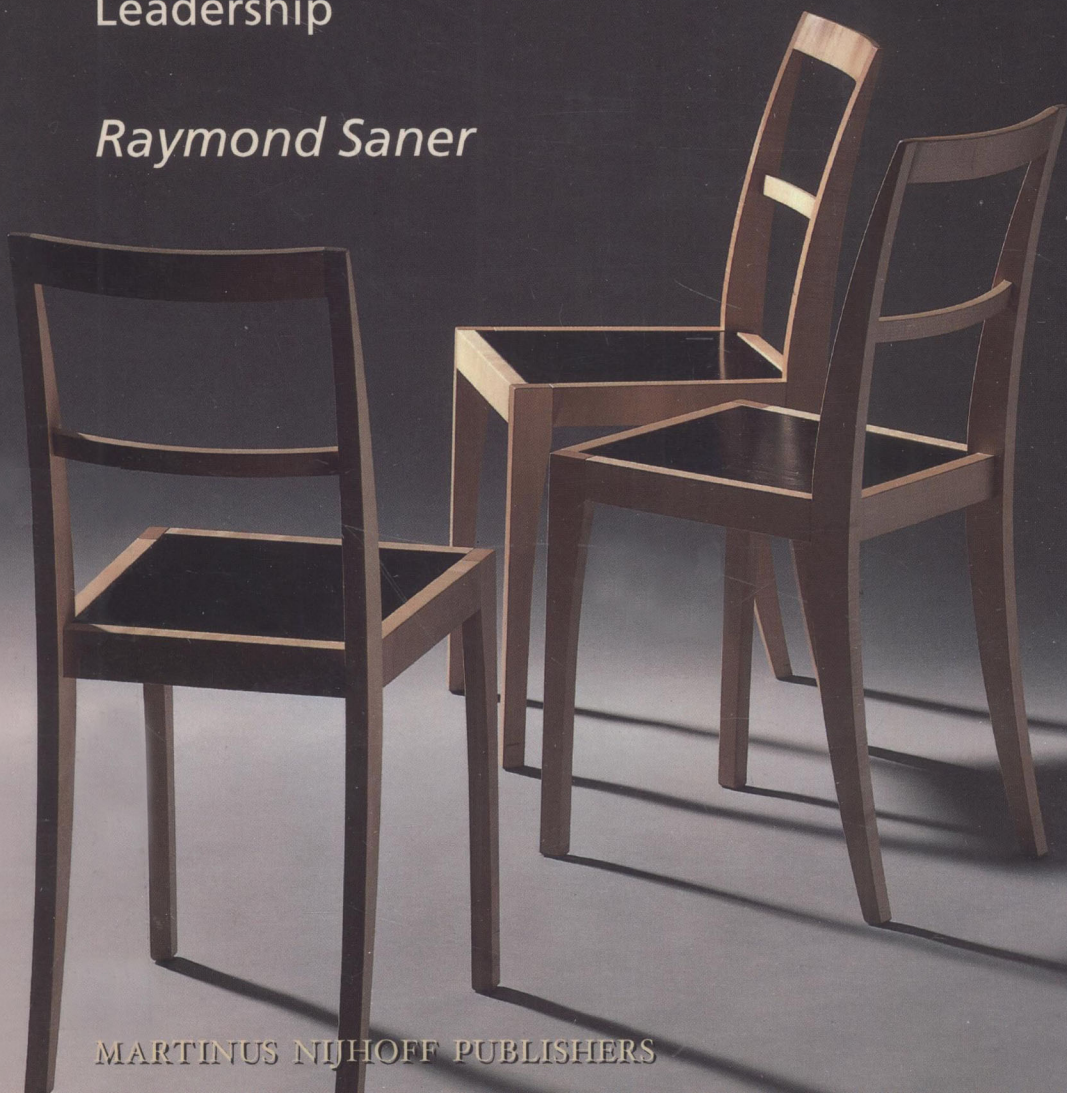


The Expert Negotiator

4th Revised Edition

Strategy
Tactics
Motivation
Behaviour
Leadership

Raymond Saner



MARTINUS NIJHOFF PUBLISHERS

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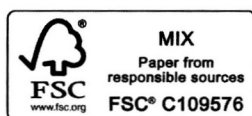
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About the author

Raymond Saner is Professor in Organisation and International Management, University of Basle, Switzerland, and teaches at Sciences Po in Paris (Master in Public Affairs) and at the World Trade Institute, Berne (Trade Negotiations).

He is co-founder of the Centre for Socio-Eco-Nomic Development (CSEND), Geneva, (1993 -) a not-for-profit Non Governmental Research and Development Organisation and the director of its branch Diplomacy Dialogue since 2005.

Professor Saner has 25 years of experience in training and consulting diplomats, managers and civil society advocats in the fields of international negotiations, globalisation and leadership development.

He is an advisor and consultant to the United Nations and its specialized agencies and other intergovernmental and non-governmental organisations as well to multinational companies and Civil Society Organisations in OECD and developing countries.

Professor Saner has conducted negotiation seminars for management executives, diplomats, civil servants and NGO advocats in Baku, Beijing, Berne, Bonn, Brussels, Dualla, Frankfurt, Geneva, Hong Kong, Jakarta, Kuala Lumpur, La Paz, Madrid, Manila, New Delhi, New York, Paris, Rabat, Rome, Santiago de Chile, Sao Paolo, Skopje, Taipei, The Hague, Tiblisi, Vienna, Yaoundé and Zagreb.

His academic record includes graduate studies in Switzerland (Economics), Germany (Sociology) and the USA (Education & Psychology). He holds a Ph.D. in Social Psychology, a M.A in Education and a BA in Economics.

Professor Saner has authored numerous articles, books, chaired international conferences and serves on committees of academic organisations. He has worked and lived over the last 35 years in France, Germany, the USA, Taiwan, Hong Kong and in his native Switzerland.

His research in international negotiations focuses on the following topics a) environment (Kyoto Protocol, Clean Development Mechanism), b) Trade (WTO, UNCTAD, Integrated Framework), c) Poverty Reduction (PRSP) and postmodern economic diplomacy (Multi-stakeholder Diplomacy).

His research aims to contribute to the development of alternatives to the "Washington Consensus" doctrine and to the search for more synergistic forms of cooperation between business, government and civil society.

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Foreword to first edition

About this book

Like birth and death, conflict resolution is part and parcel of human existence. We experience inner conflicts, we feel insecure, we agonize over choices, and sometimes we experience a mental block that makes decisions nigh impossible. We see conflicts all around us, between different groups, between social partners, between countries, and within them.

Conflicts demand decisions and actions to resolve them. They can turn into a quarrel, they can even turn into war. Or again, a conflict may evolve towards negotiation and peace. So many possibilities are waiting in the wings. The ambivalence may be such that our negotiations fail, and the underlying conflict erupts into belligerency. Or conversely, the hostilities are followed by exhaustion on both sides, and their only recourse is to grope for a way out of the stalemate to the negotiating table.

Negotiation and conflict belong together like Siamese twins, and the combination of the two is an irrefutable part of our existential reality. Life is unthinkable without conflict. Each moment of balance is followed by a moment of imbalance, just as eating is ineluctably followed by hunger, the drive to go in search of food, to confront the new challenges that always await us out there, in the wider world. Each new imbalance then demands a new solution, and each new challenge offers new possibilities of finding a creative resolution of the conflict that will inevitably succeed it.

To be a human being means to be both capable of resolving conflict and of facing up to confrontations. This book addresses both of these options, but is primarily concerned with the resolution of conflict through negotiation. Hostility and war are sometimes necessary, but redressing the damage they cause is often more difficult and painful still.

So why not continue to negotiate, as long as the interests of both parties to the conflict are assured?

The question this book thus addresses is how we can handle negotiation constructively, through peaceful means and to the benefit of all the parties concerned.

Acknowledgements

This book is the fruit of many years of personal experience with conflict: in some cases I was able to contribute to the achievement of a successful conclusion, at other times I had to swallow defeat. Learning to negotiate is an ongoing, life-long process. The greater the challenge, the stronger the pressure to improve. But like a young plant, all learning needs the right mixture of good soil, fertilizer, sunshine, and space to grow, plus protection from life-threatening adversaries.

Very special thanks must go to my parents and my brother, who introduced me early on to the world of conflicts and encouraged me neither to avoid them nor to refuse to cooperate. To continue this journey on the knife-edge, not to shrink before new challenges, and never to stop learning, none of this would have been possible without the right circumstances. Thus it was extremely valuable for me to have studied sociology in Freiburg in Breisgau (Germany) in 1968 and to have been encouraged by Professors von Hayek and Popitz to reflect on the limits of reason and power.

Another most felicitous circumstance was to have family relations in Alsace and French-speaking Switzerland, for they have given me an opportunity to live and work in these regions: both are subject to inevitable cultural conflicts, and it has been my privilege to help solve some of them. The art of negotiation calls for a certain sense of curiosity to question existing solutions and to enjoy experimenting with new ones. My opportunity to put this into practice came in New York in 1980, where thanks to my colleague Ellen Raider I had the chance to co-train at the first training courses on diplomatic negotiations for UN diplomats. Similarly, as Adjunct Professor with my colleague Thomas Gladwin I was able to deepen my research and teaching of negotiation theory at New York University Graduate School of Business Administration.

A further important step was my subsequent activity as delegate and deputy head of training at the International Committee of the Red Cross in Geneva. The protection of political prisoners from torture and maltreatment required bargaining with counterparts who sometimes had a completely different sense of values from our own. Sometimes the negotiations failed, and I had to learn to swallow my feelings of powerlessness, all the while keeping alive the long-term goal of offering protection to the political prisoners, and waiting for the right moment when a reasonable solution could be achieved.

An excellent opportunity to learn often presents itself when a client is very demanding but also willing to go along with new approaches. It was my good fortune to be able to design the first negotiation courses for the Swiss Federal Office for Foreign Economic Relations in Berne, and then to teach them. State Secretary Blankart's sharp insights into the art of negotiation spurred me on to look beyond the existing American literature and to bring European scholarship into focus.

Much of the content of this book has been discussed and further developed in tandem with my professional colleague, business partner and spouse, Dr Lichia Yiu, without whose creativity, patience and continued support this book would never have seen the light of day.

I am grateful to those of my colleagues for whom negotiation is their bread and butter – Dr Michael Schaefer, former head of the Training Centre at the Foreign Office in Bonn, and Mag. Paul Meerts and Mag. Roul Gans, both with the Clingendael Institute of International Relations in The Hague. The special needs of German and Dutch negotiators, particularly in the field of EU negotiations, continually motivated me to search for new concepts and tools in negotiation training and practice.

Thanks too to Professor Werner Müller of the Centre of Economics and Business Administration at Basle University, where I regularly conduct seminars on negotiation theory and practice. His constructive questioning of American management models was most stimulating, and his emphasis on the ability to cooperate provided a welcome balance to the neo-classical profit-maximizing game theory so dominant in our mainstream universities.

I am equally indebted to Dr Silvio Arioli, former Ambassador of the Swiss Federal Office for Foreign Economic Relations, whose many years of experience in negotiations and his practical and technical knowledge

as an economic diplomat helped me better understand the historical and political complexities of the Swiss-EU negotiations.

This book could never have been produced without the excellent collaboration of Christian F. Buck and Christiane Wolf, whom I got to know and appreciate during my lectures at the University of Basle. As accomplished economists with many years of journalistic experience they well understood how to support me with the writing and editing of the original German edition of this book.

The English edition of my book is a thoroughly revised version of the original German text. A number of chapters have been enlarged in content and improved in style. This improvement would not have been possible without the professional expertise of my translator Brian Levin, who not only translated the text in a technically most competent manner but in addition proposed several improvements to the content and put them into effect.

Without practice, theory cannot progress. I owe a debt of gratitude to the participants of my courses from all over the world, whether they be diplomats or business managers. Without their constant feedback I would never have learnt what I know now.

Foreword to second edition

Several readers have asked me whether I could further develop the multilateral and multi-stakeholder aspect of international negotiations and shed more light on the complexities of today's international world. In particular, requests were made to add to the bilateral focus of the first edition a stronger focus on the multi-actor and multi-institutional realities of many larger conflicts, which need to be negotiated, often by several countries involving more than one institution.

The new edition responds to these requests for more information on the increasingly complex nature of international conflicts and international transactions. Chapter 10 (Interest groups and the public) has been expanded. An additional case example is given which describes the WTO negotiations on liberalisation of educational services. The case examples describes the convergent and divergent interests inside countries, between countries and also between institutions and ends with a chronology of initiatives taken by various interest groups ranging from NGOs to government ministries, country delegations and international organisations.

Chapter 6 (Strategy) has been broadened by the inclusion of a summary reflection on the strategic options and orientations available to negotiators. The goal here was to bring together the concepts developed at the start of the chapter and to show the consequences of the various strategic options.

Chapter 11 (Complex negotiations) takes a further step in describing today's complex negotiations. This chapter has been greatly expanded to include a discussion of the multi-actor reality of international economic negotiations. Actors involved in such negotiations are several namely Economic Diplomats, Commercial Diplomats, Business Diplomats,

Corporate Diplomats, NGO Diplomats and Transnational NGO Diplomats. The various roles are described in detail and examples are given to facilitate understanding of these complex negotiation realities.

The bibliography section is considerably broadened, and has been updated to give the reader ample opportunities for further research and studies in the main fields of negotiation and conflict resolution. May this new edition contribute to the search for negotiated and mutually beneficial solutions to conflicts, an approach preferred by the author in contrast to the bleaker options of war and armed conflict.

Foreword to third edition

In light of the strong increase of wars and violence since the coming to market of the second edition, attempts to find negotiated solutions through peaceful means seem almost outdated or supposedly not effective as if actual negotiations had really been tried by the belligerents before they let their guns do the destructions in Iraq, Lebanon, Congo, Nepal, Afganistan and elsewhere.

It hence appeared to me that it was necessary to put negotiation into the larger picture of conflict and delineate the various solutions there might be to settle conflicts, negotiations being one of them. To make the difference between negotiations and the other forms of conflict resolution more clear, a section has been inserted in the introductory chapter which depicts a polarity ranging from private negotiations on one hand to the use of force on the other hand.

In between both polarities, the graph shows different methods to resolve conflicts consisting of private and peaceful negotiations between disputants to the calling in of third parties (mediator, arbitrator, courts etc) to the final end of violent and non-violent confrontation between disputants.

For negotiations to be successful and for their negotiated solutions to be implemented and made sustainable, both parties should ideally share in some ways power and have sufficient levels of trust to venture into a negotiation process. Situations where power is perceived to be too lopsided tend to make it very difficult to reach negotiated settlement to conflicts. Parties perceiving themselves as suffering from low power are

often inclined to call on the third party interventions or if not possible to engage in confrontational tactics.

In order to be conceptually clear about the difference between bilateral negotiations versus of a third party e.g. mediation, differences between the two approaches need to be analysed and the points speaking in favour or disfavour of either method need to be defined and discussed in more details. Such clarifications have been added in the closing section of the chapter on Tactics.

The field of conflict resolution and negotiation is evolving despite the current trend towards war and confrontation. More research has been done and more books have been written since the second edition. The bibliography section is now longer and richer in regard to added publications from North American but also from other countries. The field of negotiation theory and research is maturing and diversifying. Hopefully, the increased productivity in researching and writing about conflicts will help reduce the level of confrontation and war in the near future.