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Thank you.



# Negotiations, strategy and tactics

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# Negotiations

## Objectives (1)

Why do you want a maritime boundary? No legal obligation to delimit - why do so:

- Is there a particular problem to solve (what is ours, what is theirs?)
- Finishing off all the boundaries, everybody else is 'doing' their boundaries?
- Recent incidents?

What kind of boundary do you want?

- A line (*only* a line)
- Which maritime zones, all zones together (all purpose line) or separate treaties for distinct zones?
- A line + additional agreement about .....

  - Fisheries
  - Non living resources (oil and gas) > straddling fields
  - Joint marine protected areas, environmental management

# Negotiations

## Objectives (2)

- What is the history of (these) boundary discussions?
  - What **happened before** between these States, could influence current negotiations
  - If there have been **(failed) negotiations before**, will this influence our approach?
  - Be aware of one's own positions – can you still **be open-minded**?
  - Be aware of **general political framework** (with respect to delimitation) at home, and that of your opponent
- Understand your neighbour
  - Make sure to fully **investigate their position**, why do they think what they think?
  - Stop persuading yourself about the merit of your own views, focus on the views of the opponent
  - Identify your own views about what drives the neighbours, ask embassy to **investigate details**, perhaps ask experts on history and/or economy

# Negotiations

## Initial contact

### *Do you know your neighbours?*

- Use own diplomats to **identify the right person** on the other side > you will need a point of contact
- Your counterpart may **not have the same position** in the administration (different ministry or government service). Each decides on composition of own delegation
  - Check seniority of other delegation – is the delegation leader allowed to determine the result?
- Diplomatic channels
  - **Formal invitation** to negotiations in a diplomatic note – particularly if you do not know whom to address
  - Distinguish between roles of diplomats (> establish contact) and delegation (> specialists!)
- Informal channel (*sometimes*)
  - If you know your counterpart (or someone near to that person), have a talk in the corridors, phone call or send an email
  - Start may be informal

# Negotiations

## Opening position (1)

Opening position must be **clear and realistic, but not excessive** (negotiate in good faith, risk of “why should we talk to them’ = bad start)

Opening position: **as far as you can go without being rude**

- But: you cannot upgrade or ask more after your opening position (unless something very unusual happens)
- Disagreeing is OK, but stay polite

Be **well prepared**, be able to understand position of the other side

- Focus on **understanding the position of the other side during preparations**: there is a reason why they think as they do !
- If necessary ask what the other side is meaning, **why is this point important to them?**

React to opening statement of the other side – **acknowledge their position**, you have noted what they said

# Negotiations

## Opening positions (2)

Opening position provides a framework for:

1. **The delimitation** you are seeking (clarify what you want and why)
  - What kind of line, initial technical details
  - Why is this boundary important to you
2. **The negotiation process** (how do we do this)
  - Duration of negotiations (ready within 2 years?), location (here and there alternating), timeframe (2-3 days at a time?) etc.
  - This is a **joint** effort
  - Agree on no publicity / low level publicity
  - How to negotiate – perhaps sometimes use smaller technical groups
  - Nothing is agreed until everything is agreed

# Negotiations

## Tactics

- While you are discussing with the neighbours, you will likely get a better understanding about what is important to them and what is not
  - Be flexible – **the situation may look different** than you initially thought: take time to re-group and reflect on your own position (incl. in between meetings)
- **Importance of good relations**: have joint meals, be courteous
- If necessary: have a break, delegation leaders to have separate meetings
- If you are stuck – have an early night, do not push (won't help), go on a joint outing (?)
- Keep going at agreed pace, and use interim period for creative thinking
  - Consider when to present **a first draft text for the future agreement**
- Keep **national developments** in mind (such as change of government)



# Negotiations

## Making concessions

- You will never get 100% (even if you think you have the best arguments) – be realistic, ensure superiors at home are realistic
- Prepare for making concessions
  - Think about this **in advance** (= at home): what is crucially important for your side, and what is important for them?
  - Reflect about **bargaining chips** – what could you give up at little cost (in a later phase)
  - Other ways to satisfy the neighbours, **alternative solutions**?
  - If necessary: check with superiors at home (+ include time because of time differences)
- **NEVER be too early with a concession** – concessions cannot be withdrawn (even if not accepted immediately)
  - Make sure there is **discipline** in the delegation: only the delegation leader makes the concession. No improvised suggestions by delegation members!
  - Make sure that the other side understands **this is a concession**, and a major step for you
  - Concessions must be **accepted explicitly**, not be taken for granted. Repeat the concession from the other side and indicate that you will consider, or accept explicitly: your proposal has been noted