

# Effective participation in MEA negotiations

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**Negotiation principles, etiquette and  
language**

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# What is diplomacy?

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In general:

- Management of relations between countries through diplomatic avenues

**Multilateral conference diplomacy:**

- Management of relations between countries (governments), and relations between governments and IGOs in intergovernmental **conferences**.

# Pre-session phase

A good preparation for the meeting will improve your ability to negotiate successfully

## The good negotiator

- **Studies** – documents and information, any additional resources for your preparation – with a focus on the draft decisions
  - Understands the subject matter (the **Convention**), the **Rules of Procedure** (and the financial rules)
- **Engages**
  - ✓ **internally** – what are the **desired outcomes**?
  - ✓ With the **like-minded Parties/regional and other group consultations**



# Pre-session - Preparing for negotiations

Learn more about the negotiation you will attend

- **Background** - *What were the outcomes of the previous negotiation sessions? Do some research*
- **Agenda** – expected outcomes / draft texts



Familiarize yourself with the **Rules of Procedure**

# Pre-session – Engaging internally

## Specific actions in the capital

**As a member of the country's delegation, you need to:**

- Have a good understanding of your country's interests on the issues under negotiation, and of other delegations/groups
- Identify the most important agenda items for your country & focus on them
- **Engage with relevant authorities long before the negotiations take place**

**A negotiation team should be identified and mobilized well in advance for negotiators to have sufficient time to:**

- Become familiar with the agenda items and issues
- Brief important issues for government policy-makers
- Be ready to propose items, and to draft alternative texts



# Pre-session

Develop a negotiations strategy



- **Build a package** – define a problem, find some implementation options, flexibility to deal with discussion
- **Find trade-offs** – Use exception, create a narrow start, offer a broad brush approach, provide a compensation clause.
- Find the **right timing** to propose solution or option (negotiation by exhaustion)

# Pre-session – Engaging internally

## Composing the delegation



- Mixture of talent/skills  
(technical/scientific, legal diplomatic)
- Identify the HoD
- Submit names early for credentials  
and for financial assistance (travel)
- Continuity is important for training  
and empowerment
- Larger vs smaller delegations

# Pre-session - Engaging externally

## Identify your negotiating group

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### **Power-based**

- Umbrella Group-JUSCANNZ
- EU
- G-77 and China
- LDC Group

### **Interest-based**

- Like-minded groups
- Environmental Integrity Group

### **UN Regional Groupings**

- African Group
- Western Europe and Others-WEOG [EU, USA, NZ, Canada, Aus.]
- GRULAC (Latin American and Caribbean Group)
- Eastern European Group – EEG/ Countries with Economies in Transition
- Asia-Pacific Group (formerly Asian Group)



# Pre-session - Engaging externally

Identify your negotiating group – key questions to ask yourself

- ✓ Is my country part of a coalition or regional group? Which one?
- ✓ Who is the spokesperson for each of my coalitions?
- ✓ When & where does my coalition meet to discuss common positions?
- ✓ Are my country's concerns reflected in positions taken by my coalition?
- ✓ If not, have I tried to express my country's national needs and concerns?
- ✓ How can I make sure that my national concerns are being addressed?
- ✓ If my country is part of more than one coalition, are there any inconsistencies between the positions taken by these groups?
- ✓ If an issue I am following has been referred to a contact group or informal working group, who is representing my interests in that group?
- ✓ When and where are those meetings being held?



# In-session phase

Remain alert and focused during the formal negotiation

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- Different settings – organization of the delegation
- Continue active engagement in the regional group / **power of influence**
- Try to engage in drafting/contact groups, Friends of the Chair, etc.
- Be ready for quick exchanges of views / consult with capital.

# In-session

## Who are the key actors

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- Within the multilateral process:  
Chairs of the COP; Chairs and members of the subsidiary bodies;  
Rapporteurs.
- Within the coalitions:  
Spokesperson for the Coalition / issue coordinator
- Within the delegations:  
HoD, issue negotiator, facilitator

# In-session

## Challenges to negotiations

**Delegation-specific:** insufficient/deficient expertise regarding substance, process, institutional dimensions; inadequate preparation time; unclear negotiating instructions from capital; undue influence of other delegations/interest groups

**Procedure-specific:** inability to reach agreement on important rules of procedure; endless debate regarding procedure that overwhelm the substantive negotiations; inability or lack of understanding on how to use the rules of procedure in tactical ways

**Process-specific:** insufficiently articulated options to assist in brokering compromise and facilitate bargaining in the tough phases; lack of political will to settle the tough issues in the eleventh hour; lack of sense of urgency and deadlines

**Negotiation blocs:** too large to ensure meaningful and coherent group positions; undue influence of certain actors; inefficient bloc decision-making machinery

**Chair:** weak and ineffective; insufficiently neutral; inadequate substantive knowledge; inability to broker consensus

**Secretariat:** inadequate support/substantive analysis; lack of guidance for Parties regarding the RoP and practices that govern intergovernmental negotiations; inappropriate political influence

# In-session – making interventions

At the microphone

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If you are responsible for an issue on behalf of your delegation:

- ✓ **never leave the chair/microphone unattended!**
- ✓ To be recognized by the Chair – raise the **flag/button**

# In-session – making interventions

## At the microphone:

A good intervention:

- ✓ is spoken slowly in any of the official languages
- ✓ is concise
- ✓ provides your delegation's position clearly along with a compelling rationale
- ✓ provides precise drafting language in the simplest terms possible
- ✓ works to the extent possible with existing language; and,
- ✓ avoids re-opening issues that have been laid to rest/have had square brackets eliminated

In the rare case where circumstances justify re-opening:

- ✓ be prepared for resistance
- ✓ justify why your approach should be followed (e.g, to solve a set of square brackets).

# In-session – making interventions

Being strategic

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## In large meetings

- ✓ One intervention only
- ✓ Listen to all 5 regions
- ✓ Written proposals (CRPs or non-papers)

## In small meetings

- ✓ Where you sit is key
- ✓ If you agreed with the outcome, you are reasonably expected to agree when discussed in plenary

# In-session – strategic issues

A good listener



- ✓ Listen carefully to the interventions
- ✓ Support interventions that are consistent with your position to generate support  
(name countries from different regions if possible)
- ✓ Where possible – let other countries do the “heavy lifting” – but show support/register your intervention
- ✓ For sensitive issues – consult in advance with countries, preferably with a note in writing



# In-session – no or little support

## What to do

- ✓ Confer with the HoD and the other members
- ✓ If you are alone, intervene with questions for other delegations
- ✓ In exceptional cases (e.g. the final stages of a negotiation where you are alone in a small group), you may:
  - Try to contact/call your HoD
  - Ask for the meeting to briefly adjourn
  - Suggest the Chair that the meeting consider an issue on which your delegation takes no position and step out of the meeting
  - **If any such a situation is foreseeable, it is strongly preferable to make arrangements ahead of time.**
- ✓ Seek the support of other delegations
- ✓ Apologize to the meeting
  - clarify your concern
  - insert square brackets
  - indicate that you will confer with your delegation/capital to see if you can release the square brackets later in the session.

# In-session – no satisfactory outcome

## What to do

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- Ask that a particular understanding to be reflected in the report of the meeting
  
- If an IGC/COP
  - Ask that the issue be included in the resolution adopting the treaty text/interim work programme
  - make an interpretative statement
  - *block the adoption of the treaty (to avoid)*

# Dealing with Ministers – high level

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- Well briefed
- Support services (you don't run around)
- Strategic input
- Reflect your key issues in the statement
- Short and punchy speeches/interventions
- Find a good spokesperson
- Arrange for bilateral meetings/discussions

# Post-session phase

It is still important to remain engaged

- Follow up on the report and the decisions when they are issued
- Follow up on the implementation of any decisions

Keeping track of what is going on in the intersessional period increases your knowledge and **your ability to influence future negotiations**

# Who is a good negotiator

- ✓ Well-prepared
- ✓ Shows patience and listens
- ✓ Controls emotions
- ✓ Looks for interest-based decisions
- ✓ Rejects weak solutions
- ✓ Is able to break bigger issues down into smaller ones
- ✓ Is able to see the bigger picture
- ✓ Uses respect and diplomacy when presenting positions or commenting on another delegation's position
- ✓ Good language skills
- ✓ Strong analytical skills
- ✓ Knows well own country's interests and positions
- ✓ Knows positions of other States and coalitions
- ✓ Has knowledge of prior negotiations and their outcomes



# Etiquette - Mind your manners...

Negotiation is about give and take – be flexible and willing to compromise

- Understand the rules of procedure
- Judge the discussion point
- Obtain permission to speak
- Time your intervention strategically
- Write down position before speaking
- Be articulate about your position
- Sound polite, diplomatic but put the idea/position clearly
- Give others room to react and intervene



# Etiquette - Mind your manners...

Negotiation is about give and take – be flexible and willing to compromise

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- ✓ Do not contradict statements made by the representative of a coalition to which you belong
  - these statements are made on your behalf.
  
- ✓ Use your intervention to
  - Support statements made by the Coalition spokesperson
  - Elaborate upon that statement or present additional arguments
  - Explain why the issue is of particular concern to your delegation.
  - Provide your support to previous speakers who have expressed a viewpoint with which you agree.
  
- ✓ When you agree,
  - Save time by referencing positions taken or arguments made by others.
  - Note the areas in which you agree.
  
- ✓ When you disagree with what another speaker has said, refrain from naming that group or country (do not personalize positions)
  - State your position affirmatively
  - Raise difficulties posed by other position for achieving agreed ends

# Etiquette - Examples:

The President/Chair will take note of country flags that have been put up, and call upon countries in turn.

*“I have Jamaica, Sudan and then Pakistan; Jamaica you have the floor”*

Make a brief acknowledgement of the President or Chairperson.

*“Thank you Mr. President/Madame Chair”*

Begin your intervention by lending support to the expressed position of your coalition representative

*“I would like to associate myself with the remarks made by Jamaica on behalf of the G-77 and China, Bangladesh on behalf of the LDC Group, and Bhutan on behalf of the Asian Group”*

Detail the importance of the issue at hand for your country or coalition.

*“Mr. President, this issue is very important to my delegation / to members of the LDC Group. We have found in recent years that . . .”*



# Etiquette - Examples:

Remain positive and remark on positive aspects of the negotiation.

*“As my colleague from Brazil has already so eloquently expressed...”*

Stay focused and on topic – make a clear and concise statement.

*Mr. Chairman, my intervention will be brief. My delegation would simply like to highlight...”*

If necessary, offer a different viewpoint to interventions made on behalf of other states or coalitions, in a diplomatic manner

*“Mr. Chairman, one issue that perhaps the group has overlooked is...”*

Conclude by commenting on the reasonableness of your position.

*I have every confidence Mr. Chairman that with this issue addressed we will be able to move forward in a constructive manner.”*

Thank the President/Chairman for the opportunity to speak

# Language matters

Understand the basic language of negotiations to know when you are making progress or when losing ground!

No “plain language”...



# Language - Key terms and phrases

“**May**” is permissive and discretionary on a part of a country and creates no obligation to carry out an action

“**Must**” is required to take an action. “Must” is almost always legally binding.

“**Shall**” means an action is required, and is almost binding. Unless “shall” is used with another word that weakens its strength – e.g. “A Party shall endeavor to do x, y, or z”

“**Should**” means an action is not required, but is advised – e.g. a Party should try to do x, y or z

**Beware!** A slight change in verb tense can make an enormous difference in the commitment that a country makes.

# Language - Key terms and phrases

The COP **invites** interested organizations

The COP **urges/invites** all Parties

The COP **requests** the secretariat

The COP **instructs/requests** the Committee [subsidiary body]

The COP **welcomes/takes note** v. The COP **endorses**

The COP **decides** [*operative paragraphs*]

## *Slippery words*

- ✓ As appropriate, if appropriate, as necessary, if necessary
- ✓ Any future elaboration
- ✓ Consider
- ✓ To the extent possible
- ✓ *Inter alia*

# Language - Interim drafting and numbering

- Language to be deleted is put in square brackets with the bolded word "**Delete**" at the beginning of the square brackets  
e.g. [Delete: All governments should consider the importance of the global transition to sustainability]
- New language to be added to the text is put in square brackets , preceded by the bolded word "**New**" with the new text written in italics  
e.g. [New: The new generation of global sustainability challenges require new forms of partnership and solidarity between nations]
- Existing language to be changed in the text is put in square brackets, preceded by the bolded word "**Revised**" with the revised language underlined  
e.g. [Revised: It is particularly important that developed country governments consider the importance of the global transition to sustainability]
- Instead, we add "*bis*", "*ter*", "*quater*", "*quinque*".

# MEAs negotiations trends

## Substantive

Integration of the three pillars of sustainable development

Increasing focus on time-bound targets

Implementation of common but differentiated responsibilities

Evolution of the common concern of humankind

Implementation of precaution

Increasing recognition of community resource interests

Development of flexibility mechanisms

Increasing focus on compliance regimes

Increasing integration of non-State actors

## Process

Proliferation of post-agreement negotiations

Increased pace of negotiations

Fragmentation

Innovations in negotiation formats and alliances

Formation of like-minded coalitions

Improved rapport among individual negotiators

Multi-stakeholder engagement and influence

# Thank you

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