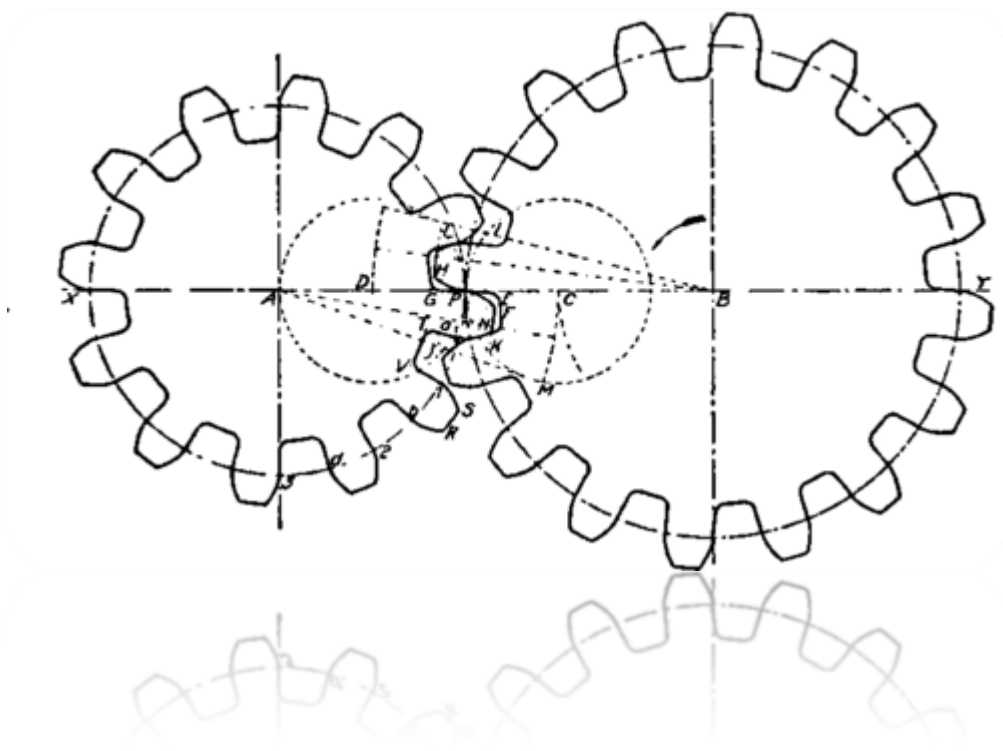
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<sup>50</sup> Carnevale/Pruitt (1992): pp. 539-540.

<sup>51</sup> Bartos/Wehr (2002): pp. 11-25.

## Part B

### Method



*"Sometimes one pays most for the things one gets for nothing."*

Albert Einstein

## B. Method

While the previous chapter analyzed the main strategies and factors that can influence negotiations, the question arises on how to analyze the data in order to keep a maximum degree of objectivity while still getting as much information as possible. A study done by Barry et al. (2004) shows that (1) emotions exhibited in lab studies can be less authentic, (2) the negotiation styles are colder, less prone to emotional attachment and (3) the impact of choice might be of importance as individuals tend to choose their negotiation partners in real-life scenarios as opposed to laboratory experiments<sup>52</sup>.

In the last years, the increase in the usage of such “historic approaches” can be traced to the social and physical sciences in modeling and assessing complex casual relations such as tipping points, multiple interactions effects, disproportionate feedback loops and many others. Case studies, when used in the development of theories, are a good choice when exploring many of the aspects of complex causality<sup>53</sup>.

Other alternative methods of research include the generation of socio-technical design experiments, laboratory and field tests and interviews<sup>54</sup>. Considering the chosen research area, namely the international negotiations, the first two methods would come into the range of problems suggested by Barry et al. (2005), while the field tests would be impossible to follow due to the restricted access during ongoing international negotiations. The interview method was considered but it posed a series of insurmountable difficulties: (1) finding people that were part of an international negotiation, (2) identifying their availability to talk about the

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<sup>52</sup> Barry/Fulmer/Van Kleef (2004): pp. 86-89.

<sup>53</sup> George/Bennett (2005): pp. 8-10.

<sup>54</sup> Kaplan/Duchon (1988): pp. 573-576.

negotiations (due to contract confidentiality), (3) finding one of the counterparts to interview as well in order to keep a minimum of objectivity on the course of events and lastly (4) finding more such pairs that were part of different international negotiations to address the issue of diversity. Based on the above considerations and the size and scope of this thesis, a case study approach has been selected.

Although using case studies to theorize potential shift causes in negotiations can be extremely helpful, there are some impediments when using this method of analysis. As Halinen and Törnroos (2005) describe, there are some challenges when using case studies such as (1) boundary problems, (2) complexity issues, (3) time issues and (4) the issue of case comparisons<sup>55</sup>.

The boundary issues refer to the sometimes fine line between the actual negotiation process and the context of negotiations. This is more evident in cases in which negotiations take place in multiple rounds across multiple channels and with different parties. While generally negotiations are analyzed in their context, as the boundary conditions hold most of the time the key to winning or losing an agreement, for the purposes of comparability – such delimitation between negotiation and context is important.

Regarding complexity issues, case studies tend to be very rich in information and consist of a variety of interactions. Having multiple simultaneous interactions between parties increases the difficulty of analyzing the boundary conditions for every negotiation round.

Time issues can be important, especially in regard to negotiations. The timely development of situations can sway the outcome of the negotiations, but it is not mandatory<sup>56</sup>. If both parties are not prepared to concede, potentially because the issues being negotiated are not time constrained, then the time issue loses importance in front of the ever increasing complexity of the negotiations.

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<sup>55</sup> Adapted from Halinen/Törnroos (2005): pp. 1287-1288.

<sup>56</sup> De Dreu (2003): pp. 290-291.

The comparability problem is especially important for case studies that are aiming at generating theoretical concepts. The theory-generating research emphasizes the potential, usefulness and even necessity of cross-case comparability. By comparing cases, a range of generality of a finding and potential conditions under which such finding might occur can be postulated. Yet such issue seems very complex as every case study is unique and therefore difficult to compare to others<sup>57</sup>.

In continuation of this section, the method description will follow the basic phases of comparative case study analysis as described by Yin (2009)<sup>58</sup>: case selection or sampling, individual case analysis, the cross case analysis and collecting results.

## B.1 Sampling methods for case studies

Eisenhardt postulates: “while the cases may be chosen randomly, random selection is neither necessary, nor even preferable”<sup>59</sup>. This shows the importance of choosing suitable cases to integrate in the research, based on the research question at hand.

There are two main approaches in the case study research: the quasi-natural sciences or positivistic approach that emphasizes experimental methods, hypothesis testing, objectivity, detachment and isolation of elements for investigation and a quasi-judicial or naturalistic approach that emphasizes the non-experimental methods and is used for hypothesis seeking approaches. This naturalistic approach focuses on subjectivity, participation and on the importance of context in shaping behavior<sup>60</sup>. As a result, it would seem that for the generation of theoretical hypotheses historical documented cases prove to be the best alternative.

In terms of methods used to find the respective case studies, the purposive sampling method was chosen. Curtis et al. (2000) iterates the most important principles when using the sampling method: (1) the samples are not based on statistical probabilities but on other, purposive or theoretical criteria, (2) samples

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<sup>57</sup> Halinen/Törnroos (2005): p. 1288.

<sup>58</sup> Yin (2009): pp. 25-39.

<sup>59</sup> Eisenhardt (1989): p. 537.

<sup>60</sup> Gillham (2000): p. 8.

are small and each one generates a large amount of information, (3) the selection of samples is not pre-specified, instead it is sequential, (4) sample selection is conceptually driven either by a theoretical framework or by an evolving theory which is derived inductively from the data, (5) the research should be reflexive and explicit about the rationale of case selection and (6) qualitative samples are designed to make analytical and not statistical generalizations on the analyzed hypotheses<sup>61</sup>.

Eisenhardt (1989) goes even further and shows that multiple cases within each category enhance the generalizability of the findings by allowing the hypotheses to be tested on multiple cases. As an addition to the previous solution, a deliberate sampling plan can also include polar cases within the same category<sup>62</sup>. This allows testing of the hypotheses not only in representative case studies but can also test the logic stability of the constructs in cases that do not exhibit the researched specific behavior. It should be understood however, that the case selection represents just a small fraction of the cases present in each of their domains and as such the generalizability of the results cannot be warranted just through this selection.

Based on the work of Druckman (2001), Adair and Brett (2005) and the previous considerations, the framework for finding suitable case studies was made. A set of initial criteria was created based on the initial considerations and using these, a prospective case search will be conducted. During the search, due to the sequential case findings and development of the theoretical framework, additional criteria can be added to the requirements that the case studies had to exhibit.

In order to test the logical constructs of the propositions that will be generated and according to the views expressed by Eisenhardt (1989) a second case research will be conducted in order to find polar case studies.

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<sup>61</sup> Curtis/Gesler/Smith/Washburn (2000): p. 1002.

<sup>62</sup> Eisenhardt (1989): p. 537.

## B.2 Method for within-case analysis

The next research issue is finding a method of analyzing the case studies that will on one hand be analytical enough to yield good qualitative results that are comparable and on the other hand to be flexible enough in allowing adaptation on a case-by-case basis. Research methods like the content analysis<sup>63</sup> and discourse analysis<sup>64</sup> offer great qualitative results, yet because the analyzed cases are descriptive in nature and not transcriptive such approaches are not applicable directly. It becomes clear that a mixed analysis method is necessary to overcome the challenges posed by these cases. Yin (1981) addresses the issues of data gathering from a case study by noting that in order to prevent data overpopulation by trying to analyze everything presented in a case, the qualitative data obtained should reflect only the 'meaningful events'<sup>65</sup>.

Another approach consists of the phase analysis. This is based on the idea that social behavior can be meaningfully described in larger units (episodes), such episodes pertain to larger social events and process dynamics shape the phase structure of such social events<sup>66</sup> and is used to identify patterns of communication and their sequential development.

### B.2.1 *Stage model and episodic phase model*

As a result of Holmes's (1992) questions related to how can a phase be identified and how can phase transitions be recognized, the phase research came up with two solutions, namely the stage models and the episodic models<sup>67</sup>. While the stage model postulates that the negotiators move along a pre-defined, fixed-length process without the possibility to return to a previous stage, in the episodic model specific *turning points* act as episode boundaries and these episodes are neither fixed in length or sequence.

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<sup>63</sup> Mayring (2000); Srnka/Koeszegi (2007).

<sup>64</sup> Wodak/Meyer (2009).

<sup>65</sup> Yin (1981): pp. 60-61.

<sup>66</sup> Holmes/Poole (1991) in Koszegi/Pesendorfer/Vetschera (2008): p. 386.

<sup>67</sup> Koszegi/Pesendorfer/Vetschera (2008): p. 388.



Adair and Brett (2005) postulate that in the stage model in the beginning the negotiators try to position themselves and establish a position of power, this stage being called *relational positioning*. Next stage, namely *identifying the problem* – is dominated by the information exchange between negotiators regarding the issues and their underlying interests. The third stage, namely *generating the solutions* is where the shift from distributive to integrative negotiations happens and the process would end in a fourth stage – *reaching an agreement*. This phase is characterized by both parties trying to reduce the complexity of the problem by eliminating alternatives<sup>68</sup>.

In the episodic approach, the phases describe in order, an *avoiding behavior* consisting of acts that demonstrate denial or equivocation followed by *distributive negotiations*, then *neutral behavior* consisting of conciliatory acts and problem-solving judgments and finally *integrative negotiations* that lead to conflict solution. The model also describes chaotic phases that are described as non coherent communication acts. Such phases are marked as null phases<sup>69</sup>. The figure below illustrates both stage and episodic stage models:

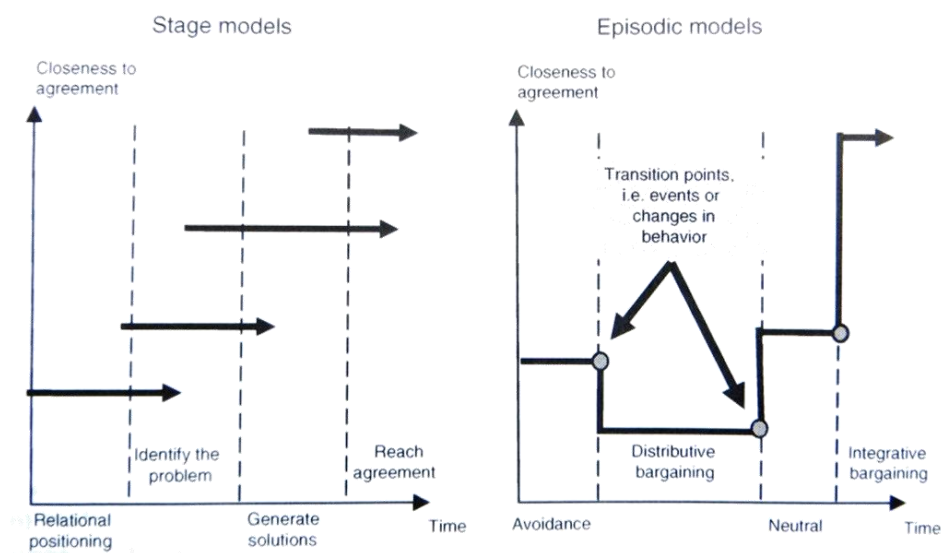


Figure B-1: Phases of the Episodic Phase Model (Koeszegi et al. 2008, p. 388)

Koeszegi et al. (2008) describes the stage model as less complex but problematic for two reasons: the impossibility (1) to determine alternative or multiple sequence paths and (2) to identify between group differences in length and number of

<sup>68</sup> Adair/Brett (2005): pp. 35-37.

<sup>69</sup> Koszegi/Pesendorfer/Vetschera (2008): pp. 389-390.

phases<sup>70</sup>. Considering that the episodic model contains a more flexible approach in terms of the phases and it relies on turning points to signal phase changes, it would help more in finding the potential causes that lead to strategy shifts.

A more detailed approach on the definition of strategy shifts is necessary. Druckman (2001) refines the concept by defining strategy shifts or process departures<sup>71</sup> as key events such as resolving an impasse, signing a framework agreement, developing formulas and then bargaining over details or absorbing external events by changing the evaluation of the terms<sup>72</sup>. Examples of such strategy shifts can be found pretty frequently: for example during a domestic argument, both partners start by using logical arguments for their positions until one of them has enough of the conversation and switches to accusations or irregular behavior – the event is characterized by a strategy shift from an integrative approach towards the conflict to a distributive approach. Naturally, shifts in both directions can occur – interesting for this research are not only the strategy shifts themselves but also the causes leading up to them and the consequences to potentially determine a connection with future strategy shifts as the main focus of this master thesis.

### B.2.2 *Strategy shift analysis*

For the identification of transition points or strategy shifts, methods like the gamma statistics are used. Yet, as previously mentioned such an approach is applicable only for transcription-type cases and not evocative cases. Druckman (2001) solves this issue by using a form of process tracing. The framework used to analyze strategy shifts uses three variables: precipitants<sup>73</sup>, shifts in the process and consequences<sup>74</sup>:

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<sup>70</sup> Koszegi/Pesendorfer/Vetschera (2008): p. 390.

<sup>71</sup> In the literature as well as in this thesis, the concepts of strategy shifts, process departures and turning points can be used interchangeably. For consistency purposes, the turning points in this thesis will be called strategy shifts in most instances. Turning points will be treated using Druckman's approach and not as literally 'turning' points but rather strategy shifts.

<sup>72</sup> Druckman (2001): p. 520.

<sup>73</sup> The term precipitant is starting to become more common in the negotiations literature. Negotiation precipitants can be found for example in the works of Chasek (2001), Hall (2007) or Llorente et al. (2013).

<sup>74</sup> Adapted from Druckman (2001): pp. 526-527.

The precipitants are distinguished between (1) procedural, (2) substantive or (3) external factors. While the procedural factors include decisions to change the structure or format of the talks, including exposure to media and venue, substantive factors consist mainly of new ideas and concepts, including the way proposals are packaged and new frameworks for discussing the issues. External factors are categorized as policy and leadership changes in some of the countries involved in the negotiations or further even, effects of interventions of non-negotiating parties on the talks.

The strategy shifts or turning points can be more or less abrupt. While some abrupt shifts can lead to temporary deadlocks, others can be as gentle as moving from one proposal to another. The decision on how abrupt a strategy shift is, is subjective and dependant on the precipitants as well as the type of change from the previous strategy shifts. Here can also be included sudden changes as from proposing ideas stage to a finalizing stage. The strategy shifts represent the decisions one or all the parties involved take regarding a precipitant.

Lastly the consequences can be positive or negative, depending on the turn of events that follow the decisions taken by the participants. Such escalations and de-escalations can be traced even further in the next strategy shift, as a measure on how effective the precipitant was. Positive consequences take the negotiators closer to an agreement while negative consequences would create even more rifts between them. A third possibility, namely the neutral consequences, was added during the course of the analysis in order to complete the contextual background of the analysis. The neutral consequences affect third parties not connected with the negotiation process and that have no influence on the negotiation partners or the outcome.

A few short fragments have been chosen for exemplification purposes<sup>75</sup>: “Consequently, the United States appeared to prepare for a protracted crisis while still attempting a breakthrough. U.S. officials made it clear that the six to ten passengers removed from the plane in Beirut had to be included in any agreement

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<sup>75</sup> Extracted from Case 333 - Negotiating with Terrorists: TWA Flight 847 by Snyder, R. A. (1994): pp. 7-10.

that involved release of hostages and prisoners (substantive precipitant) [...] Some of this was the result of Berri's announcement "If Israel does not release [the Atlit prisoners], I would say to the kidnappers, 'Now you take the people and do what you want.'" (media exposure, procedural precipitant) [...] Pressure came also from the hostages' families (external precipitant). [...] The Israeli government [...] issued a statement that foreclosed the Red Cross option U.S. officials were working on. (strategy shift). [...] Thus U.S. officials continued to search for a formula behind the scenes, (positive consequence) and, publicly, they became tougher (negative consequence). [...] Pan Am soon announced that it would no longer stop in the Lebanese capital (neutral consequence as it does not influence the negotiations in any way)."

Based on the above considerations, the within-case analysis will use a standardized analysis method in order to extract as much information as possible from the cases themselves while keeping the results comparable in nature. Each analysis will contain the following constitutive parts: (1) a short resume of the actual negotiations together with key context events to create an overview on the whole case, (2) a chronologic strategy shift analysis, showing the precipitants, shifts and identified consequences and (3) a summary containing the results of the analysis as well as tactics identification and their success based on the identified consequences.

For further standardization, a few general rules were used during the analysis. In order to clearly delimitate the strategy shifts they were divided into sections. When two consecutive strategy shifts of the same party were detected exhibiting the same change in strategy at two different moments in time, both strategy shifts were included in the same section. Also, if the same precipitant is present for more than one strategy shift it will be counted only if it is part of a different section. The same rule also applies to consequences with a slight modification – the same consequence but for different parties will be counted once per party and per section.

### B.3 Cross-case analysis

By building a chronology of the negotiation using the above framework, a complete traceable map for each negotiation is being generated. The major advantage of such method is that the results are extracted from unique individual cases and by using a standard set of concepts the data becomes comparable to other cases. This method allows for: (1) the identification of patterns and validity tests, (2) research on the effects of strategies (represented through precipitants and strategy shifts) performed on the boundary conditions, (3) finding potential correlations between the different precipitants and the types of cases and (4) finding correlations between the types of precipitants and the type of strategy shifts they enable.

Yin (1981) notes that for successful cross-case evidence to be analyzed, two conditions have to be met: (1) the isolated factors discovered in the particular cases must be noteworthy of substantive attention and (2) the number of case studies should be large enough to warrant cross-case tabulations. With these conditions present, cross-case comparisons can be made by establishing cross-case patterns for single factors<sup>76</sup>.

Based on Yin (1981), cross-tabulations can augment the result of the analysis. This allows for comparisons based on the types of precipitants, strategy shift types, consequences dependent on the negotiation issues (security or political) and potentially more. On one hand the cross-tabulations can shed new light on some of the propositions generated and on the other hand can provide new insights not clearly visible from the textual data itself. More clarity and certainty regarding the generation of propositions can be obtained by getting additional results of the same kind.

All formulated propositions will undergo a process of plausibility checking. This can be done using either logical arguments, simple empirical proof like the occurrence in a case study or more critical possibilities like a critical comparative analysis of

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<sup>76</sup> Yin (1981): pp. 62-63.

multiple cases<sup>77</sup>. Although for the identification of cause research like in the case of this thesis, using a too critical approach can be potentially damaging to the process of proposition generation. Kaplan and Duchon (1988) suggest that immersing in the context is the hallmark of qualitative research and for the construct of the research the interpretative perspective is the key<sup>78</sup>. Another key aspect to take into consideration is the utility and practicality of the propositions. The way of formulating the propositions can ultimately decide their applicability<sup>79</sup>.

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<sup>77</sup> Eckstein (2000): pp. 140-143.

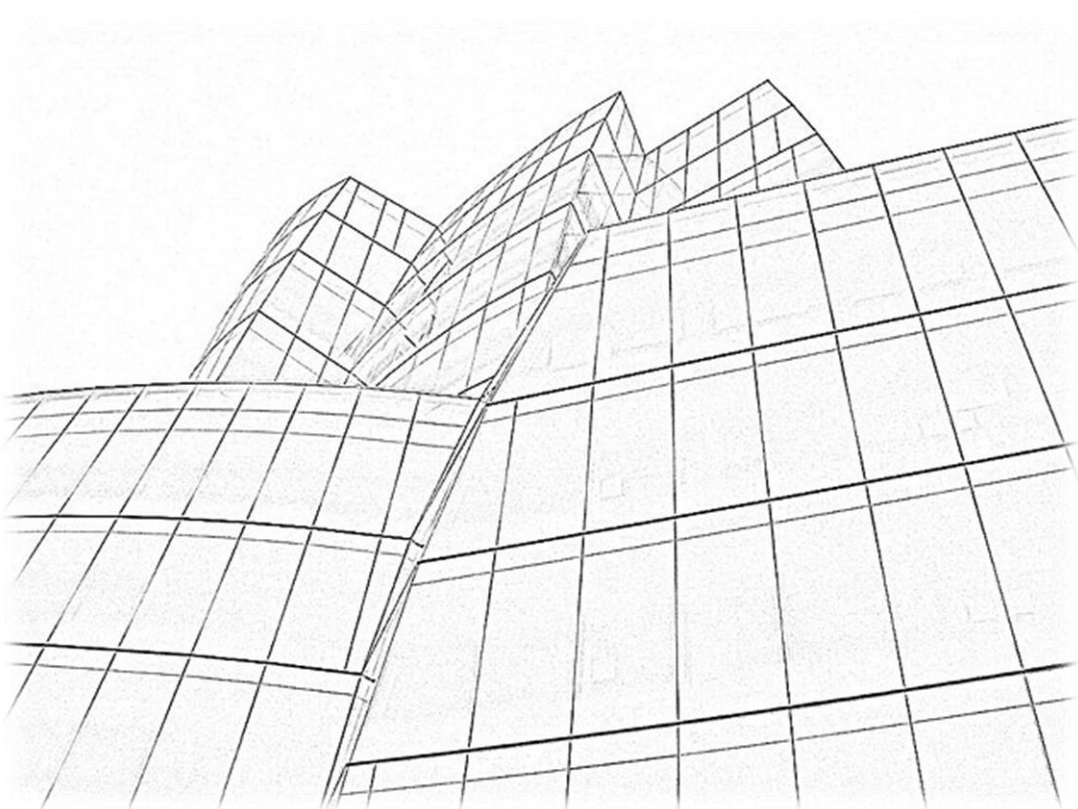
<sup>78</sup> Kaplan/Duchon (1988): p. 572.

<sup>79</sup> Corley/Gioia (2011): pp. 16-18.

# Part C

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## Results



*"Let us never negotiate out of fear. But let us never fear to negotiate."*

John F. Kennedy

## C. Results

### C.1 Within-case analysis

Based on the considerations presented in the previous chapter, a set of initial criteria was chosen and a prospective search was undertaken. During the search, due to the sequential case findings and the refinement of the direction of the search, additional criteria were added to the requirements that the case studies had to possess.

#### C.1.1 *Selection of case studies*

As Yin (1981) states that as a research strategy, the case studies attempt to examine a contemporary phenomenon in its real-life context especially when the boundaries between phenomenon and context are not clearly evident<sup>80</sup>. Thus, in an attempt to identify the causes of strategy shifts successfully, a larger number of contexts needed to be chosen rather than focusing on one type of international negotiation case.

As a result, the final set of criteria chosen for selecting the case studies are: (1) to exhibit shifts in negotiation strategies – as the main criteria necessary to identify the causes leading to the shifts, (2) to represent multicultural international negotiations – in order to potentially detect cultural differences between negotiations, (3) to be either political or security negotiations<sup>81</sup>, (4) to exhibit geographical diversity – in order to potentially further test cultural differences and (5) to have sufficient chronological data available about the negotiations for analysis – as without it, no analysis could be conducted. Because the comparability

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<sup>80</sup> Yin (1981): p. 59.

<sup>81</sup> According to Druckman (2001): p. 526, based on the Pew Case Studies in International Affairs (1999, 66-70) compendium subject index, the cases can be categorized by issue area in security, political/environmental or trade/economic. Choosing security and political negotiations only represents the author's choice.



of the cases is paramount in such a proposition-generating scenario, as described in the last chapter, case studies presented in the same format had priority as they keep a coherent approach on the presented format. The literature of all the cases presented in this chapter can be found in *Annex 1* at the end of the thesis.

The case search lead in the inclusion of three cases exhibiting shifts in negotiations were chosen, two from the Pew Compendium (cases 333 and 407) and a third one from a different source. Of the three, two revolve around security issues and a third one is political in nature. The table below shows the chosen cases:

Cases with shifts in negotiations	Negotiation issue(s)
<b>The Panama Canal Negotiations (1964-1977)<sup>82</sup></b>	Political - jurisdiction
<b>Negotiating with terrorists: TWA Flight 847 (June 1985)<sup>83</sup></b>	Security - terrorism, hostages, prisoners of war
<b>The Sino-U.S. "Spy Plane" Crisis (April 2001)<sup>84</sup></b>	Security - detainees, military equipment

Table C-1: Cases exhibiting shifts in negotiations

The second round of sampling for polar cases, introduced two additional criteria: (1) to present similarities with the already found cases and (2) to exhibit no strategy shifts during the course of negotiations. While the first criteria would allow in the cross-case analysis for a one-to-one comparative analysis of the cases as suggested by Yin (2009), the second criteria comes from Eisenhardt's (1989) idea using polar cases in order to verify the claims.

Extensive case study research lead to the conclusion that finding cases in international negotiations that exhibit no strategy shifts seems improbable. This realization lead to a slight change in the first criteria of the second round of case sampling, namely – instead of researching cases with no strategy shifts, research was conducted to find cases with possibly few and/or mild strategy shifts. While obvious during the research, it is worth mentioning that cases that exhibit few

<sup>82</sup> Habeeb/Zartman (1994).

<sup>83</sup> Snyder (1994).

<sup>84</sup> Avruch/Wang (2005).

strategy changes or no strategy changes can rarely if ever end up in agreements<sup>85</sup>. This fact would just enhance the polarity of the cases and come in support of the cross-case analysis.

The second aspect introduces an interesting realization, namely that in international negotiations with no major strategy shifts – time factor is of a lesser importance in comparison with the negotiated issues and thus, they tend to take a very long time. This realization enhances the difficulty of finding cases that are reporting mild shifts in international negotiations.

The second round of research yielded two cases to be considered:

Cases with few or mild shifts in negotiations	Negotiation issue(s)
<b>The Legal Status of Gibraltar (1963-to date)</b> <sup>86</sup>	Political - jurisdiction
<b>The Transnistrian conflict (1990-to date)</b> <sup>87</sup>	Security, Political – jurisdiction, military equipment

Table C-2: Cases few and/or mild shifts in negotiations

These cases are similar to the ones that exhibit strategy shifts in the following aspects: (1) there is at least a political and a security case in both groups, (2) the political cases handle jurisdiction issues of important geographical locations such as straits or canals and (3) one set of security cases analyzes negotiations related to military equipment. Furthermore, both of the political and the security case study pairs take place in approximately same time period: 1964-1977 and 1963-to date for the political pairs and 2001 and 1990-to date for the security pairs respectively. Although the TWA 847 case has no direct comparison, it was kept due to construct verification and extension considerations.

<sup>85</sup> Indirect evidence provided by Beersma/De Dreu (2002).

<sup>86</sup> Vahl/Emerson (2004), Vahl (2005) and Barabanov (2007).

<sup>87</sup> Lincoln (1994) and Gold (2009).

## C.2 The Panama Canal negotiations

The Panama Canal Negotiations represent a good example of an international negotiation where tactics and relative and perceived power positions play an important role. The case is jurisdictional in nature so mainly political, although it also has a military aspect to itself. The reason why the military aspect in this case is considered secondary is because the Panamanian government never expected to receive full control of the installations and the canal itself thus the issue, although present was only secondary in nature. The sheer number of strategy shifts detected in this case provides a very good basis for the future strategy shift analysis as well as a tactics analysis. The case considered has as two main negotiating partners the Republic of Panama on one side and the United States of America on the other and the timeframe for this analysis spans on a period of thirteen years, between 1964 and 7 September 1977.

### C.2.1 *Overview*

The founding of the Republic of Panama is closely related with the canal itself and was mostly a unilateral act of the United States, to act as a buffer between them and the Republic of Colombia. The original canal treaty was jointly signed by the United States as well as by the Panamanian government in 1903 giving all rights to the United States. Furthermore, a concept that caused great discomfort among Panamanians, the treaty had no termination date, essentially making the canal and the land around it United States property for ever.

Even just a year later the Panamanians started to have a dissatisfaction towards the canal affairs and along the years the United States agreed to do some cosmetic changes to alleviate part of the discomfort created by the situation, but never agreed on anything more. The Panamanians also couldn't take too high risks as the canal was the most important economical asset they possessed and without the

regular United States payments to the Republic of Panama, the economy of this country would have collapsed.

In June 1962 Panamanian President Roberto Chiari visited President John F. Kennedy in Washington to discuss overall relations between the two countries. The canal issue was one of the themes for discussion and in the light of the cold war closing in on American soil, the United States president decided on some more powerful cosmetic changes. One of them was to fly the Panamanian flag alongside the United States one at certain institutions inside the Canal Zone. The United States citizens living in this zone were infuriated by this concession and in early January, a group of radicals marched towards the Balboa High School, one of the designated locations for both flags to fly. The Panamanian students there stood their ground in their belief that their flag has the right to be there and in a very short time a full blown riot started that afterwards expanded to the whole country. Diplomatic relations to the United States were broken and international support for the Panamanian position was called. These events initiated a much more serious and broader concern of the United States regarding the canal safety resulting in a series of negotiations that ultimately, thirteen years later lead to an agreement regarding the canal.

While in the beginning the relative power between the countries was enormous due to the United States vast economical power and its ability to construct a new canal altogether thus circumventing Panama completely, it was later proven that indeed, the only economical solution for a new canal would be Panama itself. In the first rounds of negotiation, the United States power was impressive as President Chiari had no options that would not include the United States. As already mentioned in these early stages, the United States pressed heavily on its ability to construct a new canal and between the internal conflicts, the economy dwindling and a United States proposal that did not appeal to the Panamanians, President Chiari was replaced with President Robles.

After a new series of negotiations, the 1967 draft treaties were elaborated. Although these proposals did end the perpetuity clause of the 1903 Treaty and did

provide Panamanian sovereignty over the canal, they were not well received by the general public. This was due mainly because it would allow the United States to continue to control every aspect of the canal, including security without ever having to consult with the Panamanian allies. The internal disputes rose to the point where during a coup d'état the President was replaced with the vice-president, Omar Torrijos.

The negotiations started again from square one with the new administration but with new found strength as the new president brought a lot more credibility to the table and in his demands. With the news that the United States could not economically build another canal anywhere else than Panama, with growing regional support from neighboring countries and good internal stability the power balance shifted and even the new Nixon administration that started with hard-lined tactics needed to ease in the demands. Appealing to the United Nations, Torrijos internationalized the issue even further to the point where during a United Nations Summit in Panama in 1973 the United States were almost unanimously outvoted in the canal issue (with 13 to 1 and 1 abstained).

The results were devastating to the United States as now they needed to seriously consider giving up full control of the canal as the whole world was watching them. Thus changes were made, new proposals sketched and new meetings scheduled that concluded with the 1974 signing ceremony in Panama City between President Torrijos and Secretary of State Henry Kissinger.

The process stalled afterwards due to Nixon's resignation and Gerald Ford's succession but also due to internal United States political conflicts. The full force of the negotiations was resumed by the end of 1976 with the succession to the presidency of Jimmy Carter and after a series of negotiations and last minute amendments, the final treaty was signed on 7 September 1977.

The final version of the document included a joint United States-Panamanian administration of the canal, joint canal defense and after 31 December 1999 full territorial jurisdiction will be granted to the Republic of Panama.

### C.2.2 *Strategy shift Analysis*

After careful analysis it was concluded that the case exhibits seven abrupt strategy shifts and six less powerful strategy shifts. The following section will analyze each individual strategy shift by precipitants, consequences but also by what tactics were employed in the process.

#### **The first stalemate**

With the negotiations started on July 1964 with a *substantive precipitant*: both sides issued their initial goals and objectives, which as to be expected, differed greatly. Although only two weeks after the negotiations started, the United States started to look for alternatives. A feasibility study was started for a sea-level canal in Colombia but other states as Nicaragua or southern Mexico were explored. Panama was not considered due to the uprisings that started the whole negotiation process. This represents the *external precipitant* that was the main cause of the stalemates, but also is a tactic played by the United States to increase its relative power by finding a BATNA so early in the negotiations already.

Thus the first strategy shift was a somewhat less powerful and partly expected result of the American delegation emphasizing during the negotiations its alternatives. While the United States side was the one that effectively started the negotiations, it was also the one that created the stalemate.

The consequence of this was that the Panamanian negotiators believed that it would be too difficult to proceed until the United States made a decision based on the new canal. Indeed this is a negative consequence that was turned around later on by the American side.

#### **President Johnson's proposal**

With the chief U.S. negotiator Robert Anderson being convinced that the Panamanians were not going to back down from their demand of a new treaty, he suggested President Johnson offer a new proposal in which the United States will

agree to a fixed termination date for a new treaty and gain the right to dig a new canal. This is a *substantive precipitant* as it entails a new vision on the issues at hand.

In a *procedural* manner, on 18 December 1964 President Johnson exposed his proposal to the media where he announced that he is willing to negotiate a new treaty with Panama while simultaneously proceeding with the plans to build a new canal.

This represents a major strategy shift as the change in the negotiation style and content was more than obvious. Not to forget is the fact that the American side was pressured in trying to negotiate a solution based on the earlier riots and their own estimates of how expensive a large U.S. canal protection force would be. This can be counted as an *external precipitant* as well to this strategy shift.

The consequences of this decision were multiple: in the beginning the Panamanian population received well the news but it quickly turned around when it realized that the proposal was double-edged and that they might lose the benefit of having the only canal that connects the Pacific and the Atlantic oceans. Another consequence, more on the positive side this time – was that the Panamanian government had to moderate any anti-American sentiments so that they will not push the American side even further into the idea of building a canal elsewhere. In terms of tactics though, this decision was a poor one as the tactic of disruption and violence was the weapon the Panamanians used to start the negotiations and thus their position weakened even more.

This strategy shift consists of a second part, namely the draft treaties elaborated in June 1967 and although it represents the same policy<sup>88</sup> it needs to be analyzed as a separate entity with its own precipitants and consequences.

Another *external precipitant* that influenced the Panamanians to moderate the anti-American sentiments was the accession to presidency of Marcos Robles and

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<sup>88</sup> And thus part of the same strategy shift.

his unstable leadership. Without a vast internal support he was under intense domestic pressure to reach an agreement.

Yet the internal disagreements within the Panamanian government intensified and as such another *external precipitant* lead to a *substantive* change, namely with President Roble's reduction in demands in the attempt to expedite the signing process.

The draft treaties of June 1967 represent both a *procedural* and a *substantive precipitant* as the structure but also content of the negotiations was changed to include three separate treaties, one for meeting Panama's major demands like the abrogation of the 1903 treaty and joint administration of the canal, one for the U.S.-Panamanian defense of the canal until 2004 and an extension to 2067 if the United States builds a new canal and one that allows the United States to build a canal in Panama in the next twenty years and operate it for the next sixty years.

The strategy shift that resulted in this case, on one hand by the agreement in September 1965 on four key points and on the other hand the drafts of June 1967 that put into writing the agreement represented a quite foreseeable turn of events based on President Johnson's mandate to try to accede to an agreement.

The main and major consequence of these draft treaties was a powerful negative response from the general Panamanian public, which was furious at the negotiation terms. As a result, a coup d'état took place on 11 October 1968 and the vice-president Omar Torrijos took over.

### **The Torrijos breakdown**

The coup d'état of October 1968 was not only the main consequence of the draft treaties of 1967 but also served as the main *external precipitant* for the next strategy shift. The breakdown was evident and very abrupt with the new administration effectively ignoring any and all progress done by the previous administration.



After a diagnosing period<sup>89</sup> in which the new government assessed its tactics and positions, on September 1<sup>st</sup> 1970 it formally notified the United States that the 1967 draft treaties were no longer acceptable as a basis for resuming negotiations. This was the main consequence of this strategy shift that also led to a hardening in the negotiation style on the American side as seen in the next section.

### **Torrijos second approach**

The tactics played by the American side, namely the threat of considering other canal sites as well as having a hard-line negotiation style were used in the beginning of the Torrijos era as well. They were also very credible as the United States could live without the Panama Canal while the Panamanian economy would suffer greatly – thus keeping, as seen earlier a large power advantage over Panama. This *external precipitant* was the main reason for which Torrijos decided to restart the negotiations in the beginning of 1969 – which represents another quite abrupt strategy shift.

The main difference between Chiari and Torrijos was that in the two years' time between the break in negotiations and the willingness to restart them, the latter consolidated his internal position inside the country – a clear *external precipitant* that would influence future negotiations. In Washington there were also changes, with the Nixon administration settling in – another *external precipitant* that did influence the course of negotiations quite strongly.

The consequence of Torrijos request, coupled with the new Nixon administration was that the United States responded harshly to the demand to restart negotiations. A follow up consequence was the 1 September 1970 Torrijos declaration in which they formally notify the United States that the 1967 draft treaties were no longer considered acceptable.

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<sup>89</sup> See "Torrijos second approach" strategy shift.

### **The Nixon approach**

The first *external precipitant* of this period was also the one that caused the change in strategy, namely the results of the feasibility studies conducted over the past six years were leaked to the press. It proved, on one side that the location for the construction of a new sea-level canal lies inside Panamanian borders and the costs of such a massive overtake would be between \$3 and \$4 billion. This shifted the balance of power massively in Panamas favor as not only the most suitable location would be still Panama but the costs, while not impossible to cope with, are not negligible either.

The United States tried to compensate the loss of leverage by using stronger demands and in a message sent directly to General Torrijos, President Nixon said that he would no longer accept a fixed termination date for the canal. This represented a *procedural precipitant*, by changing the venue of the negotiations from public to private but also a *substantive* change due to the changes in the discussed issues.

This strategy shift coming from the United States side can be seen as less abrupt, because although it represents a change from the Johnson approach, due to the precipitants it was quite a logical transition.

The direct consequence of this approach was a threat made by Torrijos to the chief U.S. negotiator that if the U.S. position does not change and they go public with such a policy, then the negotiations would be broken off completely and the statement could act as a detonator for the Panamanian masses to take over the canal. This direct double-edged threat represents also an intimidation tactic that marks the transition to the next strategy shift.

### **Nixon reconsiders**

The precipitants leading to the next strategy shift are exclusively *external events*. On one side Torrijos hold a cheering rally in October 1971 to show that the Nixon administration is holding the negotiations back but also to show that he has a large

internal support for his politics. Another *external precipitant* was the United States weakening caused by the prolonged Vietnam War, the U.S. economical recession – both factors that shown that the United States is unlikely to commit to yet another military operation anytime soon. This situation appeared to have weakened the United States predominance over the control of the canal.

Yet another encouraging *external precipitant* for Panama was the increased internal unrest, between wealthy landowners and expropriations, the Catholic Church and some alleged kidnappings – all small threats made by the Torrijos administration in which he was putting himself in a vulnerable situation just to prove that he could act as the victim if necessary.

Weakened by these external precipitants, the United States responded to Torrijos threats by rescinding the Nixon formula. Although this can be considered as an abrupt strategy shift as it is a direct and public confirmation of the failure of United States tactics, due to its predictable nature based on the precipitants and the fact that it just partially voids the effects of the last strategy shift it can be seen as a mild strategy shift.

The consequences were multiple and all positive: on one side Torrijos improved his internal position inside the country and the power ratio changed even more in favor of Panama. Following up on the decisions from the last strategy shift it is obvious that the hard-lined tactics used by the United States backfired miserably.

Another consequence that could be considered a *substantive precipitant* is the United States announcement that it would agree to drop the perpetuity clause and work for a new treaty with a fixed termination date while playing a continuous role in the defense of the canal. Also the United States appeared to be willing to help end Panama's economic weakness in exchange for a more flexible Panamanian approach to the negotiations.

### **The United Nations intervention**

This part of the analysis consists of two interconnected tuning points, a major one and a less powerful one that due to their nature they should be analyzed together.

Due to internal U.S. unrest caused by the prolonged Vietnam War as well as their own economic troubles (*external precipitant*), the U.S. policymakers tried to keep a hard line of negotiations by trying to adopt a formula where they would essentially indefinite military rights in the Canal Zone (*substantive precipitant*).

Torrijos was convinced that the negotiations will not be able to continue as the United States will not back down from this position. This caused him to adopt the tactic of internationalization of the conflict in 1971 and 1972, by consulting regularly with the leaders of Latin America and in particular United States allies. This *external precipitant* leads to yet another *external precipitant*; in November 1972 Panama's chief delegate to the United Nations requested that the Security Council meets in Panama in the near future. Initially the United Nations rejected the request but with the great support of Latin America (and obvious disagreement from the United States) it decided to meet in Panama in March 1973. The tactic of making outside allies worked flawlessly.

The meeting was a resounding success for Panama as the United States delegation stood alone and through a voting process was completely outvoted<sup>90</sup>. The resolution concluded that the United States and Panama should come to a solution where the Panamanian effective sovereignty over all its territory is assured.

This *external precipitant* caused a *procedural precipitant* as the United States was now forced to actively negotiate an agreement put the matter into the hands of the Latin America Bureau of the State Department and National Security Adviser Henry Kissinger.

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<sup>90</sup> With 13 votes in favor of the resolution, 1 against (the United States) and 1 abstained (UK).

The obvious defeat in the Vietnam War began also the weigh down on the already burdened United States position and together with the oil embargo caused by the Arab states in 1973 added to the list of *external precipitants* towards the next (and probably most important) strategy shift.

Two months after the Security Council, in May 1973 – under all the external pressure – President Nixon addressed the problem of the canal. His statement was that the United States and Panama should find a solution, that Panama's aspirations are legitimate and that it is time to find a solution for both sides.

This major strategy shift had a large series of consequences: first Juan Antonio Tack, the Panamanian foreign minister was put in charge by Torrijos to create a response to President Nixon's speech. This *procedural precipitant* that doubles as a consequence lead to a *substantive precipitant*, namely a nine page letter consisting of the principle issues in the Panamanian view, over the canal status.

A couple of other *procedural precipitants* pave the way to the next strategy shift: first is the succession of Henry Kissinger to the State Department – a person determined to solve the problem quickly and his decision to instate veteran diplomat Ellsworth Bunker to be the new chief negotiator. These precipitants helped to quickly progress the negotiations and a consensus was reached.

This strategy shift, although much less abrupt than the Nixon strategy change shows that the United States negotiators did follow through and drafted a proposal agreed (for the first time) by both parties.

The direct and positive consequence of this strategy shift was the speech Kissinger held in Panama City at the signing ceremony where he publicly stated that the old treaty needed to be replaced.

### **The Nixon stalemate**

The factors leading to the stalemate were multiple. Among the few positive (*external*) precipitants was a decision by the U.S. Joint Chiefs of Staff that the canal

no longer was considered a vital asset but rather a strategic asset. On the other side negative *external precipitants* were caused by the extreme politicization of the canal issue in the United States and the economic deterioration of Panama.

A month after the speech given by Kissinger in Panama City, a resolution by Senator Strom Thurmond opposing Panamanian sovereignty passed with more votes that were needed to block a treaty. This *external precipitant* was the cause of Nixon allowing the negotiations to stall. This can be considered a mild strategy shift based on immediate precursors.

There were no visible consequences from this strategy shift due to the rapid development of the events.

### **Gerald Ford's position**

By President Ford's accession to the presidency in the summer of 1974 the negotiations were renewed more vigorously (*external precipitant*). Under external pressure from the Pentagon, the U.S. negotiators considered a *substantive* change by demanding a fifty-year duration for the new treaty.

Other *external precipitants* were endangering a solution: Congressman Gene Snider proposed an amendment to a State Department appropriations bill to withhold funds for negotiating the surrender of U.S. rights in the Canal Zone. The amendment passed overwhelmingly and although it was further stopped in the Senate the issue was there and present. With Ronald Reagan challenging Gerald Ford by adopting an anti-negotiation position as one of his campaign focuses – yet another *external precipitant* pointed in the direction of a hardening of the negotiation style.

The strategy shift took place in September 1975 when Kissinger declared in a speech that the United States needs to maintain unilaterally the right to defend the Panama Canal for an indefinite future. This strategy shift is major as it was reversing quite a bit of the diplomatic efforts done in the past.

The consequences were immediate and dramatic. Torrijos threatened with a major riot among the Panamanian population that he personally will not stop. This came to reality just to prove Torrijos seriousness in the matter shortly after his interview where several hundred Panamanians besieged the U.S. Embassy in Panama City. The threatening tactic worked again, with Kissinger later taking back most of his statement.

### **President Ford's blockade**

Early in 1976, Torrijos resumed his very successful tactic of creating international allies. This *external precipitant* was extremely dangerous to the United States because Torrijos trip was to Cuba, in an attempt to make a statement that there was another bloc of countries that could have been interested in the canal. Kissinger warned that such a politic of harassment could lead to the dissolution of negotiations.

As a result, a new strategy shift by President Ford was represented in the hardening of the United States position on the negotiations, effectively undermining the Kissinger-Tack formula and making the negotiator's jobs a lot more difficult. This shift can be considered abrupt, as it jeopardized the very future of the negotiations. It can be argued that the last strategy shift presents similarities with the present one, yet based on the major differences in the precipitants and consequences it is worthy of a separate analysis.

The consequence of these developments was that Torrijos was put in a difficult position as hardening his position would potentially lead to a stalemate – a very unwanted scenario especially with the prospects of Reagan's potential victory, but also appearing too weak might affect his bargaining power.

### **The last steps towards an agreement**

Externally Torrijos tried to keep his face by making vigorous claims in the Conference of Non-Aligned Nations in Sri Lanka – a clear media approach that acted as an *external* but also somewhat *procedural precipitant* to the negotiations.

Worrying internal developments (that acted as *external precipitants*) for Torrijos were his decaying internal support due to the economic conditions of the country and the increase in the country's debt.

But with the election of President Jimmy Carter and the public statements made by his Secretary of State Cyrus Vance, the odds of a successful agreement increased. With the *procedural* decision of adding Sol Linowitz<sup>91</sup> as co-negotiator besides Bunker the odds started to look even better.

Torrijos tactics were working on all fronts, as on one side the new President Jimmy Carter was afraid that a further stalemate could create an explosive situation in Panama – as it had in the past, but on a larger scale and on the other side Torrijos international coalition-building tactic was paying off with Carter receiving soon after his inauguration letters from Colombia, Costa Rica, Guatemala, Honduras, Mexico, Nicaragua and Venezuela in which they requested the fast completion of the canal negotiations. With this important *external precipitant*, the final round of negotiations started in February 1977.

*Substantive precipitants* regarding details about the termination deadlines were proposed by both sides. Torrijos internal opposition was becoming more and more powerful and this *external precipitant* caused both sides to increase the rate of negotiations. This is due to the fact that the American side was concerned that if Torrijos were to leave the Presidency an agreement would become close to impossible with any other head of state.

In May 1977 Bunker came with another *substantive* proposal: splitting the defense issue between Panama and the United States – this proposal was very well received by the other party. By late July the last open aspect of the negotiations was the financial compensation. Here the Panamanian side used the nibbling tactic, trying to obtain a large amount of financial compensation. This can also be catalogued as a *substantive precipitant* and had a direct consequence, namely a direct letter sent

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<sup>91</sup> Sol Linowitz headed the privately funded Commission on United States-Latin American Relations, whose recent report had recommended early completion of a new canal treaty.



by President Carter to Torrijos promising good financial support if they reduce their demands.

The tactic did work and on 11<sup>th</sup> August 1977 the new treaty was completed and agreed upon. The official signing took place in Washington on 7 September 1977.

### C.2.3 *Case results and primary analysis*

#### **Precipitants**

During the course of the case, 50 precipitants were identified. The table below illustrates in detail the identified precipitants and their type:

Panama Canal negotiations - precipitants		
Procedural	Substantive	External
9	9	32

Table C-3: The Panama Canal negotiations – precipitants

At first look, it is obvious that the amount of external precipitants far outweighs the substantive or procedural ones, although it needs to be noted that there is a balance between the two latter precipitants. Looking at the case history, both the procedural and the external precipitants are appearing throughout the case while the majority of the substantive precipitants appear toward the end of the case signaling that both parties were rushing to get to a consensus based on hard and tangible modifications rather than cosmetic changes. It can also be noted that the sheer amount of external precipitants identified in the case could mean that they played a major role to determine the course of the negotiations. This seems to be confirmed by the data presented in the next section: *“Strategy shifts”*.

#### **Strategy shifts**

A number of 7 abrupt and 6 less abrupt strategy shifts have been found – they were divided into 11 sections. The sections group together similar policies exhibited by either one or the other side in the negotiations and thus could contain more than just one strategy shift. This is the case with two sections: “President Johnson’s proposal” and “The United Nations intervention” that contain two strategy shifts each.

While no judgment can be made based just on the type of strategy shifts, a better overview and more insights could be attained by looking at the connection between them and the main precipitant that enabled them. This data is presented in the table below:

Panama Canal negotiations – strategy shift analysis				
Strategy shift	Abrupt shift	Mild shift	Main enabling precipitant(s)	Direction and relative power*
The first stalemate		X	External	↓
President Johnson's proposal	X		Substantive	↑↑
President Johnson's proposal II		X	Procedural + substantive	↑
The Torrijos breakdown	X		External	↓↓
Torrijos second approach	X		External	↑↑
The Nixon approach		X	Procedural + substantive	↓
Nixon reconsiders		X	External	↑
The United Nations intervention	X		External	↑↑
The United Nations intervention II		X	Procedural + substantive	↑
The Nixon stalemate		X	External	↓
Gerald Ford's position	X		External	↓↓
President Ford's blockade	X		External	↓↓
The last steps towards an agreement	X		Substantive	↑↑↑
*This qualitative representation signifies the general direction and power of each individual strategy shift, from mild (↑ or ↓) to very abrupt (↑↑↑ or ↓↓↓)				

**Table C-4: The Panama Canal negotiations – strategy shift analysis**

Looking at the main precipitants it becomes clear that the external factors played an important role during the course of this negotiation, but also the combination of procedural and substantive precipitants. Also noteworthy is the fact that the last strategy shift was mainly enabled by a substantive precipitant, a decisive fact in reaching an agreement.

It is quite hard considering the data at hand, to determine the episodes based on the episodic model, yet based on the analysis some assumptions could be made regarding the episodes. Namely, a distributive behavior can be detected up to “The first stalemate” then the period between “President Johnsons proposal” and “The Nixon approach” could be defined as a neutral behavior while an obvious

integrative approach can be seen up to “The United Nations Intervention II”. No observations can be made for the three strategy shifts leading to the last strategy shift. It can be assumed that the avoidance period started some time after the canal was built and up to the start of the first negotiations, about a year later – long before these main negotiations started.

### **Consequences and tactics**

The analysis reveals a number of 17 consequences that are categorized in three groups as follows:

Panama Canal negotiations - consequences		
Positive	Neutral	Negative
7	3	7

Table C-5: The Panama Canal negotiations – consequences

While on first look it is uncertain how, based on these identified consequences an agreement could be found, the chronologic distribution of them provides quite good insights. In the beginning stages of the negotiation there is an abundance of negative consequences and towards the end the shift changes towards the positive consequences. The change allowed the last strategy shift to have such momentum. Yet the tactics used should not be overlooked as in the end they proved just as essential for the final achievement.

The tactics used throughout the negotiations included: looking for alternate solutions and threatening with alternate solutions, indirectly pressuring the other team of negotiators by external events (such as disruption and violence), internationalization of the conflict – coalition-building, threatening tactics and even nibbling. The coalition building and nibbling had a strong positive effect on the consequences throughout the case, while looking and threatening to look for other solutions and general threatening tactics presented clear negative consequences or even failed. Pressuring the other team of negotiators is a double-edged tactic as in some cases it yielded positive results and in other negative results. The positive consequence occurred when the side toward which the tactic was used just had a major strategy shift to the worse after being much closer to an agreement (the Kissinger statement and the retractions that followed).

Generally, this case exhibits a good balance of factors and tactics that ultimately lead to an agreement. The last drop in the probability of reaching an agreement is remarkable due to the fact that it defies the natural course seen towards the end of a successful negotiation and should be further investigated.

### C.3 The TWA Flight 847

The TWA 847 situation was a major source of debates at the time of the incident and due to its complicated nature with the involvement of so many parties a difficult situation to solve. Even after the incident was over, it took a long time until many of the behind-the-scenes incidents were revealed to the press. The incident involving the TWA flight 847 spanned a period of seventeen days between 14 and 30 June 1985. The case features negotiation issues like terrorism, hostages, prisoners of war and political stances and is filled with numerous strategy shifts, making it an ideal case for the purpose of this thesis. The main negotiating partners were represented by the Amal and Hezbollah terrorists on one side and the United States on the other, although the course of the negotiations was decided by the political stances and negotiations between United States, Israel and Syria. The difficulty of this case lies in discovering the intricate situations that could or could not be interpreted as precipitants due to the fact that there were almost no direct negotiations.

#### C.3.1 *Overview*

The context of the crisis of June 1985 starts three years sooner with Israel's invasion of Lebanon. By the spring of 1985 they started retreating to a security zone they had established in the southern part of the country. During this retreat, terrorist attacks on Israeli forces increased and as consequence the Israelis detained presumed terrorists, some part of the Christian Southern Lebanese Army (SLA) in a temporary prison inside Lebanon. While retreating further, these prisoners were afterwards moved into a more secure and permanent location inside Israeli territory, namely in the Atlit prison. From the 700 to 800 detainees the vast majority was composed of Lebanese Shi'ites and as a consequence the hijackers (Shi'ites themselves) of the TWA 847 flight hoped in pressuring the United States to pressure Israel to release the prisoners. The Lebanese Shi'ite groups were

divided into three separate factions: the Amal which represented the moderate militia of the Shi'ites, the extremist Hezbollah and the most extreme Jihad that already kidnapped at an earlier date seven American citizens that were still detained.

The events started on Friday 14 June on a TWA flight originating from Cairo via Athens then Rome with the final destination being the United States. The two initial hijackers made the pilot change course to Beirut international airport where they released some women and children for fuel. Afterwards they took off again with the new destination Algiers. There they issued their main demand: the release of the 700 Atlit Lebanese prisoners or they would start killing hostages. After their demands were made they released even more women and children in exchange for fuel and took off towards Beirut once again.

The second day the hijackers killed an American Marine and issued more demands. Soon afterwards the plane departed towards Algiers again, but this time with a significant number of Shi'ites on board and after presumably leaving part of the hostages in Beirut. The United States invited the Red Cross to check on the health of the passengers.

The events of the third day were even more chaotic, with the Red Cross trying to make a deal with the terrorists initially until they realized that the Red Cross cannot keep their promises and then the flight back to Beirut. While a short crisis with the refusal of the Lebanese authorities to let the plane land was quickly defused, the Amal leader – Nabih Berri started to negotiate in the name of the hijackers. The international controversy on the subject was great and fueled by the ongoing events.

On day four the Amal removed all of the passengers from the plane and while there was a lot of debate between the United States and Israel no decision had been made. Day five consisted of the release of three more hostages and a lot of media coverage on the incident with Berri trying to pressure the United States for now without effect. Day six did not bring any changes in the negotiations although it

was marked with a lot of unrelated terrorist attacks worldwide. A few journalists even got the chance to interview one of the pilots while a terrorist held a gun in front of his face. The American public started to pressure the administration. The most important event of day seven was the press conference where one of the hostages transmitted a message to the United States stating that a violent attempt to secure the passengers would end up badly. The press conference was interrupted when the present journalists started to crowd the hostages. Day eight also followed the same pattern as the last days, with media coverage and this time an interview with the Hezbollah's leader Sheik Mohammed Hussein Fadlallah. Furthermore a 1.000 group consisting of Hezbollah militants surrounded the plane in a demonstration of force. During this day Israel tried to repair some of the tension between them and the United States by adopting a more flexible stance. Day nine brought nothing new on the scene besides more media coverage.

On the tenth day things began to change with Israel releasing thirty-one Atlit prisoners and although it was received in a neutral tone by the terrorists, it was mainly meant to improve Israel's relationship to the United States. Day eleven brought even more pressure on the United States with the release of a videotape showing twelve previously unseen American hostages.

The Red Cross visit on day twelve meant the release of a hostage with heart conditions and thus the further humanization of the hijackers. This day marked discussions between Berri and the British and Italian Ambassadors, the Syrian President talks with Mikhail Gorbachev in Moscow and with the Hezbollah leader regarding the conflict. The United States decided to pressure Berri even more due to noticed disagreements between the Amal and Hezbollah. During the thirteenth day, Berri suggested that the French embassy in Beirut or the Syrian government could hold the hostages pending the release of the Atlit prisoners as a sign of good faith. While the French responded that they did not want any kind of involvement in the matter the Syrian President Assad seemed quite interested in the offer.

Day fourteen went by quite uneventful, with only two pieces of information coming from the U.S. side namely that they would not accept a deal that would not include

the seven separately kidnapped Americans and that a 18.000 man Marine force was heading towards the conflict zone. The fifteenth day was represented by the Syrians acceptance to hold the hostages until the Atlit prisoners were released. The United States however mounted a strong position against the terrorists warning them about the repercussions of not releasing the hostages immediately. Berri's tactics seemed to be working however as his televised appearances raised the internal pressure in the United States even more. Day sixteen should have been the day the hostages would be released, with the Israeli's word to release the prisoners in stages but apparently the strong position presented the day before by the United States threatened the deal. Also another reason for the delay was the internal friction between the factions that were holding the prisoners captive. While Berri did decide to release the hostages, the crew was still inside the plane with Hezbollah not planning to free the crew together with the rest of the hostages. Berri apparently took control of the situation and took back the detained crew. Four Americans were although missing.

Day seventeen marked the day of the release. With the Syrian President giving assurances to the hijackers that they will be unharmed. In the same day Israel's cabinet decided the release of 300 Atlit prisoners with more to be freed later. The crisis was finally over.

### C.3.2 *Strategy shift analysis*

The analysis of this case reveals eight major strategy shifts as well as five minor strategy shifts in the thirteen-day course of events. The precipitants, consequences but also employed tactics will be presented in the course of this chapter.

#### **The first U.S. Reaction**

After a forced beginning of the conflict with the hijackers taking over TWA flight 847 and their landing in Beirut, the first *precipitant* was a *procedural* one, namely the exchange of many women and children for fuel. It can be considered a *procedural precipitant* due to the fact that they exposed themselves in a light that later will get some traction.



Their flight to Algiers was strategically important because of the recognized Algerian diplomacy and its success during the crisis of 1979-81. This can be considered a good tactic, to find some common ground with the other side even if through intermediaries. Once landed the terrorists made their first claims thus officially starting the negotiation through a *substantive precipitant*. Their additional comment that they will begin killing the hostages if their demand was not met is a threatening tactic to let the other side know that they are aware of their relative power and the time constraint. Another tactic was represented by their demand to free all Lebanese prisoners and not only their own kin, namely Shi'ites and thus hopefully masking their highest value negotiation item.

Historically although, depending on how far in the past one would wish to go, it could be concluded that the capture of the Lebanese nationals in the first place was the *external precipitant* that lead to the terrorist attacks and implicitly the negotiations that followed. After another *procedural precipitant* consisting of the release of even more women and children, the plane flew back to Beirut. The trading of hostages for fuel, although not necessary proved that the hijackers were reasonable people and not just avid fanatics willing to kill themselves and others for the cause if not necessary.

The next *procedural precipitant* that leads to the first strategy shift was the approach of numerous groups of armed gunmen toward the plane. This change meant that the U.S. negotiators needed to take into account a larger negotiation partner. During their stay in Beirut they issued another *substantive* demand: the release of their accomplice captured in Greece. Their demands were again accompanied by a time-sensitive threat: they would kill the eight Greeks on board of the plane, one every hour. Also during this stay in Beirut, reports of some hostages being taken off the plane were received. This proved to be true, part of the future developments and thus a *procedural precipitant*.

The format of the negotiations arguably changed when the news was heard in Washington that the plane apparently has been rigged with explosives and that it cannot be boarded without seriously endangering the over 100 souls on board. This

*procedural precipitant* lead to the strategy shift of United States for the first time, opening their position towards negotiations. This can be catalogued as a mild strategy shift.

As a consequence, the governments quickly stated their interests in the conflict. A positive consequence potentially connected with the United States opening a negotiation was the release of the hijacker's accomplice from Greece in exchange for some Greek hostages, although the decision angered the United States and Israel. Another positive consequence was that the Algerians prepared for a massive diplomatic undertaking refusing any talks of forceful rescue attempts as this might endanger their diplomatic reputation.

### **Terrorists leaving Algiers**

There were several tactics that the United States pursued simultaneously: on one side they deployed their anti-terrorist units that were now en-route to Algiers, on the other side they threatened the hijackers themselves that in most cases the terrorists are injured or killed as a result of their acts. Other potential strategies included the United States Navy bombing Shi'ite targets from the Mediterranean like it did in 1983 or waiting for the conflict to be over and then retaliating once the conflict was over.

At the same time the United States pursued a diplomatic solution by asking the Red Cross to intervene, which represents a *procedural precipitant*, together with a one-sentence statement directed towards the Algerians in which they expressed their hope that the Algerian efforts will be fruitful – this represented an *external precipitant*.

Yet another tactic was used by the United States by calling for the Red Cross as they in recent years facilitated a swap between the Palestinian guerillas and Israel and were hopeful that such a swap could be obtained in this case as well. A positive consequence to the news that the Red Cross officials were arriving was the release of three hostages as another sign of good faith.

Prior to the arrival of the Red Cross officials, another *procedural precipitant* occurred – two Algerian diplomats boarded the plane to talk with the Shi'ites directly. The talks were not successful but the Algerian impression on the terrorists that was later transmitted throughout the world could have been the cause for future precipitants. The last *precipitant* of day two of the conflict was a *procedural* one, with the Red Cross members arriving and the beginning of their negotiations.

The next day began with both a *substantive* and *procedural* event: the release of three more hostages and setting a deadline for when the killings would start. The Red Cross negotiators were also making progress; by finding small areas of compromise they employed a tactic used to ease up the negotiations and to make room for bigger areas of agreement. Also the Red Cross officials made a *substantive* proposal to the Shi'ites, the simultaneous release of the hostages and prisoners – a solution that seemed agreeable to the terrorists.

Sadly as it was later proven, neither the United States nor Israel were ready to concede under such terms. Furthermore the main *external precipitant* that caused the interruption in negotiations and implicitly the next strategy shift was the news that the United States was positioning a terrorist team together with the U.S. sixth fleet to proceed with a rescue attempt. Again, due to the quite obvious precipitants this strategy shift as well can be considered mild.

As a result of nearby United States activity, the hijackers broke off negotiations with the Red Cross just an hour before their imposed deadline to which point they would start the killings. This strategy shift is quite a large one as up to that point the negotiations seemed to go in a general good direction.

The consequence of this strategy shift followed the same day in the form of a written appeal signed by thirty Americans to President Ronald Reagan begging him not to use force for their release.

### **Israel's change of heart**

The written appeal to President Reagan also represents a *substantive* proposal addressed from the terrorist side toward the American side.

When they arrived in Beirut the airport initially refused to let them land by blocking the runways with fire trucks. This could be counted as a tactic of potentially reducing the number of options that the terrorists have available. The tactic however, did not work as the hijackers were determined to land, even if they would crash and risk every life on board. This action proven that their ZOPA or in this case zone of acceptable losses was far greater than what the Lebanese authorities were willing to risk.

The next demand of the terrorists was a *procedural* demand interconnected with a *substantive* one. They demanded that the leader of the Amal, Nabih Berri would be the one to represent them further in this conflict. While the introduction of a new chief mediator is just a *procedural* one, the fact is that until this issue was handled they would not continue to negotiate. Berri accepted and after assuming responsibility of all hostages, a sign of seriousness and decisiveness, he issues his own *substantive* demands: an increase in the number of prisoners to be released from the Atlit prison from 700 to 800, the end of all bloodshed in Lebanon and the release of the two Lebanese nationals jailed in Madrid under the allegations of participation in an assassination attempt either in Damascus or Algiers.

The strategy shift involving Israel happened after the plane landed in Beirut with Israel's statement that they would consider a swap between the prisoners and the hostages if the United States would present them a formal request. The conditions of this strategy shift indicated that it is a less abrupt one as the Israeli did not openly suggest a swap.

There were multiple consequences to this statement, and all affecting the United States: first the United States was angered by the Israeli response because they expected Israel to help voluntarily in the rescue attempts, secondly the formality

was in the Americans opinion absurd as their help was obviously necessary and they were also unsure what would the word 'consider' imply. As a result, the United States – Israeli relations started to collapse.

### **Israel's toughening**

An *external precipitant* in the events leading to the next strategy shift were the position of several moderate Arab states to offer their diplomatic services to the United States. Noticing similarities between this conflict and the Iranian hostage crisis, the United States prepared for a long series of negotiations. They also made a *substantive* demand: to include in any negotiation the six to ten passengers that were removed from the plane on the second trip to Beirut in the subsequent negotiations.

The United States also brought into coastal range multiple warships, a testament of their rising power in the region – in what they hoped to be an intimidation tactic. Due to *external precipitants*, like the Iranian threat to close all Arab ports across the Gulf if any military actions would be initiated against the Shi'ite groups, the Americans could not publicly pressure the terrorists with this tactic.

During the night, noises were heard and Berri decided to remove all journalists away from the airport. This *external precipitant* lead closely to the next days' events. In the early morning the Amal forces removed all passengers from the plane and took them into the west suburbs of Beirut. The pilot, co-pilot and navigator remained on board guarded by armed militiamen. This *procedural precipitant* to not only change the venue but also split the negotiation subjects in a variety of locations could be categorized as a tactic to further reduce the risk of a military rescue operation.

Berri's pressure on the American party was increasing by exposing the conflict and possible scenarios if the United States does not give in to his demands, a *procedural precipitant* of great power as to be witnessed later. Later in the day *external precipitants* combined with pressure tactics were the main news. On the *external precipitants* side, the families of the hostages were pressuring the Reagan

administration to end the conflict with open letters or by asking the church to intervene in the situation. Spain also responded to the demand made by Berri the day before by rejecting his demand. This *external precipitant* was the first complete rejection received to date from a government, but it was not the last.

The next *external precipitant*, namely some polls in Israel, showed that the majority of the population is against the release of the Atlit prisoners and as a direct consequence Israel, in a milder strategy shift – stated that it will not accept a request from the Red Cross to free the prisoners but only from the United States. Another declaration that made the strategy shift even more obvious came shortly after declaring that the problem belongs entirely to the Americans and they do not need to take any initiative. This is to be considered a major strategy shift.

As consequences to this strategy shift stopped all progress attempted by the Red Cross, an increasing rage among the American population regarding Israel's position and the Marines Mediterranean Amphibious Ready Group with a force of 1.800-2.000 personnel heading towards the Mediterranean.

### **Israel's policy recovery**

The next day started with a *procedural* and a *substantive* one of which – one was the release of three more hostages, one of which the famous singer Demis Roussos on a Greek promise that they will try to press Spain to press the United States to press Israel and the other through a statement that the talks lasted too long already and that it is not possible for the situation to remain like this.

A series of *external precipitants* enhanced this statement due to the release to the press of the mutilated picture of the American killed on day two of the crisis and the announcement of the results of a poll that shown that 48 percent of the Americans were in favor of giving in on the terrorist's demands. This pressure was even further intensified by a new statement<sup>92</sup> made by Berri that sensed the weakening in the United States response and instead of threatening the United

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<sup>92</sup> To be seen as an external precipitant because although he was the chief negotiator for the terrorists, the statement had the role to support the American population in pressuring the government.

States he merely iterated that the crisis would be over if the United States would pressure Israel on the matter.

By this point, through a *procedural* event, the Red Cross representatives withdrew from the negotiations, although they did state their willingness to facilitate an exchange.

With all the escalating pressure, Israel presented an even harder stance that represented a new strategy shift in the course of this crisis. They agreed to meet with the Red Cross representatives, but also declared that the meeting will be purely out of courtesy as they now have no intention whatsoever to negotiate over the hijacking with the Red Cross as they were not the ones leading the negotiation. Although this strategy shift does not change the direction of the negotiations per se, it represents a positive change in the attitude and negotiation strategy of Israel, albeit a minor one.

The consequences of such a change of heart made by Israel appeared plentifully. First the U.S. government tried to ease the pressure on the United States by putting more pressure on Berri. President Reagan as well as his spokesman iterated in multiple occasions that Berri could resolve the situation very easily if he wanted to. Furthermore, he suggested that the Americans are willing to wait out the hijackers and that he would not make concessions with terrorists. This statement was used as a pressure relief tactic, framing the situation as time independent even if it was clear already in the previous days to the contrary but was also one of the most important *external precipitants* that lead to the next strategy shift.

### **The U.S. military threats**

Apart from the above mentioned *external precipitant*, other *external precipitants* came into the scene the next day. Multiple terrorist attacks happened, though unrelated to the TWA incident: four U.S. Marines were gunned down in El Salvador and three people were killed in Germany when a bomb exploded at Frankfurt

International Airport. These events increased the pressure on the United States once again.

In a *procedural* change of events, the media entered in the negotiation scene through a few ABC reporters that interviewed the pilot while a terrorist was waving a gun in front of his face. Pressure continued also to rise from the families of the hostages while United States tactic remained the same: deflecting the pressure on Berri to find a resolve.

With a new poll done in the United States regarding the hostage situation, this time 68 percent of the Americans were hoping that the terrorist's demands were met. With the rising internal unrest and the terrorist attacks happening in El Salvador and Germany – Reagan hardened his bargaining position by stating that the United States will respond 'militarily or otherwise' to end the terror. This included retaliations after the crisis was over and meant a fundamental change in the position of the United States since the first time they openly accepted to negotiate.

Almost the direct consequence of this strategy shift was the hostage press conference in which one of the hostages - Allyn Conwell assured that all hostages are safe and unharmed but also pleaded that the Reagan administration should refrain from using violent means to secure their freedom. He also tried to influence Israel's position by pleading for the Atlit prisoner's release.

Another consequence of this strategy shift was a statement from Defense Minister of Israel Rabin that charged the United States with playing games and passing the ball instead of making a decision. Such comments were the precursors that lead to the next strategy shift.

Two unrelated consequences are worth mentioning here although, based on the analysis they played no role in the course of the negotiations: one is the decision by the International Air Pilots Association to boycott Beirut airport and the other is President Reagan's request to the two American airlines to continue to stop in Beirut as to further prevent escalations on other levels.



### **Israel's olive branch**

Day eight started with a *substantive precipitant* in the form of an interview given by Hezbollah's leader, Sheik Mohammed Hussein Fadlallah where he would urge the Shi'ites to release also the ten Americans initially removed from the plane when their demands will be met. Although directly he was not part of the negotiations, qualifying his interview to be an *external precipitant* – he made *substantive* demands to the Shi'ites under his command or that listened to him and so he influenced the negotiation terms in a more direct fashion.

In a demonstration of force, 1.000 Hezbollah militants surrounded the plane lead by the three original hijackers started singing and proving indirectly that a direct strike would be nearly impossible without hurting the hostages themselves. This was one of the *external precipitants* of day eight.

Based on the worsening of the situation in comparison with earlier times, the hardening of the relationships between Israel and the United States became obvious and as a result – Israel wanted to try to mend the situation. Thus a powerful strategy shift came in Israel's policy with the announcements that they will support U.S. terrorism policy, feel for the hostages as they would be their own people and pledged to release the prisoners once the security conditions permitted.

This important strategy shift had large ramifications. First, it reduced the domestic pressure in the United States to pressure Israel and secondly it allowed the U.S. to focus on private diplomacy for a change – a well know tactic when negotiating delicate issues.

Two days later, a new consequence of the Israeli's new position emerged: in the Sunday cabinet, Israel decided to release thirty-one Atlit prisoners. Although not officially requested by any party, it was a sign of good faith towards the United States. A statement by Prime Minister Peres on U.S. television accompanied the release iterating that the United States and Israel face the terrorist threats together

and not separately. Later the same day Israeli Defense Minister Rabin reiterated the message. Another politic statement was done through the release: the number of prisoners freed coincided with the American hostage numbers – trying to demonstrate that Israel was considering the United States public opinion on one hand and showing that it was flexible to Berri on the other hand. A follow-up consequence was Berri's reaction that acted quite neutrally to Israel's statement, considering that the gesture fell 700 hostages short of what was necessary.

### **The new U.S. approach**

The analysis shows that although the following strategy shift was decided by more factors, the principal one remained Israel's change of heart. Because now the United States did not stand alone anymore in front of Berri and because a military intervention became increasingly unlikely, the United States could now relax the bargaining tactics.

Thus the major strategy shift came from President Reagan's statement in which he pledged that he would not resolve the crisis by force as long as the hostages remained unharmed. It is unclear if and how much of this strategy shift could be attributed to the press conference held by the captors after the U.S. military threats, but it will be counted as an *external precipitant* to this strategy shift due to the likely connection between the two.

There was another less abrupt strategy shift on the United States side the next day. Although this is again a step in the wrong direction, this analysis will not try to analyze it as a full strategy shift because looking at the chain of events it was unimportant for the development of the conflict. Considering the nature of this analysis though – the precipitants and consequences of this strategy shift will be analyzed.

The *precipitant* that lead to this less abrupt strategy shift was a *substantive* one, namely Berri's demand that the United States warships withdraw from the Lebanese coast as a condition to the hostages' release.

The Pentagon responded that the warships were in international waters and thus would continue to operate normally as they were not required to withdraw them any further. There were no direct consequences detected due to the continuous development of the events.

### **The U.S. deadline**

In a *procedural* and *substantive precipitant*, the Shi'ites released a new videotape showing twelve previously unseen hostages. The Amal made sure to create the maximum impact of the tape by making a deal with four leading U.S. televisions to release the tape during prime time. A very good intimidating tactic that would put pressure on the population of the United States to pressure the administration and also put the administration in a position where they would need to make a political statement.

Following this precipitant there has been a series of *external precipitants* that lead to the next strategy shift. First, Aked Haidar, leader of the Amal politburo told reporters that the hijackers are ready to wait it out and have a lot of patience after all the recent conflicts. Then another reaction came from the U.S. President who canceled his Fourth of July vacation to tend to the conflict at hand.

Nabih Berri also used a very smart tactic. By appearing daily on television and appearing rational by releasing women and children it made him appear very human to the United States public and thus even more reducing the possibility of a military assault. Another *external precipitant* was represented by the decisions made at a National Security Council meeting in Washington and a meeting in Damascus that paved the way to end the conflict.

In a *procedural precipitant*, the Red Cross came back – this time to check on the health of the passengers and due to a medical condition, one of the passengers was released the next day – further proving that the Shi'ites were genuinely concerned about the safety of the Americans. A tactic of good will that would even further increase the reasonability of the hijackers in the world's opinion.

Day twelve of the conflict was a day of meetings, with Berri meeting with the British ambassador to Lebanon and the Italian ambassador to Lebanon – with both of them asking Berri to be cautious, and the Syrian President Assad meeting with Mikhail Gorbachev, the speaker of the Iranian parliament and the leader of Hezbollah.

Later in the day, the United States made a strategy shift in their negotiation style due to the lack of results of the negotiations. A deadline was to be set and a conclusion had to come soon, President Reagan postulated. Furthermore economic restrictions would be imposed if the crisis was allowed to continue. The decision was based on the realization that the longer they continue the negotiations, the more demands the terrorists will make but also on the realization that if the conflict will last much longer he will start to lose public support. This can be counted as a powerful strategy shift.

Although not a precipitant or consequence, the political debate between the Amal and the Hezbollah groups starting to shape the conflict. It was clear that if Berri succeeded in releasing the prisoners, his faction – the Amal will receive great support in the Arab world, but if it would continue for too long, it might be the end of his career or Hezbollah might take over. The Americans were also concerned about this as they were far more likely to strike a deal with Berri than with the Hezbollah due to their radical nature.

The consequence of Reagan's statement appeared the next day. Berri's reaction was to theme his own responses as 'humanitarian' by showing that he allowed the Red Cross to take one of the hostages that had a heart condition.

### **The negative response of the French**

Also in his statement Berri proposed a *substantive* solution to the conflict, namely the placing of the hostages in the care of a European embassy in Beirut or with the Syrian government provided that they will not be released until the Israelis release the Atlit prisoners. He gave as example the French embassy for two reasons: for one the embassy grounds were spacious enough to house the hostages and the

two kidnapped French journalists that would be released together with the rest of the hostages.

Almost immediately an *external* series of events started, with the United States Secretary of State calling the French Foreign Minister Roland Dumas requesting French involvement. The French response, the one that represented also the strategy shift reaffirmed the next morning – was that they did not want to act as temporary jailers unless the Israeli can guarantee the release in a couple of days time the Atlit prisoners.

Consequently, the French contacted the Israeli to ask them about their stance on the matter and they replied that the United States did not indicate yet formally their request for the Israeli to release the prisoners and thus cannot make a commitment to France.

As previously mentioned, the strategy shift in this case is represented by the French decision not to intervene in the conflict, a position that was made clear the next morning and that represented, based on the precipitants and the situation – a mild strategy shift.

As a consequence the White House closed its doors and had no official reaction on the matter, obviously hurt by the lack of cooperation from the French. The other consequence was that now Syria was the only country left that would be able to help in the swap, as per Berri's indications. Yet the Syrians were cautious to hold the hostages for any period of time because it could be potentially viewed as the country acting as an accomplice of the Amal.

### **The road to an agreement**

Based on the signs received from Israel earlier, one of the triggering *external precipitants* of the final talks were the private discussions between United States and Israel where both countries agreed in the release of the prisoners under safety conditions.

A *substantive* claim made by the U.S. side was to include in any agreement the seven previously kidnapped Americans. Also they let the information slide that a large 18.000 man Marine amphibious force would join with the rest of the fleet within the week; this is considered an *external precipitant* as well as an intimidation tactic.

On the fifteenth day, the United Nations partially helped persuade Syria to briefly take the hostages once Washington pledged that the Israelis would release the prisoners. Following this *external precipitant*, yet another one followed with anonymous sources from both the United States and Israeli government admitting that the countries had an understanding regarding the release of the detainees.

It is worth bringing into the analysis the fact that the Syrian involvement in the conflict occurred after President Reagan asked President Hafiz al-Assad in private for his help to free the seven Americans held by Jihad. This constitutes another *external precipitant* although chronologically this request was made before the TWA crisis even started.

The strategy shift came from Berri this time. It was a double-edged one as on one hand he did not give in to Reagan's demand to release the original seven hostages with the TWA 847 hostages but he did agree to change his demands in a way that, with sufficient guarantees provided – he would agree to a multi-week timeframe to release the Atlit prisoners. This strategy shift was generated practically by a *substantive* change in the demands and it was quite major.

A consequence of Berri's decision to not free the seven original hostages was a press conference called by Reagan in which he accused the terrorists of being "thugs and murderers and barbarians". This was soon to play a negative role in the timely release of the hostages.

### **Last issues**

Berri was unrelentingly appearing in the United States media so that the public would pressure the Reagan administration in meeting the hijackers' demands

faster. This *external precipitant* manifested itself virtually throughout the case and played a role in the eventual release of the hostages.

Israeli Prime Minister Peres stated that they were prepared to release the prisoners as long as the hostages would be returned to their homes safely an *external precipitant* meant to quicken the decision of the Shi'ites. Unfortunately President Reagan's statement made with a day before was causing issues among the Shi'ites and they now demanded reassurances. This *substantive precipitant* lead to a temporary stop of the process.

As night fell, yet another *external precipitant* lead to the release of the hostages, namely the meeting between Hezbollah leaders and Syrian and Iranian officials.

There was another *procedural* issue at hand: Berri found out that the forces holding the crew hostage on board the plane were not going to release the prisoners together with the rest of them. Thus he dispatched a unit of Amal loyalists to take back the three hostages and after a short confrontation they managed to secure and bring to safety the three.

The strategy shift came from two sides this time: from the U.S. side with the State Department issuing a one-sentence statement reaffirming the support for Lebanon's government, security and stability and in the following night from the Syrian side when President Assad gave the hijackers his personal assurances. The synergetic effect of both decisions made this strategy shift extremely significant.

As a consequence on the morning of the seventeenth day the hostages were gathered in a Beirut suburban school-yard with the Red Cross forces and a variety of armed militia escorting them out of the country to Syria. The follow-up consequence was the Israeli decision in the Sunday cabinet to release 300 Atlit prisoners with more to follow in the coming weeks. This effectively ended the TWA 847 crisis.

### C.3.3 *Case results and primary analysis*

#### **Precipitants**

The analysis of the case shows a large number of precipitants that lead to the 13 strategy shifts. In total, 73 precipitants were found that are divided in the three categories as follows:

TWA Flight 847 crisis - precipitants		
Procedural	Substantive	External
18	15	40

Table C-6: The TWA Flight 847 crisis – precipitants

It is obvious that even if the number of procedural and substantive precipitants is relatively close, the large majority of the precipitants are contained in the external ones. This has to do with the fact that the negotiations were mainly conducted through statements and changes of position influenced by so many countries rather than direct face-to-face negotiations. Chronologically seen, there was a high number of procedural precipitants that appeared early in the process that, towards the end was replaced with an even larger number of external precipitants. Substantive claims were done throughout the case by both sides keeping the negotiations going.

#### **Strategy shifts**

As previously mentioned, the case exhibits 13 strategy shifts – of which 8 can be considered as major and 5 milder in nature. They are divided into 12 sections with the section “The new U.S. approach” featuring two strategy shifts. The strategy shift in this case is a break in strategy that could have been analyzed in a separate section but due to the course of events it remained essentially free of consequences.

The table below illustrates the strategy shifts of this case, their type and the main precipitants that lead to them. Such an overview gives a good estimate on which precipitants appeared more important and shows the road taken towards an agreement.



TWA Flight 847 crisis – strategy shift analysis				
Strategy shift	Abrupt shift	Mild shift	Main enabling precipitant(s)	Direction and relative power*
The first United States reaction		X	Procedural	↑
Terrorists leaving Algiers	X		External	↓↓
Israel's change of heart		X	External	↑
Israel's toughening	X		External	↓↓
Israel's policy recovery		X	External	↑
The U.S. military threats	X		External	↓↓↓
Israel's olive branch	X		External	↑↑
The new U.S. approach	X		External	↑↑↑
The new U.S. approach II		X	Substantive	↓
The U.S. deadline	X		External	↓↓
The negative response of the French		X	Substantive	↓
The road to an agreement	X		Substantive	↑↑
Last issues	X		External	↑↑↑
*This qualitative representation signifies the general direction and power of each individual strategy shift, from mild (↑ or ↓) to very abrupt (↑↑↑ or ↓↓↓)				

Table C-7: The TWA Flight 847 crisis – strategy shift analysis

This overview illustrates that most of the strategy shifts are based on external precipitants, with the substantive precipitants appearing towards the end of the negotiations. A possible logical explanation for such a situation is that as long as the negotiations were lead by external factors, no agreement could have been achieved – and with the increasing trend to discuss the issues at hand came also the willingness to settle. The first part of the conflict could be characterized as an action-and-reaction game while the second part can be considered as a problem-solving approach. There is a noticeable gap forming just before the last strategy shift that will be analyzed separately in the cross-case analysis. The possibility of an agreement starts to become visible with the strategy shift “Israel’s olive branch” although it could not have been evident at the time.

Trying to identify the episodes of the episodic model based on the findings of the case is problematic. Although given the general course of the event, assumptions about their general placement can be made. The avoidance phase is considered to be very short in this case and it ends with the first strategy shift: “The first U.S. reaction” due to the necessity to preserve the hostages’ life. The distributive phase

can be seen between the first strategy shift and “The U.S. military threats” and the integrative behavior is clearly visible after that strategy shift and up to, and including “The new U.S. approach”. There is little indication about a neutral phase in this case.

### **Consequences and tactics**

As a result of the analysis, 27 consequences were discovered. The following table groups them according to their influence on the negotiations:

<b>TWA Flight 847 crisis - consequences</b>		
<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>
9	8	10

**Table C-8: The TWA Flight 847 crisis – consequences**

This shows quite a balanced distribution of consequence types in the case study that could be quite damaging, considering that the negative consequences in absolute value surpass the total number of positive consequences by one. Even though this seems to be the first impression, based on the chronological developments it is observable that a much larger number of negative consequences happened in the beginning stages of the conflict – and toward the end of the crisis, there was an abundance of positive consequences related to the events. This provides also part of the explanation as to why the case ended up with an agreement. The neutral consequences, which did not alter nor influence the course of the negotiations – appeared throughout the analysis.

From the perspective of the tactics involved in these negotiations a lot can be said. Within the case there were the following identifiable tactics: use of strategic well-known venues to issue demands, pressure tactics, bogey, threatening and intimidation, using third parties as mediators, reducing the number of options available to negotiate, channeling the pressure on the opponent, working on private negotiations while the keeping the appearance of public negotiations and making small concessions to smooth the negotiations.

This plethora of tactics used can be divided into two categories – tactics with positive consequences and tactics with negative effects. Among the tactics with

positive influences counted the use of strategic well-known venues to issue demands, the bogey tactic, using third parties as mediators, the finding of small compromises first and working on a private set of negotiations while a public one is ongoing (assuming both negotiations are held with the same other team). The remaining tactics – namely pressure tactics, threatening and intimidation, reducing the number of options to negotiate and deflecting the pressure on the opponent produced negative consequences, being the cause for most of the deadlocks.

The case evidences the importance of the intelligent use of tactics as a way to approach potentially unattainable solutions, in this case the release of almost all the hostages without them being harmed.

## C.4 The Sino-U.S. "Spy Plane" Crisis

The case follows the events after the crash and the following emergency landing on Chinese soil of a United States surveillance plane. The negotiations that followed the emergency landing had as main issues the extradition of the American citizens that were on board the plane and the plane itself. Arguably though the main negotiation subject was actually the way each country manages to save face and appear successful in the negotiations while indeed solving the underlying problems caused by the regrettable incident. Virtually the only two parties involved directly in the negotiations were the Americans and the Chinese and although the negotiations lasted only ten days, the cultural aspect of the negotiations is vital in understanding the why the events unfolded the way they did.

### C.4.1 *Overview*

There is very little information about the context in which the incident took place as the only information accessible comes from either the United States military or the Chinese military, both extremely biased information sources. At approximately 9:15 a.m. local time on Sunday, 1 April 2001 a U.S. Navy EP-3 surveillance plane that was monitoring the Chinese electronic activity collided with one of the Chinese F-8s sent to intercept. The Chinese deployment of the F-8s was a standard operation executed countless times before with no issues.

After the crash, having sustained heavy damage the EP-3 was forced to execute an emergency landing at a military airport on the Hainan Island and the 24 crew members were detained. Unfortunately the Chinese pilot that flew the F-8 was presumed dead and the plane lost.

Getting the news, the Chinese press immediately catalogued the damaged plane as a spy plane and thus the diplomatic relations regarding the incident were pushed

to start. Naturally, the second day both countries blamed each other for the incident. As this was the first international incident of the new Bush administration it needed not to be taken lightly. Presidents Bush and Jiang Zemin both made claims and negotiating parties were selected for the following talks.

On April 3, the Chinese side came with a concrete solution to end the conflict but due to internal pressure the American side with President Bush at the helm decided to approach a hard-line tactic of not giving in. While the Chinese were only looking for a formal apology for the events, the refusal of the American side increased the tension between the parties very much as it was indeed a simple proposal.

Between the second and the third day, publicly the United States kept its hard-lined tactics while in private the search for a solution started. Due to cultural and linguistic differences, the terms used by the United States delegation offended the Chinese delegation greatly and as a response on the fourth day the Chinese vice Premier Qian Qicheng appeared to take a much tougher position in the negotiations. It was after all, an incident caused by an American plane and the incident could escalate dramatically, at least in the Chinese media. The domestic pressure in China raised and even for the Chinese negotiation team a solution had to be found as the United States side did not seem willing to give a proper public apology. Following another intervention of the Chinese President the Americans started to work on a formula that would settle both sides' needs.

Between the sixth and the eighth day, President Bush and Secretary of State Colin Powell started to use the word 'sorry' and express sorrow in relation to the lost Chinese pilot and appeared on multiple televised shows. While the Chinese side did acknowledge that this was a step in the right direction, the Chinese Foreign Ministry thought that sorry was just not a strong enough word.

On the tenth day, after numerous negotiation rounds, the fifth revision of a letter sent by the United States Ambassador Prueher to the Foreign Minister Jiaxuan was accepted. While the U.S. translators tried hard to translate the letter in a version

that did not imply the United States fault but did express sincere regret, the Chinese translated the letter in their own interest using words that express 'deep expression of apology and regret' which was precisely what the American side tried to avoid. Naturally, the Chinese press got the Chinese version of the letter while the American media got the U.S. version of the letter.

Thus based on the published letters, the Chinese officials decided to allow the 24 people from the U.S. EP-3 plane to leave out of humanitarian reasons while the plane itself was returned almost three weeks later, dismantled – thus ending the Sino-U.S. crisis of 2001.

#### C.4.2 *Strategy shift analysis*

The analysis that follows divides the case into five sections that will deal with the separate strategy shifts in their chronological order.

##### **The U.S. hard-line tactic**

After the collision the *external precipitants* did not fail to appear. In a statement from the White House, the Americans claimed that their planes were operating in international air space and they did nothing wrong. Meanwhile, China's Foreign Minister told U.S. Ambassador Joseph Prueher that Washington bears full responsibility for the incident.

*Substantive* claims were done by Presidents Bush and Zemin of the other in public. By the end of the day another *procedural precipitant* took place from both sides – by the appointment of Ambassador Prueher and China's Assistant Foreign Minister, Mr. Zhou Wenzhong as chief negotiators. In an *external* event, Brigadier General Neal Sealock was given permission to visit the detained crew.

During the first official round of negotiations the Chinese offered a *substantive* proposal to solve the conflict: the United States must formally apologize to China for the incident. This lead to the first strategy shift, namely the blatant refusal of President Bush to apologize and the warning that if the aircraft and crew were not

returned soon, the relations between the countries could be damaged. This threatening tactic has the role to show the seriousness of the negotiations and typically means a more careful assessment of the statements that the other party makes.

After the statement it became obvious that the public media and Bush's conservative party were showing signs of impatience regarding China's approach and were demanding a hard-line response from the Administration. This means that the strategy shift was not only the result of the *substantive* claims of the Chinese but also the result of *external precipitants*.

### **Regretting the incident**

The American delegation, even with the publicly reflected tough position, did not suspend the diplomatic efforts as it was in their interest to recover the crew and the aircraft. On 4 April in a *procedural* manner, Secretary of State Colin Powell sent a letter to Vice Premier Qian Qicheng in which he evidenced the feelings of regret.

This *substantive precipitant* coupled with a *procedural* one lead to the next quite abrupt strategy shift in which the American side seems concerned about the missing pilot and feels regret about the incident. A day later, President Bush in a televised appearance expressed the same feelings toward the Chinese.

The consequences although were not expected. The Chinese news agencies and the Chinese Foreign Minister both felt that the feelings that the American counterparts were expressing differed greatly from their original request of apologizing. Thus, the consequence of the United States statements was represented by a hardening of the Chinese negotiation policies.

### **The Chinese response**

Based on *external precipitants*, like the Chinese media reaction that classified the U.S. statements as most dissatisfying and not sincere and on the *substantive*

approach regarding the proposed words, the Chinese counterparts exhibited a moderately-strong strategy shift in their approach.

In a letter of response to Powell, Vice Premier Qian Qicheng qualified the United States statements as unacceptable to the Chinese side. Qian also noted that it is essential for the U.S. counterpart to apologize to the Chinese people and only afterwards will there be discussions regarding the plane or the crew. This could be counted as a *substantive precipitant* for the American side in the *section five: "The acceptance"*.

The consequences failed to appear as soon after the Chinese diplomacy changed their position again.

### **President Zemin's statement**

For the next strategy shift, *external precipitants* like the growing domestic unrest both in the U.S. and China played an important role. The Chinese Foreign Ministry Spokesman declared that China would not want the relations between the two countries affected by the incident (*external precipitant*).

The tactic employed by the Chinese here bases itself on strategic considerations. While putting too much pressure on the United States they risked pushing the Americans further in Taiwan's camp, supporting more pro-independence factions. Another *external precipitant* and consideration was the fact that trade between the two countries amounts for 116 billion dollars a year and they would not willingly risk the continued American investment and technology in the country.

These external considerations were the basis of President Zemin's statement that also represented a moderate strategy shift for the Chinese side. He transmitted that even when people meet on the street and collide they apologize to each other, and while that constitutes a normal behavior, it is not normal for United States planes to come to their border, cause incidents and not even ask for forgiveness.



The American diplomacy entered a flurry after President Zemin’s statement as now it had to devise a wording that would be considered acceptable by the Chinese. The consequences did not fail to appear as just the next day both President Bush and Secretary Powell began to use the word sorry and express sorrow regarding the lost Chinese pilot. After a number of televised events, the Chinese Foreign Ministry responded as a follow-up consequence stating that although the word ‘sorry’ is a step in the right direction, it is not good enough and the American counterpart needs to devise an even stronger word.

### **The acceptance**

The search for a solution continued with Ambassador Prueher trying to find the right wording for the text to be passed on to the Chinese. The *substantive* changes that he made included phrases like “sincere regret over your missing pilot and aircraft” and to “the Chinese people and the family of the pilot Wang Wei that we are very sorry for their loss”. Furthermore he sends his apologies for entering China’s airspace and landing without verbal clearance.

The letter was passed to Foreign Minister Jiaxuan who accepted it and thus concluded the negotiations. The publishing of the same letter in different versions, one for the United States media and one for the Chinese media represented a tactic to save face for both governments and to prove to their respective countries that they were victorious. China however, had the upper hand being able to better control their media and gained even more momentum through their statement saying that they decided to allow the crew to leave out of humanitarian conditions.

#### ***C.4.3 Case results and primary analysis***

### **Precipitants**

The precipitants that lead to the strategy shifts presented in the next section are grouped in the table below:

<b>Sino-U.S. crisis - precipitants</b>		
<b>Procedural</b>	<b>Substantive</b>	<b>External</b>
3	7	8

**Table C-9: The Sino-U.S. crisis – precipitants**

In total there were identified 18 precipitants with the vast majority divided between substantive and external ones. Chronologically, both substantive and external precipitants are appearing throughout the negotiations showing the intense interest of the parties to come to an agreement. The number of procedural precipitants is low due to the fact that the negotiations did not change their format or structure often.

### **Strategy shifts**

In total there are 5 strategy shifts found in the 10 days of negotiation. Divided into 5 sections, only one of the strategy shifts can be considered mildly-moderate, the other ones exhibiting abrupt strategy shifts. An overview of the recorded strategy shifts and their principal precipitants can be found below:

<b>Sino-U.S. crisis – strategy shift analysis</b>				
<b>Strategy shift</b>	<b>Abrupt shift</b>	<b>Mild shift</b>	<b>Main enabling precipitant(s)</b>	<b>Direction and relative power*</b>
The U.S. hard-line tactic	X		External + substantive	↓↓
Regretting the incident	X		Procedural + substantive	↑↑
The Chinese response	'X'		External + substantive	↓
President Zemin's statement		XX	External	↑
The acceptance	X		Substantive	↑↑↑
*This qualitative representation signifies the general direction and power of each individual strategy shift, from mild (↑ or ↓) to very abrupt (↑↑↑ or ↓↓↓)				

**Table C-10: The Sino-U.S. crisis – strategy shift analysis<sup>93</sup>**

As it is immediately recognizable, all but one strategy shift use substantive precipitants as their main enablers. This leads to the judgment that the process of negotiation between two differing cultures relies more on the substance of the negotiations than on other factors. This statement will be analyzed in the next chapter of the thesis.

Interestingly, this far simpler case resembles the episodic model example to the point where the different episodes become very clear. These episodes show, in

<sup>93</sup> The 'X' represents still a major strategy shift yet slightly milder than the others, while the XX means that the strategy shift is in this case more powerful and closer to a moderate strategy shift, yet not quite a major strategy shift.

order – a distributive approach up to the first strategy shift, followed by a neutral behavior up to "President Zemin's statement" and a clear integrative approach leading afterwards to the end of the negotiations represented by "The acceptance". The avoidance episode is presumed to start after the collision and up to the first claims made by both sides. The easiness in identifying the episodes in this quite simple case provides verification that the subjective scale that built all case chronologies does stay within the limits of plausibility on one side and it provides verification that the found strategy shifts<sup>94</sup> and their effects can be verifiable through a simplified model.

### **Consequences and tactics**

The identification of the consequences of the strategy shifts in this case was quite evident due to the nature of the document based on which the analysis took place:

<b>Sino-U.S. crisis - consequences</b>		
<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>
2	1	2

Table C-11: The Sino-U.S. crisis – consequences

While the number of consequences is arguably low for the case, their timely distribution suggests that the case could end with an agreement as the negative consequences appear in the beginning and the middle of the case while the positive consequences toward the end.

There are a few tactics used during the course of these negotiations, namely: threatening tactics, conflict avoidance, entrapment and the illustration of other available options outside the negotiations. All but the conflict avoidance tactic generate negative consequences. The conflict avoidance tactic is quite special type of positive tactic as it is a preventive tactic and thus causes no consequences, although it could prevent the appearance of other, negative consequences.

A special category needs to be reserved for the tactic of appearing to rise as the winner of a conflict. This tactic is less of a negotiation tactic but more of a hindrance in respect to negotiations as it has connections to politics, external

<sup>94</sup> For this case at least.

appearance, reputation and even personal options. It can be resolved through symbolic acts<sup>95</sup>.

It can be concluded that this case stresses the need of good substantive talks with a certain amount of flexibility if an agreement is to be sought in a timely fashion.

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<sup>95</sup> Based on "Symbolic Acts," Selection from: Raymond Cohen, *Negotiating Across Cultures: Communication Obstacles in International Diplomacy*, (Washington, D.C.: United States Institute of Peace Press, 1991), p. 133. Summary written by Tanya Glaser, Conflict Research Consortium: Symbolic acts can play an important role in bringing negotiations to a close. In 1971 the U.S. was trying to persuade a reluctant Japan to revalue its currency in order to redress a significant balance-of-payments problem. U.S. negotiators demanded a 17-percent upward revaluation of the yen. The Japanese Finance Minister feigned illness and canceled his meeting with the American Secretary of the Treasury in order to avoid being forced into making concessions. Treasury Secretary Connally met instead with Deputy Minister Kashiwagi. Kashiwagi stated that seventeen percent was an unacceptable figure. He explained that in 1932 a Finance Minister had been forced to commit suicide (actually, he had been assassinated) after agreeing to a seventeen percent revaluation. Connally promptly proposed a 16.9-percent revaluation, which Kashiwagi accepted. By proposing a substantially insignificant but symbolically crucial concession, the U.S. Treasury secretary had saved the honor of his counterpart, and made it possible for the Japanese to agree.

## C.5 The legal status of Gibraltar

The special fact about the Gibraltar's case is that it is a fight mainly between different principles: on one hand the principle of self-determination sustained by the United Kingdom and on the other hand the principle of territorial integrity sustained by Spain and partly by the United Nations. While the Spanish claim the territory back for hundreds of years already, the real negotiation attempts stem from a much more recent date, namely 1963. The presented course of events follows the two countries as the main participants in the negotiation – and sometimes the United Nations, from 1963 and up to the end of 2006 over a period of forty-three years. Gibraltar's situation remains unresolved to this day due to the fact that neither country would cede in what they believe is rightfully theirs.

### C.5.1 *Overview*

The Gibraltar strait always represented a power position and with the Spanish and Moors fighting over it in the Middle Ages, the strait was always at risk. Finally the Spanish managed to control the city between 1462 and 1704 when the British seized it. Caught in the Spanish Wars of Succession, the Spanish had more important issues internally to deal with and thus signed the Treaty of Utrecht years later in 1713. The treaty was giving Britain complete sovereignty over the Rock indefinitely. The treaty also contains a reversionary clause that in case the British would relinquish the sovereignty of Gibraltar, the Spanish would be entitled to reclaim it as long as they still want the territory. This effectively rules out the independence of Gibraltar, a point with which both parties agree. The isthmus that connects Gibraltar to the mainland and to Spain is of a different matter as it was not covered by the Treaty of Utrecht. In time, with Gibraltar's expansion – the British took over more and more of the isthmus building an airport on it. Both sides have different arguments about it regarding international law. Britain had a very flexible politic regarding Gibraltar – granting it in time an increasing number of

liberties. At the moment Gibraltar has its own currency, school and medical system, own government and legislation, own police force and own constitution and the few remaining ties with the United Kingdom being the RAF military base present in the area and the position of Governor of Gibraltar.

Spain's main tactic is to use the United Nations charter as defense for its claims. In 1963 Spain brought the issue to the United Nations Special Committee that noted the issue and invited both parties to negotiate. The British refusal was met with economic sanctions from Spain regarding Gibraltar.

Several rounds of negotiation took place afterwards between 1964 and 1966 and while Spain was accusing the United Kingdom of an act of aggression, the replies were always stark – their claims could be verified by the International Court of Justice. In 1967 United Kingdom was the one that initiated the talks only to quickly realize that the Spanish were playing a two-sided game.

A highly disputed referendum initiated by the House of Commons in Gibraltar opposed by Spain and the United Nations and the results were devastating, with ninety-nine percent of the registered voters opting for the continuing association with Britain. In the following years the United Nations issued a few resolutions that heated up the spirits of both the United Kingdom and Spain. Resolutions 1514, 2353 and 2429 of the United Nations seemed to be all in Spain's favor yet the British kept to their own. The 1969 Gibraltarian constitution heated even more the spirits and after so many failed attempts the United Nations decided to step down from the mediating role and into a monitoring role.

In 1970, the U.N.'s Resolution 2625 gave a lot of leeway to the British and the next few years consisted of a series of stalemates. After some failed negotiations in 1974 and Spain's transition to democracy after the death of General Franco, new practical negotiations started on subjects like telecommunications, pensions and airspace regulations.

Several discussion rounds took place in 1980, 1982 and 1984 with the 1982 talks being postponed due to the Argentinean invasion of the Falklands/Malvinas and the different positions exhibited on the matter by both countries.

Talks continued afterwards in 1984 in Brussels and 1987. Since 1992 the Chief Minister of Gibraltar has been invited to address the Special Committee on Decolonization and since 1996 both Chief Minister and the Leader of Opposition have been annual contributors to the sessions of the Special Committee and the General Assembly Fourth Committee of the United Nations. With the establishment in 2004 of the tripartite Forum of Dialogue, Gibraltar was able for the first time to negotiate directly alongside Britain with Spain over its future.

Gibraltar updated its constitution at the beginning of 2007 after a referendum with sixty percent of the voters in favor of the changes. While the new constitution is full non-colonial, it is still not enough for the United Nations to remove Gibraltar from the list of states that await decolonization. Britain now claims that the delisting criteria used by the United Nations are now out-of-date as the new constitution represented de facto an act of decolonization while Spain remained with its old claim of recovering its territorial sovereignty.

### ***C.5.2 Strategy shift analysis***

The strategy shift analysis will be structured in a similar way as with the previous three cases for upholding the comparability between them. Main differences occur although as with this case the strategy shifts regard mostly the politic changes in relation to the negotiations of each side and not actual strategy shifts based on the issues at hand. This is due to the fact that even though the analysis spans over forty-three years, neither country modified its initial claims.

#### **Early refusals**

The dispute was brought to the United Nations attention by Spain in 1963. Through an *external precipitant*, the United Nations – registering the situation as a conflict, called upon both countries to negotiate.

In its first strategy shift, a mild one, Britain declared that the United Nations Special Committee had no competence to ask the start of negotiations or to make recommendations regarding the dispute.

As consequence, Spain immediately threatened in a plenary meeting of the General Assembly that unless the United Kingdom negotiates they would revise their politics regarding Gibraltar. This intimidation tactic is based on the perceived power difference present between Spain and Gibraltar.

The United Kingdom introduced changes in the constitution of Gibraltar, giving the territory a larger degree of self-government as a protection mechanism against Spain's probable restrictions. This is just a follow-up consequence based on the threats that Spain made a few months in the past.

### **Britain's willingness to negotiate**

Diplomatic exchanges between the countries took place between November 1964 and March 1965 with little success together with four sessions of bilateral talks held in London between May and October 1966. These *procedural precipitants* had the role to break the ice and create opportunities for the two parties to involve themselves in more serious negotiations.

*Substantive* claims made by Spain were deflected by the United Kingdom by pointing out that Spain should test the validity of their claims at the International Court of Justice, to which Spain never agreed. In December 1966, through an *external precipitant*, namely the Resolution 2231 passed by the General Assembly - both countries were asked to continue with the negotiations.

Britain did comply and thus a new strategy shift took place, namely the British proposal for the start of the negotiations on 16 April 1967. Due to its compliance in nature, the strategy shift can be considered as mild. The politics change was short lived because Spain, by employing an *external precipitant*, decided unilaterally to ban all foreign aircraft in an area contiguous to Gibraltar.



As consequence, the United Kingdom did try at this stage to initiate negotiations on the ban, the Spanish replied that the only negotiations they would accept are the ones regarding the decolonization question. Talks did resume on 5 June but broke down three days later with the inability of the United Kingdom to convince Spain on the aerial restrictions.

Another consequence to this situation was that the British took Spain to court, but the International Civil Aviation Authority was unable to solve the conflict as it was a political one.

### **Britain ignoring the United Nations**

Just a few weeks after the last incidents at the International Civil Aviation Authority, the House of Commons initiated the procedure to start a Referendum in Gibraltar. This *external precipitant* was met with yet another *external precipitant* in the form of strong objections from Spain and later the United Nations which also passed resolution 2231 in support of Spain's claims and asked the both countries to negotiate directly.

In a quite abrupt strategy shift, Britain denounced the United Nations' resolution as a wholly partisan document and thus went ahead with the referendum. This led to a long series of consequences.

Before the announcement of the results, as a consequence and more than likely to try to reduce the impact of the referendum, Spain requested the resumption of the talks. The result of the referendum was staggering, with a participation of ninety-five percent – only forty-four people were against the continuation of the relationship with the United Kingdom – this counts as an *external* event. Spain immediately asked the British to invalidate the referendum which it refused to do.

Another consequence of the British not complying with the United Nations was resolution 2353 that declared the referendum as a contravention of resolution 2231 and called upon the two sides to resume talks. The British and Gibraltarian reactions were predictably strong on the matter.

After another failed attempt to negotiate, on 5 May 1968 Spain closed the land frontier to Gibraltar and prompted a hardening in the United Kingdom's position – the creation of a new constitution in 1969. With Spain leading the events, the United Nations drafted the most strongly worded resolution proposed thus far. This resolution (2429) declared the situation in Gibraltar incompatible with the United Nations Charter and calls upon Britain to terminate the colonial situation. Following this consequence, another one – more serious to the matter at hand, followed: with the promulgation of the new constitution, Spain started the 16-year period of closed-borders policy.

### **Resuming the talks**

The *external precipitant* that ignited the possibility for a new round of negotiations was the surprising United Nations resolution 2625 of 1970 that virtually protected the Gibraltarians from the Spanish objections.

Based on the Spanish request to resume the talks in July 1973, the United Nations asked again that the two parties should negotiate directly. This *external precipitant* led to the British agreeing to explore new potential solutions but no date was set for such negotiations to happen. Resolution 3286 was the last resolution of the United Nations regarding Gibraltar – considering that the best solution in this case would be that the two parties should resolve the conflict through bipartite negotiations. It is unsure up to date if this *external precipitant* helped or not the course of events that was to follow but meetings between the two countries did take place sporadically until the end of the 70s.

The *external precipitant* consisting of the death of General Franco and Spain's transition to democracy meant also a change in the British-Spanish relations.

*Substantive* talks regarding telecommunications, pensions for former workers from Spain or restrictions on the use of Spanish airspace took place, while the opinion on the central issues remained unchanged for both sides.

A strategy shift came in April 1980 when both governments signed the Lisbon Agreement with the intention of solving the Gibraltar problem. The *external precipitant* that apparently leads to the change in policy was Spain's successful application to join the EU in 1986 and the free movement across internal E.U. borders, considering that Gibraltar entered the EU together with the United Kingdom in 1973. This insight transforms a potential critical strategy shift in merely a mild one as the search for an agreement is based on ulterior motives.

### **External events disrupt the negotiations**

In these times Spain was preoccupied with its accession into NATO and on top of this *external precipitant*, Argentina invades the Falklands/Malvinas in April 1982. The United Nations quickly voted Resolution 502 calling for an immediate withdrawal of Argentina from British soil.

The strategy shift happened due to Spain abstaining in the United Nations Security Council and as consequence Anglo-Spanish relations inevitably worsened. While there was a great deal of friction between the two sides, the postponing of negotiations was mutual and thus a mild strategy shift.

### **Advancements in negotiations**

Through a *procedural* and *substantive precipitant*, both countries agreed on resuming the talks in November 1984 by signing the Brussels declaration that included an explicit commitment to discuss issues of sovereignty. This new strategy shift, although not very powerful either, started a series of consequences like the United Nations General Assembly welcoming the progress made and the 1987 United Nations Decision that expressed the hope that the Brussels statement would provide a definitive solution.

Later consequences came in 1992 with the Chief Minister of Gibraltar being invited to address the Special Committee on Decolonization and then a year later to address the Fourth Committee for the first time since 1967. Further positive

consequences include the annual participation of the Chief Minister and Leader of the Opposition to the sessions of the Special Committee and Fourth Committee.

One of the biggest breakthroughs came in 2004 with the establishment of the tripartite Forum of Dialogue in which Gibraltar alongside United Kingdom and Spain was able for the first time to openly negotiate its future.

### **The British strategy change**

Arguably Gibraltar does not seek independence, even if the Treaty of Utrecht would be put aside. This position of Gibraltar could be considered speculation yet because the referendum to instate the new – fully non-colonial constitution was voted with a majority of sixty percent of the votes, it represents an *external precipitant* that lead to another *precipitant*, namely the successful referendum that could have been part of Britain's new strategy shift.

Spain's position remained the same, opinion issued in a diplomatic letter exchange in March 2006 between London and Madrid – that the new constitution does not change Gibraltar's status of a colony.

The last strategy shift up to 2007 consists of Britain's new approach on the matter, calling the United Nations delisting criteria as out-of-date and that the new constitution de facto constituted decolonization as far as they were concerned. This is a big strategy change as it focuses on the United Nations now instead of Spain, and thus being considered a major strategy shift. It is unclear however, what were the precipitants that lead to such a strategy change in the British strategy.

As a consequence, the Spanish argued that through the person of the Governor, the British are still exercising their administrative authority, while in defense the Gibraltarians claim that the Governor is merely a local representative of the Queen as Queen of Gibraltar. With neither side willing to accept the others' position, the conflict remains to this day open.

### C.5.3 *Case results and primary analysis*

#### **Precipitants**

The Gibraltar case features 21 precipitants and is one of the two cases that do not end in an agreement. The following table presents the categorized precipitants:

The legal status of Gibraltar - precipitants		
Procedural	Substantive	External
2	4	15

Table C-12: The legal status of Gibraltar – precipitants

The first insight that becomes quite clear by analyzing the above table is the lack of substantive and procedural precipitants in this case. Although not sufficient, it is required to have substantive precipitants in order to seek a common ground for a decision and thus the analysis already reveals one of the issues that inevitably lead to the failure of reaching an agreement. From a chronological point of view, the distribution of the external precipitants is quite constant during the years. No conclusions can be drawn regarding the procedural or substantive precipitants as their numbers are too low.

#### **Strategy shifts**

The case exhibits 7 strategy shifts out of which 5 are considered less abrupt. Every strategy shift represents one section of the analysis. A further analysis on the strategy shifts can be achieved by analyzing the connection between the main enabling precipitants and the strategy shifts, presented in the table below:

The legal status of Gibraltar – strategy shift analysis				
Strategy shift	Abrupt shift	Mild shift	Main enabling precipitant(s)	Direction and relative power*
Early refusals		X	External	↓
Britain's willingness to negotiate		X	External	↑
Britain ignoring the United Nations	X		External	↓↓
Resuming the talks		X	External	↑
External events disrupt the negotiations		X	External	↓
Advancements in negotiations		X	Procedural + substantive	↑
The British strategy change	X		Unknown	↓↓
*This qualitative representation signifies the general direction and power of each individual strategy shift, from mild (↑ or ↓) to very abrupt (↑↑↑ or ↓↓↓)				

Table C-13: The legal status of Gibraltar – strategy shift analysis

This overview shows one of two things: first that although both Britain and Spain are involved in the negotiations directly, the highest willingness to negotiate comes from Britain based on the strategy shifts and secondly – almost all strategy shifts had as main precipitants external ones. This represents yet another issue that leads to the lack of an agreement – the talks and implicitly the strategy shifts are based mostly on reactions to external factors rather than negotiating constructively using substantive precipitants. The last strategy shift, as mentioned in the analysis as well – has no clearly identifiable precipitant and thus is marked appropriately.

This case shows a clear negative trend. This is to be interpreted as not only the negotiations are not moving towards an agreement, they are actually moving ever further from one. Another observation consists of the fact that even though there are strategy shifts present, there is a very limited movement even in regard to the observed shifts. This strengthens the idea that an agreement in this case is (if possible) still very far away.

Comparing the episodic phase model to this case, due to the negative trend clearly visible in the above figure, it is still probable that the case finds itself in the distributive phase, with the avoiding phase happening after the Treaty of Utrecht was signed and up to the start of the official negotiations.

### **Consequences and tactics**

During the course of the analysis, 19 consequences were found. These are presented and categorized below:

<b>The legal status of Gibraltar - consequences</b>		
<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>
3	8	8

**Table C-14: The legal status of Gibraltar – consequences**

As a further confirmation on the disagreements present in this conflict, the negative consequences far outweigh in absolute numbers the positive consequences of the strategy shifts. Chronologically, both positive and negative consequences are distributed quite equally throughout the case while the neutral ones appear from the middle of the case toward the end. It should be noted here

that some of the resolutions drafted by the United Nations are considered neutral consequences because – by not being binding, the countries – especially Britain, ignored them and thus they do not influence the course of the conflict.

Spain's main tactic is the intimidation tactic and includes the aircraft ban, economic sanctions and closing the borders. The case clearly shows that although this tactic yields negative consequences it also poses a slight positive consequence, namely bringing the other side to the negotiation table. The tactic is largely unsuccessful though because Gibraltar is not tied to Spain and has the United Kingdom as guarantor of its safety as long as its trade partner.

This chapter shows that an agreement regarding Gibraltar, at least through this analysis – between the United Kingdom and Spain is unlikely – at least in the near future, due to no common interests – fact verified by the current unchanged situation, 6 years after the analyzed period ended.

## C.6 The Transnistrian conflict

Historically seen the Transnistrian conflict started after the fall of the Soviet Union. It is a complex case that is still to this day unresolved due to insurmountable differences between the involved parties. While initially it started on the basis of emancipation of different nationalities – generally Russian, and ideologies, it later used military resources to insure its stability. The more time it passes, the issue transforms from a military one back into an ideological, political one. Yet because the military factor was essential to secure the beginning of the Transnistrian regime, it will always remain a security issue but naturally, also a political issue. As already mentioned, the conflict is still ongoing and reliable data acquisition cannot be guaranteed to a much too recent point due to the large bias that the information might carry. For this reason but also to be able to use one major source of data instead of multiple main sources which could cause collisions in data due to bias, the analysis spans over a period stretching from the beginning of the actual negotiations in early 1993 up to 2004 – on a eleven year timeframe. The main negotiation partners in this case are the Moldavian Republic on one side and the separatist Republic of Transnistria on the other. A significant number of countries and organizations also play an active role in the negotiations, namely the Ukraine, Russia, OSCE and lately the EU and the United States. The case is interesting to analyze because it represents a typical deadlock situation in which (up to present day at least) no solution or proposal even with the help of mediators, is good enough for both parties.

### C.6.1 *Overview*

In 1806 Russia invaded the eastern parts of Bessarabia and upon acceptance of the annexation by the Ottoman Empire a process of russification begun in 1828. This process did not get far as with the end of the Crimean War the Paris peace conference decided to cede the southwestern Bessarabia to Moldova. This



represented the onset of the multiple border changes that Moldova had to face in the next 150 years. Following the First World War, Moldova declared its independence on 5 February 1918. In between the World Wars multiple changes to Moldova's borders took place, mainly due to the Russian regional power. The Peace treaty signed in Paris in February 1947 sets the Soviet-Romanian borders and recognizes Soviet sovereignty of Moldova.

If the russification that occurred a century ago remained largely fruitless, the sovietization was a completely different matter. Post-war, more than 500.000 people – mainly ethnic Moldovans were deported to Siberia and people from other parts of the Soviet Union brought in to work inside Moldova. The strategy was to develop western Moldova as an agricultural area and the eastern Moldova as an industrial area, mostly military related. This resulted in a stratification and separation of the nationalities, with mostly Moldovan in the west and an assortment of Moldovans, Russians and Ukrainians in the east. Following the fall of the Soviet Union Moldova underwent a series of internal conflicts with the peak being the Transnistrian war between November 1990 and July 1992. Despite the attempts to outlaw the separatist Transnistrian Republic, with the aid of the former 14<sup>th</sup> Soviet Army stationed in the region and its over 40.000 tons of equipment and ammunition stockpiled, Moldovan forces stood no chance against the rebels. A cease-fire agreement between Moldovan and Russian Presidents was signed on 21 July 1992 and a demilitarized zone was created between the two factions.

Talks about the Transnistrian conflict started early in 1993 with the involvement of OSCE. A virtual independence was sought after for the Transnistrian side but Chisinau, the capital of Moldova refused. After more failed attempts between 1993 and 1994 by OSCE and CSCE, President Yeltsin tried to re-start the negotiations with some moderate success – among others: a planned Russian military withdrawal, a border agreement with the Ukraine and the new role of Ukraine as official mediator.

Due to stalled negotiations in spring 1997 Russian Foreign Minister Evgeny Primakov suggested the formation of a 'common state' as a way out of the

deadlock. There was a memorandum signed that gave the right to Transnistrian officials to participate in Moldovan foreign relations on subjects that touched its interests. Heavy internal disagreement within Moldova leads also this time in a breakdown of negotiations. New draft agreements were composed in June 1997, November 1998 and the spring of 2000 when both sides agreed on the formation of a 'common state' although what that actually implied remained unclear.

With the installment of a communist government in Moldova in February 2001, new proposals were made on the administrative division of the country with also took place in December of the same year. With Moldova entering the WTO in May 2001 – the Transnistrian economy was severely hit as it was required to pay taxes to Moldova if it was to export merchandise across borders – a key aspect of Transnistrian sustainability.

A new draft agreement was presented by the three mediators – Russia, Ukraine and OSCE in July 2002. It was the most detailed document drafted so far and was subject of negotiations in August 2002, fall of 2002, December 2002 and February 2003 with no progress visible on either side.

Supporting Moldovan policy, the United States and Europe imposed a travel ban in February 2003 on several Transnistrian leaders – leading to a reciprocating measure by Transnistria with declaring some high-ranking Moldovan officials as *persona non grata*. Meanwhile, some agreements did take place with the Joint Constitutional Commission being formed between the two, where Transnistria was invited to become a co-author to the Moldovan constitution.

The most shocking event of 2003 was the Russian document, the so called 'Kozak memorandum' that took everyone, including the mediators by surprise and that presented in great detail how the rift inside Moldova could be fixed. Although the document took everyone by surprise it masked severe limitations for Moldovan decisions if Transnistria did not agree, as it could block almost any initiative put forward by the other side. While officially both the Moldovan (to save face) and Transnistrian sides agreed on the Kozak Memorandum, the OSCE and massive

internal resistance in Moldova were against it – fact that led to a heated relationship between Russia and the OSCE and even United States – noticeable at the OSCE Meeting in Maastricht in December 2003 where the Russian delegates did not want a joint final declaration after the meeting.

### C.6.2 *Strategy shift analysis*

This case will be analyzed in the same fashion as the previous cases. One of the main differences of this case is that all except two strategy shifts could be considered full strategy shifts and thus as a general rule, unless specified otherwise – they are to be considered mild strategy shifts. This is due to the fact that although there are compromises and agreements on both sides, they only regard partial or secondary aspects of the negotiations and almost never (with one exception) deal with agreements on the main issues like the legitimacy of Transnistria or its independence. Nevertheless the same analysis style has been used to keep the comparability of the results for the inter-case analysis as high as possible.

#### **First initiatives**

Negotiations began early in 1993 with a *substantive* proposal drafted by the Transnistrian legislature which would yield virtual independence for Transnistria. The two states would be equal and independent states with a single membership inside the CIS.

After initially agreeing to start the negotiations after signing the Snegur-Yeltsin agreement a few months back, the Moldovans had their first strategy shift by openly refusing the proposal and doing a *substantive* counter-proposal in the shape of a draft law in which Transnistria would get a special status inside Moldova. Given the history between the two sides, this is to be considered a mild strategy shift.

The direct consequence of such a strategy shift was the rejection by Transnistria of such a proposal. This consequence can be seen also as a strategy shift, essentially creating a double strategy shift with cause and effect.

### **First breakthroughs**

In a *procedural precipitant*, the CSCE Mission was established in Chisinau in April 1993 and was mandated to assist both sides in the negotiations. The mission also had a *substantive* approach to the conflict by outlining a proposal in November 1993 as basis for the talks and although secession was dismissed the document brought the principle of external self-determination to the table in case Moldova would decide to merge with Romania.

Based on a *procedural precipitant* President Yeltsin took the initiative to re-start the negotiations in February 1994 and the leaders of both Moldova and Transnistria met twice in April. At the second meeting a mild strategy shift has been reached with the signing of a joint declaration in presence of CSCE<sup>96</sup> and Russian officials where both sides agreed to start the negotiations based on the earlier proposal by CSCE.

As consequences to this strategy shift counted a number of agreements about Russian troop withdrawals, a border agreement with Ukraine and in 1995 for Ukraine to become the third official mediator of the conflict where the last agreement doubled as a *procedural precipitant* for the course of negotiations.

After the negotiations based on the 1993 CSCE proposal stalled, in 1995 the OSCE initiated talks on the basic principles that should govern this negotiation. This *substantive precipitant* lasted for almost 18 months until the Russian Foreign Minister Evgeny Primakov suggested the formation of a common state.

The next mild strategy shift was the signing of the 'Memorandum of Understanding on the Bases for the Normalization of Relations between the Republic of Moldova and Transdniestria' on 8 May 1997 in Moscow. Although this is a strategy shift it was included in the same chapter as the previous strategy shift, both of them being essentially the same. The deadlock in between the two strategy shifts happened

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<sup>96</sup> CSCE became OSCE in December 1994.

naturally due to both parties' lack of common ground in the essential negotiation issues.

The consequences of this signing were largely negative. On the Moldovan side, the memorandum was heavily criticized by the Christian Democratic Popular Front for implying that by signing such a treaty Moldova recognized the Transnistrian republic and in Transnistria by the ultra-left, pro-Russian, pro-independence parties. President Luschinski tried to propose negotiations based on a number of smaller issues not directly linked with the negotiations towards a comprehensive agreement just to try to get to a common ground with the other side. His initiatives remained unanswered by the Transnistrian counterparts.

### **The following agreements**

Just a few months after, a new draft proposal was tabled by OSCE making up for a *substantive precipitant* for the next round. Several unsuccessful rounds of negotiations took place until the next strategy shift presented itself through the signing of the 'Agreement on Confidence Measures and Development of Contacts between Republic of Moldova and Transdniestria' in Odessa 1998.

The *substantive* changes that lead to the signing were among others, reducing the number of peacekeeping forces in the region while bringing in peacekeepers from Ukraine which until then acted only as monitors.

Yet a new document was elaborated in November 1998 by the mediators representing another *substantive precipitant* – this time the parties also were unable to agree on the draft text. However a 'Joint Statement on Issues of Normalization of Relations between the Republic of Moldova and Transnistria' was signed in Kiev in July 1999 based on the document elaborated in 1998. This strategy shift is identical in nature with the previous one and because it exhibits no strategy changes it will not be considered.

### **Disagreements on the 'common state'**

Although the joint statement was signed by both and by the mediators – more differences surfaced in the coming weeks with the Transnistrians insisting on keeping their own separate forces while Moldova wanted a single national military force.

New *substantive* proposals from both Moldova and Transnistria were drafted in the spring of 2000 but the next strategy shift came from the Transnistrian President Igor Smirnov that called the proposals “totally unacceptable”.

As a consequence, President Putin announced the formation of a State Commission on the Transnistrian Conflict to be lead by Evgeny Primakov and Ukraine shortly followed by creating its own commission. The follow-up consequence was a proposal called the Primakov project that received no support either in Tiraspol<sup>97</sup> or Chisinau.

### **Cooperation on commercial level**

Disagreements on fundamental questions continued but an *external precipitant* was of great importance to the conflict: in an OSCE summit in Istanbul, Russia agreed to withdraw all weapons by the end of 2001 and the troops and equipment by late 2002.

Internally, based on *substantive precipitants* a strategy shift was represented by an agreement between Moldova and Transnistria to rebuild two key bridges across Nistru, collaboration in commercial courts and issuing of customs stamps for exporting products signed mid-May 2000. Due to its nature and the willingness to work on multiple issues, this strategy shift can be counted as a moderate one.

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<sup>97</sup> Tiraspol is the capital of Transnistria.

### **Moldova's position hardens**

The *external precipitant* represented by the regime change in Moldova also caused a change in the relations between the two sides. The new communist regime obliterated the competition and only two parties from the opposition managed to get into the parliament.

In a *substantive* change the new President presented a new proposal for a final settlement in May 2001 and by the end of August same year the negotiations deteriorated to a halt. The deadlock was caused by an *external precipitant*, namely the introduction of a number of restrictive political and economic actions regarding the Transnistrian leadership. Additionally, 70 travel bans for high-ranking officials from Transnistria were introduced counting as an *external precipitant* as well. This strategy shift was the most abrupt until now and it severely affected the Transnistrian confidence in any sort of agreement.

After Moldova entered the WTO, a consequence of the new stance of Chisinau was the introduction of new customs stamps that needed Transnistrian companies to register in Moldova in order to be able to export any merchandise. Even though Moldova had no way of controlling the Ukrainian-Transnistrian border for exports, Transnistrian economy dwindled in front of this economic sanction.

### **The Joint Constitutional Commission**

Facing these severe economic restrictions, the Transnistrian side became more eager to negotiate. Using a *substantive* and *procedural precipitant*, the three mediators presented a new draft agreement at a meeting in Kiev in July 2002. The document proposes a federation that would include a joint constitution and a proportional distribution of seats in a lower chamber while the higher chamber should be equally represented. Based on this document negotiations restarted in August 2002 in a so called Chisinau Round. This *procedural precipitant* was followed by a series of meetings throughout the autumn of 2002.

This strategy shift consists of two separate parts. The first part started with the agreement in December 2002 to continue to work on the basis of the Kiev document as well as previous draft proposals.

President Voronin restarted the talks in February 2003 through a *procedural* and *substantive precipitant* – by inviting the Transnistrian counterparts to become co-authors of a new Moldovan Constitution. Also in February, the EU and United States decided to support Moldova's earlier measures sanctioning Transnistria by imposing a travel ban on 17 Transnistrian leaders. The reaction to this *external precipitant* was swift with the Transnistrians declaring 14 high-ranking Moldovans as persona non grata in March. While these *external* precipitants could have been damaging to the attempted agreements, they proved quite the opposite as it helped change the Transnistrian position in participating in the Joint Constitutional Commission.

The second part of the strategy shift is represented by the approval of both parliaments in April 2003 to start the Joint Constitutional Commission.

As a consequence, both sides appointed their representatives and the Commission met almost weekly in the following months. The drive was strong and even if there were differences regarding the basic features of the constitutional settlement, agreements were reached in certain areas.

### **The Kozak memorandum**

With a *substantive* proposal which no one expected, the Russian side presented in mid-November 2003 a very detailed memorandum 'on the basic principles of the state structure of a united state' as a proposal for a constitution. The text was promoted by Dmitri Kozak, a senior figure in President Putin's staff.

The major strategy shift in this case came from the Transnistrian President Igor Smirnov which agreed largely with the document while still having some reservations about the military guarantees that were not mentioned – the first time in the history of the conflict when Transnistrians agreed on a document that



did not treat Transnistria as an equal of Moldova. President Voronin expressed a cautious optimism regarding the document as it possessed a big improvement potential in his opinion.

The consequences although were severe and critical to the future failure of this agreement. Most of the Moldovan opposition protested vehemently against the memorandum with large demonstrations taking place on the streets of Chisinau. The OSCE was also taken by surprise by the Russian proposal and after careful analysis it held a press release in which it stated that there was no consensus among the OSCE member states – fact transmitted to the Moldovan President.

The EU and the United States were also critical in the way the memorandum was proposed and as a follow-up consequence President Voronin issued a press statement on 25 November 2003. He argued that although the document presented a true compromise for both sides, by accepting such a document without European support would close Moldova's doors towards the option of European integration and under these conditions described the signing of such a memorandum as premature. The most dramatic instance of EU involvement was the intervention of EU High Representative Xavier Solana by advising President Voronin not to sign the Kozak memorandum in November 2003 as it would give a de facto veto power to Transnistria on constitutional matters and thus perpetuating Russian military presence in the future.

Further consequences following this statement included the cancellation of Putin's visit to Moldova announced the day before and after being a key subject on the OSCE meeting in Maastricht in December 2003 – the disagreement between Russia on one side and EU and the United States on the other was the main reason why a joint declaration was not adopted after the meeting.

In this case the surprise tactic did not work as the stakes were too high. The conflict between Moldova and Transnistria continues to this day and the rift between the two sides was so large that negotiations stalled until the summer of 2005.

### C.6.3 *Case results and primary analysis*

#### **Precipitants**

The Transnistrian case has 25 identified precipitants divided as follows:

Transnistrian conflict - precipitants		
Procedural	Substantive	External
6	13	6

Table C-15: The Transnistrian conflict – precipitants

Based on the high number of substantive precipitants, an agreement in this case would seem likely. The relative absence of external factors could mean that there aren't many external influences in the negotiations or that almost all parties that could influence the negotiations are in the negotiations themselves. The latter option is the case for this conflict, with no less than five mediators out of which two are large organizations (OSCE and the EU).

The relatively large number of procedural precipitants present in the case is due to the frequent venue changes throughout the case. Chronologically seen, both procedural and substantive precipitants appear throughout the analysis, while the external precipitants gain in presence towards the end of the analysis.

#### **Strategy shifts**

During the analysis a number of 2 major strategy shifts and 8 minor strategy shifts were identified. Due to essentially representing the same policy, these strategy shifts are divided into 8 sections out of which "First initiatives", "First breakthroughs" and "The following agreements" contain 2 strategy shifts each. The second strategy shift from the "The following agreements" was analyzed for its consequences and precipitants but was merged with the first strategy shift in the section as it brings no additional information.

The following table presents an overview of the strategy shifts found in this case, together with the main precipitants that lead to them:

Transnistrian conflict – strategy shift analysis				
Strategy shift	Abrupt shift	Mild shift	Main enabling precipitant(s)	Direction and relative power*
First initiatives (Moldova)		X	Substantive	↓
First initiatives (Transnistria)		X	Substantive	↓
First breakthroughs		X	Procedural	↑
First breakthroughs (Moscow)		X	Procedural	↑
The following agreements		X	Substantive	↑
Disagreements on the 'common state'		X	Substantive	↓
Cooperation on commercial level		XX	Substantive	↑↑
Moldova's position hardens	X		External	↓↓
The Joint Constitutional Commission		X	Substantive	↑
The Kozak memorandum	X		Substantive	↓↓
*This qualitative representation signifies the general direction and power of each individual strategy shift, from mild (↑ or ↓) to very abrupt (↑↑↑ or ↓↓↓)				

Table C-16: The Transnistrian conflict – strategy shift analysis<sup>98</sup>

It is clearly noticeable that the majority of the strategy shifts are based on substantive precipitants, which in fact is a good approach towards a negotiation. Hidden information can be extracted from this overview as well: with the multitude of strategy shifts based on substantive precipitants it becomes clear that although a lot of proposals are made, very few are accepted and the rejection is causing either negotiation partner to change strategies.

A phenomenon has been observed, namely between two neighboring strategy shifts negotiations break down due to 'natural' causes: no common ground can be found and thus the negotiations stall or enter a deadlock. The following strategy shift might also be a positive one, yet it cannot be seen as moving towards an agreement, but rather reinitializing negotiations at the same level.

The trend of the negotiations is slightly negative, meaning that an agreement is not in sight at this point in time, at least during the analyzed timeframe. This indeed is verified by current developments – 10 years later and there is still no agreement in sight.

<sup>98</sup> The XX means that the strategy shift is in this case more powerful and closer to a moderate strategy shift, yet not quite a major strategy shift.

Estimations based on the episodic phase model can be done by using logical arguments. It can be estimated that the avoidance phase happened after the conflict that ended up with the Snegur-Yeltsin agreement and before the official start of the negotiations, almost half a year later – early in 1993. Afterwards, due to the observed negative trend and the lack of common objectives it can be postulated that the Transnistrian conflict finds itself, at least up to the end of the analyzed period, in the distributive phase.

### **Consequences and tactics**

The Transnistrian case exhibits 21 consequences to the registered strategy shifts:

Transnistrian conflict - consequences		
Positive	Neutral	Negative
9	0	12

Table C-17: The Transnistrian conflict – consequences

The first observation that can be made based on the consequences presented above is that the absolute number of the negative consequences surpasses the number of positive consequences by quite a significant amount. Furthermore it provides some validation to why the case has not reached an agreement yet. In support of the previous affirmation comes the chronological distribution of the consequences throughout the case: in the beginning, the majority of the consequences are positive while towards the end the vast majority of consequences are negative. This is largely due to the Kozak memorandum.

There are virtually no clear tactics registered throughout the analysis with the exception of the surprise tactic used by Russia regarding the Kozak memorandum. The consequences were severely negative as no negotiator or mediator wants to be taken by surprise. It is unclear what Russia expected to accomplish by using such a tactic. One potential turn of events would have been the signing of the Kozak memorandum due to Russian pressure – but because there were other countries and organizations involved, such attempt failed and created a state of tension not only between the negotiators but also between the mediators. A potential tactic lies in the issuance of new customs stamps for the Transnistrian businesses that wanted to export goods abroad, although it is unsure if this would be classified as

an intimidation, a pressure tactic or just was meant to gain better control on the Transnistrian companies.

The teachings of such a case show that having a substantive approach on a negotiation is not enough – at least not until both sides share a common interest.

## C.7 Cross-case analysis and generation of propositions

The analysis of the similarities and differences between the precipitants, strategy shifts and consequences of the five cases investigated in the previous chapter in order to generate propositions is the main focus of this part of the thesis. The cases are analyzed together using the comparative approach as a whole but also based on the strategy shifts' constituents. Furthermore, comparisons based on cases with similar negotiation issues and cases with general similarities will be conducted as well. The issues of tactics and their consequences, the role of motivation in negotiations and the role of culture as an integral part of the international negotiations will also be discussed, based on the results of the analyzed cases.

In the following subchapter, this analysis will proceed with comparing the precipitants, strategy shifts and consequences of all cases in order to achieve an overview of the results.

### C.7.1 *Aggregation of data across all cases*

#### **Precipitants**

Based on the case-by-case analysis presented in the last chapter of the thesis, 141 total precipitants were found in the three cases that end up successfully. Out of the total number of precipitants, the majority are external precipitants (80) with 56.73% out of the total, followed at a distance by the substantive precipitants (31) with 21.99% and finally procedural ones (30) with 21.28% respectively. A total number of 46 precipitants were identified in the two cases that do not end in an agreement. Table C-18: Aggregation of precipitants across all cases presents the detailed situation:

Aggregation of precipitants across cases with agreements			
Case	Procedural	Substantive	External
The Panama Canal negotiations	9 (18.00%)	9 (18.00%)	32 (64.00%)
The TWA Flight 847 crisis	18 (24.66%)	15 (20.55%)	40 (54.79%)
The Sino-U.S. crisis	3 (16.67%)	7 (38.89%)	8 (44.44%)
Aggregation of precipitants across cases without agreements			
The legal status of Gibraltar	2 (9.52%)	4 (19.05%)	15 (71.43%)
The Transnistrian conflict	6 (24.00%)	13 (52.00%)	6 (24.00%)
*The above percentages are calculated on a per case basis			

Table C-18: Aggregation of precipitants across all cases

The first conclusion that can be drawn based on the above values is that the cases that ended up successfully have relatively the same number of procedural and substantive precipitants. While the Panamanian conflict and the TWA Flight 847 support such statement, the Sino-U.S. crisis exhibits a completely different result. Analyzing the proportion of the procedural precipitants across the cases, with 16.67% for the Sino-U.S. crisis, 18.00% for the Panamanian case and 24.66% for the TWA Flight 847, no conclusion can be drawn. When analyzing the substantive precipitants, no correlation seems to be present in this case either: with a proportion of 18.00% for the Panama Canal case, 20.54% for the TWA Flight 847 case and 38.89% for the Sino-U.S. conflict. Also the same conclusion can be drawn for the external precipitants where, even if the first two cases contain a large number of such precipitants, the Sino-U.S. case disproves the existence of a correlation.

A sensible proposition can be made based on the above findings, namely that for a negotiation to potentially lead to an agreement, the number of substantive precipitants should be relatively close or higher than the number of procedural precipitants (*P1*). Although with some logical fundament, this proposition could be tested later for plausibility when analyzing the cases that do not end up with agreements. There seems to be no correlation between the absolute numbers of any of the different types of precipitants in the cases without agreements. Furthermore, the case chronologies regarding the distribution of the precipitants during the timeframe of the cases also provide no additional insights.

Testing *P1*, namely that to potentially reach an agreement the number of substantive precipitants needs to be relatively close or higher to the number of procedural precipitants – it can be concluded that the proposition further retains its plausibility but based on the above results it cannot be the only factor that can lead to an agreement. Thus *P1* will be rewritten to: *while not sufficient*, to potentially reach an agreement, the number of substantive precipitants needs to be relatively close or higher than the number of procedural precipitants (*P1.1*).

### **Strategy shifts**

Moving toward the strategy shift analysis for the cases with agreements, a total number of 31 strategy shifts were identified of which 19 featuring abrupt shifts and the rest of 12 mild or moderate shifts. The two analyzed cases with no agreements on the other hand present a total number of 17 strategy shifts, out of which 4 abrupt and 13 less abrupt. The table below divides the different types of strategy shifts according to their main enabling precipitants across all cases. The names and order of the strategy shifts are ignored as they bear no relevance to this point in the analysis. In order to maintain an overview, the cases were numbered from 1 to 5 according to the order they were analyzed in<sup>99</sup>:

Strategy shifts for all cases – comparative approach																				
Main precipitant	Procedural					Substantive					External					Combinations*				
Cases	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5
Abrupt shifts	-	-	-	-	-	2	1	1	-	1	5	7	-	1	1	-	-	2 ES 1 PS	-	-
Mild shifts	-	1	-	-	2	-	2	-	-	6	3	2	1	4	-	3PE	-	-	1PS	-

\* The combinations use initials according to precipitant type: E for external, P for procedural and S for substantive

**Table C-19: Strategy shifts for all cases – comparative approach**

Analyzing the percentage of the major strategy shifts in comparison with the minor strategy shifts would yield no usable data as the strategy shifts themselves are no more than just decisions based on the given precipitants. Following this train of thought, an investigation based on the type of strategy shift and its main enabler could provide useful insights to this analysis.

<sup>99</sup> Starting with the Panama Canal Negotiations as case 1 and finishing with the Transnistrian conflict as case 5.



The results are quite interesting: for the cases with agreements, 12 (out of 19 – 63.16%) major strategy shifts have as main enablers external precipitants, 4 (21.05%) major strategy shifts have substantive precipitants as their main enablers, 2 (10.52%) major strategy shifts use a combination between an external and a substantive precipitant and 1 (5.26%) major strategy shift uses a combination of a procedural and a substantive precipitant. The same analysis concluded for the mild strategy shifts the following results: 6 (out of 12 – 50.00%) strategy shifts with an external precipitant as enabler, 3 (25.00%) strategy shifts enabled by a combination of a procedural and a substantive precipitant, 2 (16.67%) strategy shifts enabled by a substantive precipitant and 1 (8.33%) strategy shift enabled by a procedural precipitant.

There are a number of conclusions that can be drawn based on these insights: for cases with agreements (1) the number of strategy shifts – both mild and abrupt, that are enabled by an external precipitant is significant (*P2*), (2) for the abrupt strategy shifts the precipitants are either external or substantive or a combination that includes at least one of them (*P3*), (3) a procedural precipitant alone rarely will lead to a strategy shift – and if so, then to a mild one (*P4*) and (4) the number of strategy shifts influenced by a combination of more main precipitants seems higher for mild strategy shifts (25.00%) than for abrupt strategy shifts (15.79%) (*P5*).

Aside from the above propositions, another observation can be made based on the comparison of the strategy shifts: there needs to be at least a strategy shift enabled by a substantive precipitant in either the last or second to last strategy shift before reaching an agreement (*P6*). This proposition is made based on the assumption (verified so far) that at least one of last steps toward an agreement is based on a substantive or problem-solving approach.

For the cases that do not have agreements, the number of abrupt strategy shifts is far smaller comparing with the total number of strategy shifts. The following table exemplifies:

Comparison of the ratio between major and mild strategy shifts across all cases					
	Cases with agreements			Cases without agreements	
	Panama Canal	TWA Flight 847	The Sino-U.S. crisis	Legal status of Gibraltar	Transnistrian conflict
<b>Major shifts</b>	7 (53.84%)	8 (61.53%)	4 (80.00%)	2 (20.00%)	2 (28.57%)
<b>Mild shifts</b>	6 (46.16%)	5 (38.47%)	1(20.00%)	8 (80.00%)	5 (71.43%)
*The percentages presented above are calculated on a per-case basis					

Table C-20: Comparison of the ratio between major and mild strategy shifts across all cases

The lowest percentage for a case ending in an agreement of major strategy shifts is 53% for the Panama Canal case while the highest percentage for a case ending without an agreement for major strategy shifts is 28%. The difference is significant and these insights lead to the next proposition: a negotiation, in which up to the current events there is at most relatively the same number of minor strategy shifts as there are major ones, could lead to an agreement (*P7*). Testing the proposition, all analyzed cases had the chronological order of their strategy shifts checked and the proposition stands.

Going back to the analysis of Table C-19, analyzing the precipitants leading up to the 4 major strategy shifts in the cases without agreements reveals that 2 (out of 4) have as enabling precipitants external events, one is based on a substantive precipitant and another one that has a non-determined main precipitant (not present in the table). Similar ratios can be found also in the analysis for the major strategy shifts for the cases with agreements with 63.16% and 21.05% for the external and substantive precipitants respectively. Regarding the mild strategy shifts in the cases without agreements, the situation is as follows: 6 (out of 13 – 46.15%) have as main precipitant substantive events, 4 (30.76%) with external precipitants as main enablers, 2 (15.38%) with procedural precipitants as enablers and 1 (7.70%) with a combination of a procedural and a substantive precipitant as main enablers. No correlation can be seen in this case between the analysis of the mild strategy shifts in cases with agreements and in cases without agreements.

Testing with the data at hand, no changes need to be made to propositions *P2*, *P3* and *P5*. *P4* will be modified to: a procedural precipitant alone will rarely lead to a strategy shift – and if so, then to a mild one, *regardless if the negotiation is leading*

to an agreement or not (P4.1). Considering that in both cases the last or the second to last strategy shift has as main enabler a substantive precipitant, P6 will be modified accordingly: *while not sufficient*, there needs to be at least a strategy shift enabled by a substantive precipitant in either the last or the second to last strategy shift before reaching an agreement (P6.1).

Based on the identified episodes of the episode model, the following table summarizes the aggregated data for all cases:

Aggregation of strategy shifts based on identified episodes - cases with agreements					
Distributive Phase		Neutral Phase		Integrative Phase	
Identified cases	Enabling precipitant	Identified cases	Enabling precipitant	Identified cases	Enabling precipitant
Major strategy shifts					
3	External	2	External	3	External
1	External + substantive	1	Substantive	1	Substantive
-	-	1	Procedural + substantive	-	-
-	-	1	External + substantive	-	-
Minor strategy shifts					
1	External	3	External	1	External
1	Procedural	2	Procedural + substantive	1	Procedural + substantive
Aggregation of strategy shifts based on identified episodes - cases without agreements					
Distributive Phase		Neutral Phase		Integrative Phase	
Identified cases	Enabling precipitant	Identified cases	Enabling precipitant	Identified cases	Enabling precipitant
Major strategy shifts					
2	External	-	-	-	-
1	Substantive	-	-	-	-
1	Unknown	-	-	-	-
Minor strategy shifts					
6	Substantive	-	-	-	-
4	External	-	-	-	-
2	Procedural	-	-	-	-
1	Procedural + substantive	-	-	-	-

Table C-21: Aggregation of strategy shifts based on identified episodes across all cases

The episodic phase results seem to be consistent with the general strategy shift analysis. No grouping of certain strategy shifts has been observed in any specific episode. Furthermore, it can be observed that the proportion of strategy shifts based on their main precipitant remains relatively the same for both abrupt and less abrupt strategy shifts. Based on the within-case analysis, the cases without agreements are all situated in the distributive phase. Further, the consequences for all cases will be corroborated and analyzed.

### **Consequences**

During the analysis, the three cases that ended up successfully had a total sum of 49 identified consequences, while the two cases without agreements only totaled 40. The following table compares the found consequences according to their type:

<b>Aggregation of consequences across all cases</b>			
<b>Case</b>	<b>Positive consequences</b>	<b>Neutral consequences</b>	<b>Negative consequences</b>
<b>The Panama Canal negotiations</b>	7	3	7
<b>The TWA Flight 847 crisis</b>	9	8	10
<b>The Sino-U.S. crisis</b>	2	1	2
<b>The legal status of Gibraltar</b>	3	8	8
<b>The Transnistrian conflict</b>	9	0	12

**Table C-22: Aggregation of consequences across all cases**

The analysis that follows will not include the neutral consequences as, just as iterated in the method part, they did not influence the negotiations. Clearly noticeable is the fact that the identified negative and positive consequences in the cases that end up in agreements are relatively identical in absolute values. Using a critical approach, it appears that such a statement does not contain enough information to be considered as a proposition. This is due to the rationale that a case could in theory, exhibit an equal number of positive and negative consequences – yet by having the majority of the negative consequences towards the end, an agreement seems unlikely. This leads to the necessity of a chronological approach in generating a proposition in this case – and indeed the analyzed cases did show that the majority of the positive consequences appear toward the end when an agreement is near.

Regarding the relative number of positive and negative consequences, these cases might indeed suggest that the absolute values of both positive and negative consequences could provide some sort of indication towards the possibility of reaching an agreement. Based on the above considerations, the following two propositions can be made: a relatively similar number of positive and negative consequences, together with a larger number of positive consequences close to the current point of a negotiation could signal that an agreement is nearby (*P8*) and in a more general approach – having predominantly a large amount of positive consequences as a result of the last strategy shifts could signal that an agreement is nearby (*P9*).

For the cases not having agreements, a first observation is that the number of negative consequences outweighs the number of positive consequences, yet in the case of the Transnistrian conflict the difference isn't as pronounced. No similarities can be found by looking at the case chronologies regarding the distribution of the consequences throughout the analyzed timeframes. Due to the lack of a conclusive chronological assessment, the earlier observation cannot be included in the list of propositions. By comparing with the data available above, both *P8* and *P9* hold – they are neither validated nor invalidated.

In the following section, negotiations with similarities will be analyzed together. The similarities lie primarily in the negotiation issues – Panama Canal negotiations and the legal status of Gibraltar (sovereignty issues and the fact that they are both strategic geographic positions), the Panama Canal negotiations and the Transnistrian conflict (sovereignty issues) and the Sino-U.S. crisis and the Transnistrian conflict (both revolving around military equipment initially and both having parties with very different cultural backgrounds).

### C.7.2 *Analysis of negotiations regarding key geographic positions*

#### **Precipitants**

The following table contains the comparison of the two cases that feature negotiations regarding key geographic positions in regard to their identified precipitants:

<b>Types of precipitants found cases regarding key geographic positions</b>			
<b>Case</b>	<b>Procedural</b>	<b>Substantive</b>	<b>External</b>
<b>The Panama Canal negotiations</b>	9	9	32
<b>The legal status of Gibraltar</b>	2	4	15

**Table C-23: Types of precipitants found cases regarding key geographic positions**

Apart from a large number of external precipitants, 64.00% for the Panama Canal negotiations and 71.42% for the Gibraltar case, there is no correlation or pattern that can be observed among the other types of precipitants. Based on the above findings a proposition can be created, namely: given negotiations regarding key geographic positions, a high number of external precipitants can influence the course of negotiations (*P10*). A critical judgment regarding the previous statement shows that indeed, with the importance of such strategic locations, the negotiation context becomes more important. No changes need to be made to *P1.1*.

#### **Strategy shifts**

An analysis based on the frequency of the strategy shifts based on their main enablers would not yield in this case valuable insights as the cases belong to differing categories, cases that end up with agreements and cases that end up without agreements respectively. An investigation based on the frequency analysis for both types of cases was already carried out in subchapter C.7.1.

While the first strategy shifts for both cases start relatively the same, a major change comes starting with the second strategy shift. Both starting strategy shifts are mild in nature and have as enabling precipitant an external factor. While not sufficient data is present to issue a proposition on the matter, it is interesting how early in the negotiations a case ending in an agreement and one not ending with an

agreement differentiate themselves. The previously generated propositions remain unchanged.

The consequences, in such a comparison, cannot be analyzed due to the fact that they consequently follow the strategy shifts. Even if correlations could be found between positive or negative consequences between cases with and cases without agreements, they would fail the logical test.

### C.7.3 *Analysis of negotiations regarding sovereignty issues*

#### **Precipitants**

75 precipitants were identified in the two cases handling this topic. Their distribution is shown in the following table:

Types of precipitants found cases regarding sovereignty issues			
Case	Procedural	Substantive	External
The Panama Canal negotiations	9	9	32
The Transnistrian conflict	6	13	6

Table C-24: Types of precipitants found cases regarding sovereignty issues

There is no clear evidence of a correlation present in either of the different types of precipitants. By comparing the case chronologies regarding the precipitants it can be noticed that in both cases the procedural precipitants appear throughout the analyzed timeframes. Comparing this insight with the other case featuring sovereignty issues, the Gibraltar case – the found insight can neither be validated nor invalidated and thus it can be accepted as a proposition. As a result, in cases regarding sovereignty issues, the distribution of the procedural precipitants is quite constant throughout the case (*P11*). No other propositions are modified at this stage.

#### **Strategy shifts**

There are two observations that can be made regarding the two case chronologies: (1) the first strategy shifts exhibit a very similar tendency in both cases and (2) the difference between the two cases becomes obvious with the second strategy shift. Regarding the first observation, even though both starting strategy shifts are

relatively mild, their enabling precipitants are not of the same type: while the strategy shift for the Panama Canal has as main enabler an external precipitant, the Transnistrian conflict has a substantive precipitant as its main enabler. Interesting is also the observation that the previous analysis presented in the last subchapter between the Panama Canal negotiations and the legal status of Gibraltar poses a similar start. Even if at this point, a proposition could be generated on the matter, the next analysis will prove that a proposition based on the initial strategy shifts cannot be sustained by data.

Based on the second observation and on the previous analysis presented in subchapter C.7.2 it could be concluded that the type of a case, either leading to an agreement or not, could be determined by looking at the first few strategy shifts. Such a proposition would be supported by the data accumulated so far but it would not pass a logical filter. This is due to the rationale that even if in the beginning stages of a negotiation, two parties seem to move away from an agreement – there could always be a shift in strategies that will cause the negotiation to end with an agreement.

#### ***C.7.4 Analysis of negotiations regarding military equipment***

##### **Precipitants**

The cases featuring this topic exhibit 43 identified precipitants. The following table exemplifies:

<b>Types of precipitants found in cases regarding military equipment</b>			
<b>Case</b>	<b>Procedural</b>	<b>Substantive</b>	<b>External</b>
<b>The Sino-U.S. crisis</b>	3	7	8
<b>The Transnistrian conflict</b>	6	13	6

**Table C-25: Types of precipitants found in cases regarding military equipment**

While the external precipitants (44.44% and 24.00%) show no correlation to each other for the Sino-U.S. crisis and the Transnistrian conflict respectively, the procedural and substantive precipitants provide some new insights. The procedural precipitants account for 16.67% and 24.00% of the total number of precipitants in each case while the substantive ones show a proportion of 38.89% and 52.00% for



the Sino-U.S. crisis and the Transnistrian conflict respectively. Based on the above data it can be concluded that: in case of negotiations centered around or in connection with military equipment, the procedural precipitants are less often present (*P12*) and the substantive precipitants are found relatively often (*P13*). Although these propositions need to be tested for accuracy, the cases presented in this thesis do not allow for such tests to be conducted.

### **Strategy shifts**

The result of such a direct comparison can be described as very interesting. Up to the last strategy shift in the Sino-U.S. case the probability of an agreement between both cases was very similar. The other noticeable difference lies in a much more abrupt start of the negotiations in the Sino-U.S. crisis. Based on the available data, no conclusion can be drawn regarding the previous figure. All propositions regarding strategy shifts, *P2-P6* and *P7* remain unchanged.

## **C.8 The role of culture in the analyzed negotiations**

At this stage of the cross-case analysis the investigations shift towards other aspects of the negotiations that can provide useful value judgments. The role of culture and more specifically the role of culture during negotiations has been brought forward through the Sino-U.S. crisis case.

Although all five cases analyzed in this thesis deal with culture differences, most of them do not highlight the role of culture throughout the negotiations partly because it is overshadowed by the course of events or due to lack of data necessary to conduct such an analysis. Cases that are not focused exclusively on the agreements and show more of the context and style of negotiations seem to be the best candidates to analyze the role culture plays in coming to an agreement between two parties. Such a case is the Sino-U.S. crisis where the role of culture is strongly highlighted. Finding another case for a cultural analysis seems difficult given the chosen cases: the Panama Canal negotiations and the TWA Flight 847 crisis focus – rightfully so, on the external factors and context of the negotiations

while the case regarding Gibraltar presents very little on the actual course of the negotiations.

The Transnistrian conflict provides most hints regarding culture, being mainly a conflict between two different cultures and even ideologies – the Moldovan side, with a pro-EU attitude and the Transnistrian with a pro-Russian approach. In the within-case analysis there was a statement made that required further investigation, namely that negotiation between two differing cultures relies more on the substance of the negotiations than on other factors. Based on subchapter C.7.4, in the analysis between the Sino-U.S. crisis and the Transnistrian conflict, 11 out of the 15 (73.33%) strategy shifts found in both cases have at least one of the enabling precipitants a substantive one. Under the consideration that the other three case studies cannot confirm such a proposition, it cannot be accepted as a proposition. It is possible that a more refined approach of the above statement could be better verifiable, although this analysis could not detect such a version.

## **C.9 The role of tactics in the analyzed cases**

The use of tactics in the analyzed cases is quite widespread with the exception of the Transnistrian conflict. All identified tactics were already listed in their respective intra-case analyses together with the consequences. Yet a number of questions arise regarding the topic. One of them regards the lack of clearly identified tactics in the Transnistrian case. A potential cause for such a behavior can be the influenced environment of the negotiations – both sides have been under Russian influence for a long time and the Russian negotiation style tends to view compromises as a sign of weakness<sup>100</sup> - a sign of cultural aspect influencing tactics.

An analysis based on the types of consequences and the following types of strategy shifts would have been desired, yet due to the small data sample and inconsistent findings (some strategy shifts presenting no obvious consequences while other exhibiting two or more) such an analysis cannot be performed. Another interesting

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<sup>100</sup> Ghauri P.N. (1998): p. 381.

to follow question is how effective were the tactics presented in the cases. This would refer more to the follow-up strategy shifts and consequences rather than the immediate consequences of the tactics.

Looking at the Panama Canal negotiations, both positive and negative tactics were short-lived, not affecting more than the immediately following precipitants of the next strategy shift. The coalition-building tactic provided positive and longer-lasting consequences as based on it the next two strategy shifts, a major and a milder one, took place.

In regard to the TWA Flight 847 crisis, the only tactic that could have had a long lasting consequence throughout the case was the one with the terrorists releasing hostages for different situations – trading for fuel, arrival of the Red Cross representatives and the release of three Greek hostages in exchange for a Greek promise to try to convince Spain in releasing their captives. The tactic would have created potentially a positive image of the aggressors through the most of the crisis in the eyes of the American public. Although not a direct influence on the negotiations, public opinion played an important role in the way the U.S. stances changed during negotiations.

The legal status of Gibraltar case exhibits also a situation in which not a tactic, but a series of tactics can cause longer lasting consequences. Although debatable, Spain's intimidation and threatening tactics through economic sanctions, aircraft bans and closing of the borders had long lasting negative consequences for the Gibraltarians. Although circumstantial, the restrictions imposed by Spain could have been reflected in the two referendums to change the constitutions in 1968 and 2006.

The consequence of the face-saving tactic employed by the Chinese in the Sino-U.S. crisis constitutes entrapment. By publicly demanding the U.S. side to apologize and then later in the conflict realizing that they would not get an apology formulated that way from them – they caused their own negative consequence that lasted until the last strategy shift, when the formulation of the letter presented by the

American delegation was loose enough to be translated into Chinese in a favorable way for the other side.

Based on the above findings, with tactics leading to positive, negative and even self-induced negative long-term consequences, no generalization can be made regarding the use of tactics in negotiations that end either in agreements or not. It is although clear that the use of tactics does influence the course of negotiations and in some cases, like the coalition-building tactic of President Torrijos – it might even start the process that eventually will lead with an agreement. Based on this conclusion, a proposition can be made: managing to positively engage with a third party that can pressure the negotiation partner at a later time could induce a positive strategy shift (*P14*). This proposition compliments well (*P2*).

### **C.10 The role of motivation in the analyzed negotiations**

The presence or absence of a motivation to reach an agreement is visible in all cases. In the Panama Canal negotiations, the motivation to start the negotiations in a serious manner clearly appeared after the riots of 1964. Furthermore, the motivation (and tactic) not to appear in a bad light in front of the international counterparts determined President Nixon to revise his position regarding the negotiations.

Even if the series of negative strategy shifts toward the end of the negotiations for the Panama Canal and TWA Flight 847 cases cannot be explained objectively, the recovery and implicitly reaching the agreements can. For the Panama Canal case, President Carter feared that with Torrijos removed from office, the United States will not be able to complete the negotiations with a new President. Furthermore the diplomatic catastrophe of breaking up negotiations after decades of talks would be a political suicide for President Carter and thus, no matter of the past issues – his motivation to sign an agreement fast was very high. On the Panamanian side the motivation was equally high as the success of getting a treaty signed with the U.S. would guarantee Torrijos a long continuation of his mandate as President.

A similar analysis can be done on the TWA Flight 847 crisis. Berri's motivation based on the growing unrest among the Hezbollah that he cannot control the situation and indeed, he was afraid that if the crisis would last longer things would degenerate. Simultaneously, if he would accomplish the release of the 800 Atlit Lebanese prisoners, he would appear as a hero and the Amal would get even more support. On the U.S. side, a fast resolve of the situation was preferred as on one side the hostages' lives were at stake and on the other hand on the swift handling of the situation depended partly President Reagan's next election results. Here is worth mentioning also the pressure exercised by the public media for a swift resolve of the conflict. In both cases, the high motivation of both sides to end the negotiations quickly transformed itself into the very high jumps in the probability of reaching an agreement from the second to last strategy shifts and to the agreements.

On the TWA Flight 847 crisis, other high motivations became visible – this time coming from the Israeli side. With their degenerating relations with the United States – the Israeli put serious efforts into disarming the created situation either by statements or by acts, like freeing 31 of the Atlit prisoners with no demand from any party to do so.

Regarding the Sino-U.S. crisis it is obvious and logical that the American side would have been highly motivated to free the crew but also the highly valuable surveillance aircraft as soon as possible. This reality can be seen in the problem-solving approach taken by the U.S. side after the first strategy shift and in the sheer number of letter proposals (five drafts) generated in five days. The Chinese side was not as motivated, due to the fact that they had no time pressure into making large concessions.

The case regarding the legal status of Gibraltar shows how the lack of motivation can be the cause of a lengthy and ineffective process of negotiation. Even if Spain's motivation is relatively high – also an arguable point, Britain has no desire to cede the territory and thus no agreement can be reached as there is no commonly shared objective. Spain's motivation is arguably high due to the fact that Gibraltar

would represent a very small fraction as well geographically as economically for Spain. One potential reason to own Gibraltar is to have the whole strait under Spanish territorial waters. Although officially there were a number of agreements signed, there has been no step forward regarding the main negotiation issues.

The Transnistrian conflict appears to be in a similar deadlock. Although in this case, both countries seem motivated, yet for different purposes. On one hand, Moldova tries to bring Transnistria under its political rule to take advantage of the industry available on the other side while Transnistria tries to become an equal member of a federation with Moldova or if such a solution does not work out then a full separation would be desirable. Again, a situation in which two parties have no common interests cannot end up with an agreement.

Based on the above considerations, a proposition can be generated, namely: motivating the other party by stressing the common interests in securing a deal could lead to an agreement (*P15*). While this proposition can be considered a tactic in itself – it can influence the other party into initiating a strategy shift towards finding an agreement.

Building upon the found results, it becomes clear that the motivation to reach to an agreement can cause the parties to devise strategies and tactics and adapt those tactics to the cultural considerations in order to maximize the accomplished payoffs. This correlation is present throughout the cases, but due to the large number of precipitants, factors, parties and their interactions – a clear causality effect between motivation, tactics and their consequences and culture cannot be established based on the current approach.

## C.11 Discussion of findings

During the course of the analysis it became clear that more often than not, the strategy shifts in international negotiations are initiated by external factors, like outside pressure, face-saving tactics or other external events that can influence the negotiations. Such a conclusion would suggest on one hand the high stakes involved in negotiating internationally and on the other hand the importance of the details when it comes to the context. Indeed, the cases analyzed in this thesis treat either strategically important geographic locations like the Panama Canal or the Gibraltar Strait, or military equipment and assets like the Sino-U.S. crisis and the Transnistrian conflict. The hostage situation onboard flight TWA 847 was arguably one of the tensest negotiations analyzed due to the human factor involved.

The case sampling showed some interesting preliminary results. On one hand, a difficulty in finding international negotiations that do not exhibit any sort of strategy shifts and on the other hand finding such negotiations that are finalized.

For the first aspect, an assumption is that the negotiations in which there are no strategy shifts either end very fast by one of the parties leaving the negotiating table or the power difference between the parties is so major that the negotiations would again end very fast, as the weaker party realizes that concessions will more than likely not take place. In support of such hypothesis Jervis (1983) noted that *“the superpowers do not take account of each other’s security requirements, look to the long run, or develop rules and expectations of restraint... (it is unlikely that they would develop) the sorts of cooperative understandings that help ameliorate political conflicts across a broad range of issues”*<sup>101</sup>. Such fast-ending negotiations that exhibit no strategy shifts and are more or less straight forward prove to be less interesting and thus few if any case studies are generated from them.

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<sup>101</sup> Jervis (1983): p. 190.

Moving to the results, somewhat confirming the theoretical research was the fact that substantive precipitants were the second largest strategy shift enablers – either alone or in combination with either a procedural or an external precipitant. Yet it should be reflected upon why even in such high-stakes, high-risk negotiations problem-solving solutions were not chosen first. A possible explanation is that – by making sure that the outside appearance of power and stability is not compromised, no matter how the negotiations go, a group of negotiators would not lose face. Sadly, this political involvement in negotiations is only hindering a good and mutually respectful relationship between the negotiators and can lead to a worsening of the negotiations themselves.

Even during the five analyzed cases, such situations were detected: with President Robles of Panama reducing his demands in order to secure a deal faster (unsuccessfully) or the multiple occasions in which President Nixon, President Ford and Secretary of State Kissinger stopped, stalled or even reverted the progress done during the negotiations – all due to the political dealings inside the U.S. Senate and Congress or the impeding elections. And these examples are but only of a few – from a single case – for the political strategy shifts based on external precipitants.

The cross-case analysis has also shown that the procedural precipitants alone rarely were the main causes for strategy shifts – mostly due to the fact that they represented only structural changes or venue changes and did not address the discussed issues. This is confirming the rationale that negotiations, here referring largely to international negotiations, do revolve more around substance rather than location.

Another observation is that tactics do play an important role in the course of a negotiation, albeit almost only with short-term results – as in influencing the immediately following strategy shift. Some examples of longer-lasting tactics have also been recorded, both with positive and negative consequences. Yet observations show that tactics seem to follow closely the motivation of a negotiator. In support of such claims, Spain is using all the tactics recorded in the



Gibraltar case; Torrijos is using a large number of tactics to influence the American side in the Panama Canal case and Berri using pressure tactics with his media appearances and the hostage conferences in the TWA 847 crisis case.

Tactics are also related to culture and not only to motivation. This is proven by the arguable lack of tactics in a russified environment like the Transnistrian conflict, and the fast tactic changes shown by President Torrijos. Although still not very clear, the role of culture in choosing tactics – either based on the negotiators' own culture or based on the culture of the opponent could be a potential future theme to investigate.

While analyzing the connections between the precipitants and consequences, statements relating to more than just causes for strategy shifts were proposed. Those are divided into the following categories: (1) detecting for the conditions during a negotiation when an agreement could be nearby (*P1.1*, *P6.1*, *P7*, *P8* and *P9*), (2) critical judgments on specific types of negotiations (*P10*, *P11*, *P12* and *P13*) and (3) generating strategies that could direct the course of negotiations (*P14* and *P15*). The propositions dealing directly with the causes of strategy shifts or in other words, what types of precipitants can typically lead to what sort of strategy shifts are *P2*, *P3*, *P4.1* and *P5*.

As already mentioned in *Part B*, Corley and Gioia (2011) demonstrated the importance of having a proper formulation of the propositions. Based on this aspect, the table below lists the generated propositions according to their category using a cause and effect formulation, a more formal approach and a new count index:

<b>Structured index of generated propositions</b>	
<b>Specific causes for strategy shifts</b>	
PF.1	The number of both mild and abrupt strategy shifts enabled by external precipitants in international negotiations that end up in agreements is significant.
PF.2	External precipitants, substantive precipitants or a combination including at least one of them leads to abrupt strategy shifts in international negotiations ending in agreements.
PF.3	A procedural precipitant alone will rarely lead to a strategy shift – and if so, then to a mild one, regardless if the international negotiation is leading to an agreement or not.
PF.4	A combination of more main precipitants is higher for mild strategy shifts than for abrupt ones in international negotiations that end up in agreements.
<b>Sensing when an agreement is nearby</b>	
PF.5	A relatively similar number of positive and negative consequences, together with a larger number of positive consequences close to the current point of a negotiation could signal that an agreement is nearby in international negotiations.
PF.6	A predominantly large amount of positive consequences as a result of the last strategy shift could signal that an agreement is nearby in international negotiations.
PF.7	While not sufficient, the number of substantive precipitants needs to be relatively close or higher than the number of procedural precipitants in order to reach an agreement in international negotiations.
PF.8	While not sufficient, a substantive precipitant needs to be the main enabler of the last or second to last strategy shift before reaching an agreement in international negotiations.
PF.9	Relatively the same number of major and minor strategy shifts up to the current point in the negotiation could signal that an agreement is nearby in international negotiations.
<b>Critical judgments on specific types of negotiations</b>	
PF.10	A high number of external precipitants can influence the course of international negotiations regarding key geographic positions.
PF.11	The distribution of procedural precipitants is quite constant throughout the international negotiations regarding sovereignty issues.
PF.12	The procedural precipitants are less often present in international negotiations centered on military equipment.
PF.13	The substantive precipitants are often the main enablers for strategy shifts in international negotiations regarding military equipment.
<b>Strategies that could direct the course of negotiations</b>	
PF.14	Positively engaging a third party that can pressure the negotiation partner at a later time can induce a positive strategy shift in an international negotiation.
PF.15	Motivating the other party by stressing out the common interests in securing a deal could lead to an agreement in international negotiations.

Table C-26: Structured index of generated propositions

Each category above focuses on a different approach regarding the international negotiations. The next figures create graphical visualizations for each individual category:

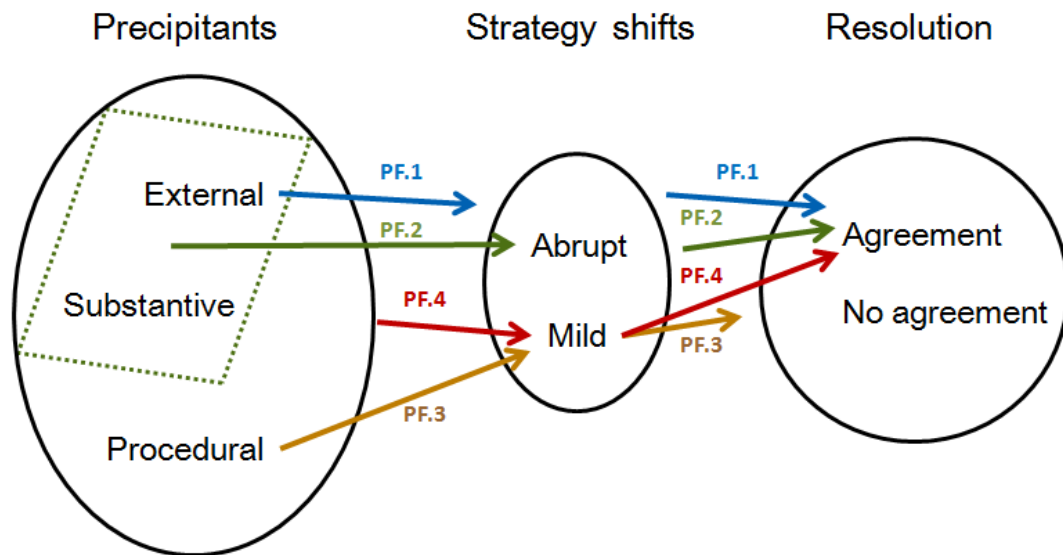


Figure C-1: Visualization regarding specific causes of strategy shifts

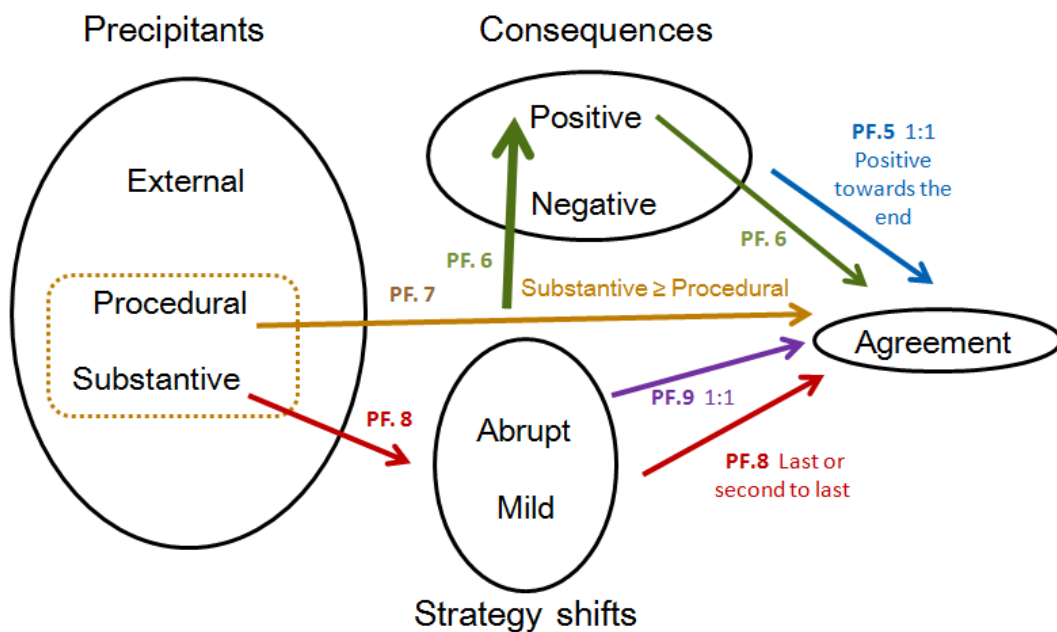


Figure C-2: Visualization related to sensing when an agreement is nearby

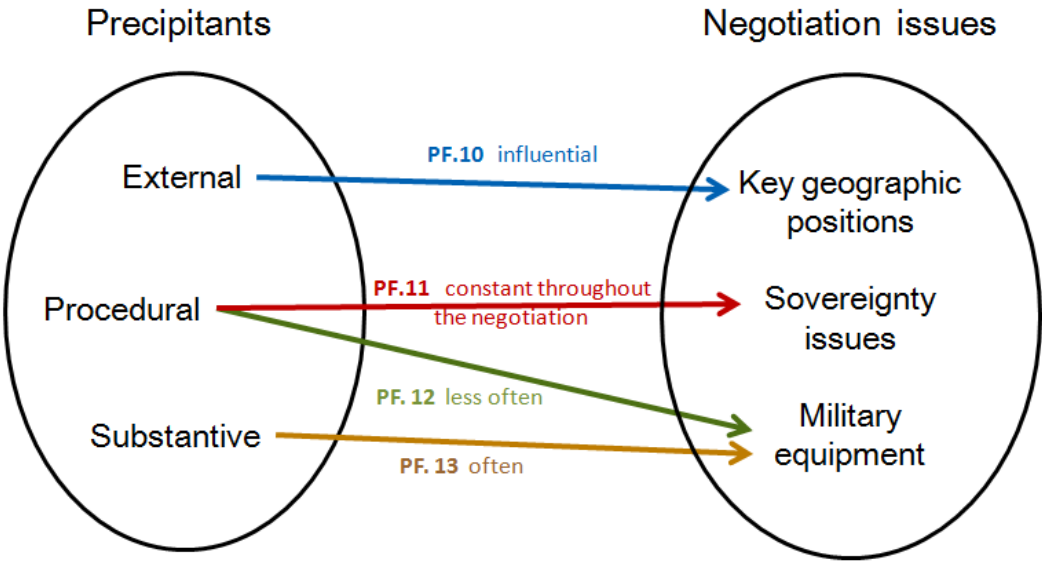


Figure C-3: Visualization of the critical judgments regarding specific types of negotiations

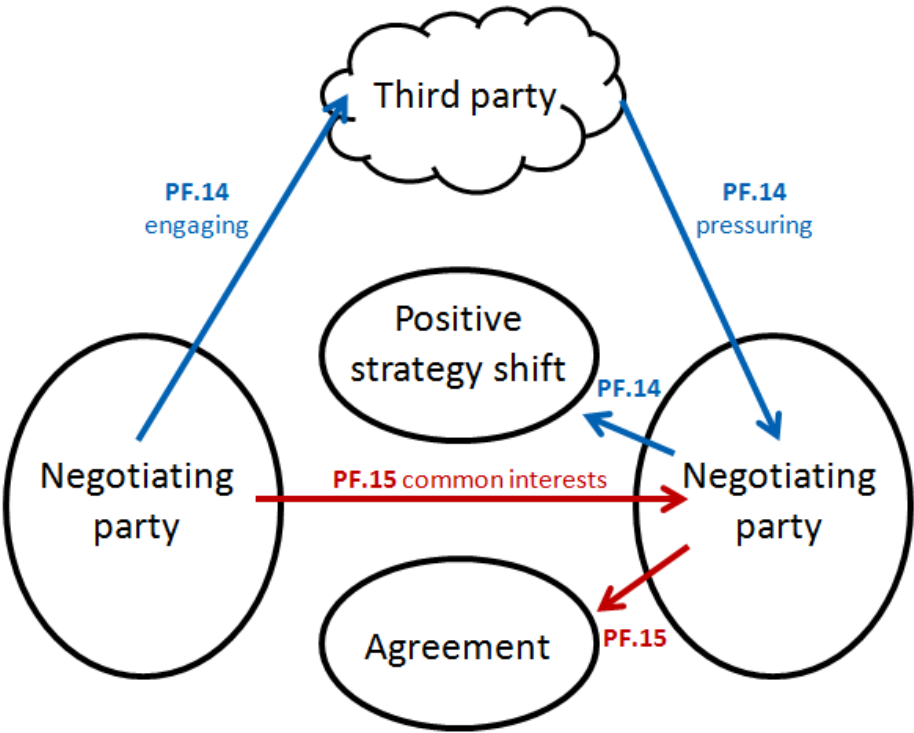


Figure C-4: Visualization representing strategies that could direct the course of negotiations

The first remark regarding the above figures is that the proposition order presented in Table C-26 was maintained to provide a fast identification of each proposition. The figures also present the diversity of the found propositions, even when regarding ones from the same category. Such diversity represents also the reason why larger propositions, encompassing multiple results would be impractical to construct.

The generation of propositions in a close relationship with the findings of the cross-case analysis was intentionally done so. Reading is a creative process in itself and by offering the reader the chance of understanding how and based on what – the propositions were generated, it gives the person the opportunity to critically assess the propositions and even determine the reader to generate potentially new conclusions based on the presented data.

## **Conclusion and outlook**

The research question of this master thesis regarded the identification of the potential causes or factors that can lead to shifts in strategies used by the negotiators in international negotiations. With this focus in mind, a research method based on case studies was devised. The sampling phase yielded 5 suitable cases for analysis: 3 ending up in agreements and 2 without any agreements and still ongoing. Based primarily on the work of Druckman (2001), the conducted within-case analysis identified 187 precipitants, 48 strategy shifts and 89 consequences spanned across the 5 cases.

The cross-case analysis that followed produced a total of 15 propositions divided into four different categories according to the handled issues. The field of analyzing the strategy shifts seems of a crucial importance in better understanding the negotiation dynamics. Based on the discussion presented in the previous chapter, it is clear that even the propositions generated during the course of this thesis are only covering a small fraction of the potential teachings that could be extracted from conducting deeper research in each individual area covered by either one or the other cases.

The research presented in this thesis also possesses limitations: one being the limited number of analyzed case studies that provide too little material for a more in-depth analysis of the precipitants leading to strategy shifts. Another potential limitation lies in the variety of the subjects analyzed by the cases. Arguably, the same limitation can be an asset, especially when generating propositions as seen in *Part B: Method*, but it also disallows a more focused research on specific themes – like negotiations based on sovereignty issues or hostage negotiations. This limitation became evident when trying to analyze the total number of precipitants for every strategy shift – the data inconsistency was too high and thus a higher

resolution for the analysis needed to be used instead. These limitations could become future themes of research, and while the propositions generated during the course of this thesis provide some insights, behind every single one of them a far larger number of such propositions could potentially be generated through an in-depth research.

Another very important limitation should be also addressed. The cases used tend to have countries as negotiators, rather than companies or individuals. This means that the presented propositions should first be tested in similar conditions, rather than on a company or individual level. Further tests could show if the results obtained on a country level could be successfully applied or adapted to organizations, individuals or other types of negotiations as for example sales or collective bargaining. Also it is vital to understand that these propositions were generated in an international context and thus, even if not visible in four out of the five cases presented, cultural differences did play a role in the way the negotiations progressed and should not be underestimated. Other aspects that tend to the context of such negotiations are ideological differences, financial and political stability and even the bureaucracy of countries could affect the course of negotiations.

Many of generated propositions could potentially lead to new research fields based on more than just tactics, but rather manipulation of the other party without using a direct psychological approach. Yet as previously mentioned, the propositions generated in this thesis would need to undergo an operationalization phase towards a hypothesis stage. Afterwards experiments would have to be tailored in order to empirically test the hypothesis and only in the end a true statement can be made based on validity of the claims. A parallel scenario could be performed by using the case sampling method. Such method could be used to further validate the propositions made before attempting empirical experimentation.

Future research can also focus on the issue arisen from the lack of case studies exhibiting no strategy shifts or regarding the ones with few or mild strategy shifts that seem to last for decades.

The possibility discussed in the last chapter regarding such a new field of research based on manipulation of the negotiation partner without direct psychological manipulation but rather based on science of negotiations and external factors sounds appealing indeed, yet future investigations should be made regarding the feasibility of such a non-conventional approach to negotiations. Joint teams of negotiation experts, researchers and psychologists can be envisioned that would try to uncover the hidden potential of such a research field. Ethical considerations would also seem likely to be faced if through such research successful tactics can be generated for special situations.

For the near future although, the generated results shed light on the causalities of the strategy shifts, allowing to potentially improve the awareness of negotiators regarding potential or imminent strategy shifts and giving them the time to prepare accordingly.

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#### **Images for the main sections:**

- Part A: Parthenon Sketch by JoeChilvers, deviantart.com<sup>102</sup>
- Part B: Cycloidal Gears, chestofbooks.com<sup>103</sup>
- Part C: IAC Building NYC Sketch, flickr.com<sup>104</sup>

<sup>102</sup> [http://fc06.deviantart.net/fs71/i/2010/229/c/7/Parthenon\\_Sketch\\_by\\_JoeChilvers.jpg](http://fc06.deviantart.net/fs71/i/2010/229/c/7/Parthenon_Sketch_by_JoeChilvers.jpg) accessed 08.07.2013

<sup>103</sup> <http://chestofbooks.com/crafts/machinery/Shop-Practice-V2/images/Construction-of-Epicycloidal-Gears.png> accessed 08.07.2013

<sup>104</sup> [http://farm3.staticflickr.com/2236/2076541224\\_91d02b12bf\\_o.jpg](http://farm3.staticflickr.com/2236/2076541224_91d02b12bf_o.jpg) accessed 08.07.2013

# Curriculum Vitae



## Personal Data

First Name:	Vasilescu
Surname:	Dragos-Cristian
Date of birth:	20.08.1985
Nationality:	Romania
E-mail:	vasilescu.d@gmail.com

## Education

Since 10/2009	<b>Vienna University of Technology, Austria</b> Masters Programme Mechanical Engineering and Management
09/2010 – 10/2011	<b>University of Seville, Spain</b> Top Entrepreneurship and Management Programme
10/2007 – 02/2008	<b>Vienna University of Technology, Austria</b> Exchange semester (ERASMUS Scholarship)
10/2004 – 06/2009	<b>University 'Politehnica' Bucharest, Romania</b> Bachelor Programme Mechanical Engineering and Management Finished Valedictorian
09/2000 – 07/2004	<b>'Alexandru Ioan Cuza' Theoretical Highschool, Romania</b> Nature Sciences