

AWVN

**THE ART OF
NEGOTIATION
BASED ON ENDURING
INDUSTRIAL RELATIONS**

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gaining a head-start through good employment practices

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Foreword

Negotiations on terms of employment deserve a better image. As a rule the spotlight mainly tends to be placed on collective bargaining that is laborious and characterised by threats. And yet the vast majority of such negotiations between employers and employees pass off in a highly constructive atmosphere. That is also the atmosphere pervading this book and characterising the negotiation method that AWVN (the Dutch General Employers' Association) uses in training sessions and in practice: our approach is based on the philosophy of constructive dialogue.

AWVN has many years of experience in negotiations and the training of delegations of negotiators. The method of constructive dialogue proves very successful in practice and is now also causing a furore abroad. Our method is also used for training sessions in other countries. The Dutch social dialogue model also appeals to employers and trade unions in Eastern Europe, East Africa and Asia, and this led to the publication in 2010 of an abridged English edition of the AWVN handbook *Onderhandelen in duurzame relaties – algemene lessen uit drie decennia CAO-processen (2007)* [*Negotiating in enduring relationships – general lessons drawn from three decades of collective bargaining processes*].

Due to the permanent interest in AWVN's negotiation training sessions, the time is ripe for a new Dutch version of the handbook. This is also the opportunity to add the experiences and insights gleaned from the last few years, and these have been gathered and compiled by the original author Dirk Joesse and his colleague Lars Doyer, who both worked on this book. The authors have also endeavoured to make the handbook more compact, although its essence remains the same: industrial relations are all about the art of negotiation aimed at building and maintaining enduring relationships.

Summary

This book deals with the AWVN negotiation method that focuses on constructive, enduring industrial relations aimed at arriving at a win-win situation for all the parties involved.

Employers and employees always need each other

The negotiation process is not a stand-alone procedure, but is linked to a view of modern, enduring labour relations. Good labour relations are very important if employer and employee together are to find solutions to current issues relating to the labour market, flexibility, long-term availability, increased productivity and terms and conditions of employment. Terms of employment, be they collective or on a per-company basis, are the result of a process. Although employer and employees (often) have conflicting interests, they nonetheless need each other and are dependent on each other. A negotiated result involving one party winning and the other losing is not effective if the two parties have to continue to have dealings with each other thereafter. In the subsequent round of talks the parties in question will confront each other again and a settling of accounts will no doubt take place (see Chapter 1).

Constructive dialogue gives consideration to all interests

The key concept for industrial relations in the future is dialogue – dialogue between employers and employees. And there are many different types of employee: those who are employed on a permanent basis, on a flexible basis or on a self-employed basis. Employers and employees together have to invest in know-how, health and long-term availability. That sharing of responsibility leads to mature labour relations and calls for constructive negotiations that give consideration to all interests (see Chapter 2).

The best result is the one that satisfies all parties

A negotiator can use various strategies: avoidance, concession, compromise, exploration or confrontation. The choice depends on what he regards as more

important: the substance of the agreement or the maintaining of a good relationship (or perhaps both). Ultimately negotiators achieve their best result when they know what they themselves – but also what the other parties – want and need. The strategy of exploration and confrontation is not the easiest one, but it does lead to the best negotiated result, and maintains the good relationship between the parties to the negotiations intact (see Chapter 3).

Trust is an absolute condition

Trust is a must in long-term relationships, such as in the relationship between employer and employees. Without trust people tend to bring the weak points in each other to the surface, rather than the strong points. In successful negotiations, the parties actually engage in dialogue with each other around the table, and, in an efficient and friendly manner, arrive at an agreement that is satisfactory to all parties – certainly if they realise that the end result could only be achieved thanks to those other parties. The University of Harvard devised five rules of thumb for getting dialogue started between parties, and if necessary keeping it under control. These rules of thumb have been further developed by AWVN over the last thirty years for long-lasting labour relations. These involve fostering trust, discovering the interests behind standpoints, broadening the negotiation agenda, striking a reasonable deal and providing in advance for the fall-back option (see Chapter 4).

Negotiation calls for a good structure

The image that people have of pay-and-conditions talks is often one of tough negotiations where there are few opportunities for innovation. However, negotiations offer many opportunities for arriving at an agreement from which all the parties can draw benefit. This is certainly the case if negotiations are used to work systematically towards an agreement. The negotiation process is an ongoing cycle, which begins with the phase in which a view is developed and ends in evaluation. The phase in which a view is developed concerns the relational side (the relationship between the parties), the interests (concealed behind points of view and ways of thinking) and the choice of the direction to be taken for solutions to be sought. Once the view has been developed the actual negotiations begin, with an opening statement on both sides, followed by the exploration and zeroing-in phases. Ultimately this process leads to a package deal that has the support of all those involved, as well as their rank and file or mandators. The process ends with the evaluation phase, in which the negotiations are assessed as regards their content, procedure and relational factors (see Chapter 5).

The style of communication always has an effect – either favourable or unfavourable

One of the most important tools for employers and negotiators is communication. The tone and style of the communication contribute to the atmosphere: a quarrelsome atmosphere, a defensive atmosphere or an atmosphere in which the parties are open and frank about what their interests are. A particular style of communication goes with every strategy (indulgence, avoidance, fighting, compromise, exploration or confrontation). One style is primarily oriented towards good relations: questioning, solicitous, or aimed at avoiding conflict. The other is purely substance-oriented: coercive or pushy. A greater understanding and perception of communication and the ways of communicating effectively can improve the negotiation process. Careful communication fosters trust between the parties (see Chapter 6).

Negotiators are a major success factor

In a negotiation process, the negotiators themselves are a major success factor. If the (personal) negotiating style on one side of the table connects with the style characterising the other side, the talks will generally pass off much more smoothly. If the primary styles are not well attuned to each other, or if they clash, negotiations become a lot more awkward. To solve this problem, it is important to gain an insight into the preferred styles as regards communication. This insight contributes towards an understanding of the negotiators on the other side of the table, and helps build bridges if necessary. An understanding of preferential styles is also useful for the distribution of roles within one's own negotiating delegation and helps in understanding the dynamic of one's own team. Experience shows that many employers are primarily task-focused, but a successful agreement also requires attention to be given to the relationship, or the human factor (see Chapter 7).

Cases of resistance call for a quick solution

Matters in dispute are not always negative. Something good comes out of a 'constructive argument' in the end, if those involved are able to set about dealing with the issue constructively. It is important to discern and tackle incipient resistance straight away, otherwise resistance will escalate into conflict. Conflict management has a higher priority than the making of substantive progress. Sometimes negotiations drag on for so long and the tension becomes so great that it is no longer possible to think clearly. Only by staying inwardly calm and eliminating all factors leading to a waste of energy is it possible to go through all the phases of the negotiation process correctly and to gain an overview of the

consequences of proposals and agreements. The trick in stressful situations is to 'climb into the helicopter' in order to maintain an overall view of the situation. This can be done in four steps. One technique that can be very helpful in this respect, even during negotiations, is 'Aikido' ('the path to energy in harmony'), a Japanese method that helps the individual to remain alert whilst at the same time discharging stress (see Chapter 8).

1 Introduction

Negotiation is part and parcel of life. Take the simple household question: 'Where shall we go on holiday?' That question could be the start of a full negotiation process. Buying a car, a house, a computer or a television often also entails bargaining. Bringing up children is in fact an unending series of negotiation situations, comprising arrangements and agreements on matters ranging from pocket money and bedtime through to tidying up and homework.

Terms of employment, whether collective or per company, are often also the result of negotiations. Employers and employees usually reach agreement by means of negotiation. These parties often have conflicting interests, but at the same time they need each other and are dependent on each other. This means that in many cases there are also common interests, and that is a good base for negotiations.

A hard line or a soft position?

Negotiators are often faced with a dilemma. If they are too soft or too friendly, their attitude will cost them money. But an overly tough or inflexible position could result in an escalation of the conflict, and at the end of the day they risk coming away empty-handed. Avoiding both of these approaches means taking the middle path: a compromise between the desired result and the good relationship with the other party. This usually yields a less-than-optimal outcome with which neither of the parties is especially happy, because they have had to make (too many) concessions.

Make room for a creative process

When it comes to negotiating, many negotiators' first thought is: what is it going to cost me? Negotiation is perceived as a competition: at the end there will be a winner and a loser. But it can also be very different indeed. Negotiators can also strive for a negotiated agreement with which both the employer and the employees are satisfied. The basic premise for this kind of negotiation is the question:

How can I attain what I want without harming the relationship with the other party/parties? Or: how can I in fact strengthen that relationship with a view to future negotiations?

That question unleashes a creative process – the pursuit of common interests and a solution based on reasonableness, which is experienced as such by both parties. The condition, however, is that the negotiators refrain from using tricks, and adopt an open stance. It calls for a different mindset: a positive attitude towards all participants, even if they appear hostile and their interests clash head on with your own. A position such as this offers the possibility of adopting a creative approach to deal with different interests. A change in the way of thinking so that costs are perceived as investments can serve to strengthen this process. What is involved is the search for opportunities, something that fits in perfectly with the company's thinking.

A negotiator who has had many negative experiences with negotiating situations will no doubt have objections to this, but experience tells us that this approach is worth a try, even if only because the results obtained thus far have not been satisfactory. In AWVN's training sessions and in many negotiation situations thereafter, negotiators have found that an open attitude leads to a win-win result. A creative negotiating process results in a whole world being opened up, and that goes for the most dreaded opponent, too. It takes two to tango. If one of the dancers changes style, the other follows as a matter of course.

Choose the win/win style

A negotiated result in which one party wins and the other loses is not effective if the parties are to continue to have dealings with each other thereafter. After all, in the subsequent round of talks the parties involved will confront each other again and there will no doubt be a settling of accounts. The key to creative negotiation is that the focus is placed on the interests of each interested party, so that margin is created for interests to be exchanged. Although this makes the matter much more complex, the outcome is a good deal more satisfactory for all parties. And that has a favourable effect on industrial relations in the future.

2 Towards new industrial relations

Negotiation is not a stand-alone process. There is always a cause, a context, a case history or a legacy. What is more, the results of negotiations themselves also have an effect on industrial relations. Good industrial relations offer opportunities for social innovation (more intelligent working) and therefore higher labour productivity. Poor industrial relations fuel distrust. The lack of trust has to be offset by more and more rules and agreements. A collective labour agreement is in that case ultimately little more than distrust that has set in and taken root.

A constructive negotiating process leads to agreements from which all the parties draw benefit. The collective labour agreement is one of the tools for giving shape to the HR policy, and the purpose of HR policy is to support the corporate objectives (see Figure 1). This only works if labour relations are positive. A negotiator who has this in mind enters into the collective bargaining process with an objective other than that of winning the game.

Figure 1

Employment practices - New style

Three standpoints from which to view industrial relations



The subject of 'industrial relations' does not only concern the relationship between organised employers (employers' organisations) and organised employees (trade unions), but also covers the relationship between all interested parties in and around organisations. We can look at the subject of industrial relations from three standpoints: practical, ethical and scientific. All three approaches are important for the way we view industrial relations.

The practical approach. Industrial relations in the Netherlands are all about the much lauded social and economic consultation, or what is referred to as 'the polder model'. In this central consultative process, either with experts (in the framework of the Social and Economic Council (SER)) or not, and often also in consultation with the government, employers and employees develop a conditions-of-employment policy that sets the tone for relations between employers and employees. The agreements made centrally are worked out locally, for example in collective bargaining at sectoral or company level. This offers the possibility of working strategically on constructive labour relations at company level in order thereby to be able to meet corporate objectives.

The ethical approach. The perception of labour also harbours a moral component. Labour is not a commodity and therefore should not be treated as such. Workers are people, and they are members of democratic communities in which the rights of every individual are respected. Companies must give account of the way in which they treat their employees and the way they address such issues as child labour, for example. Employees and employers are partners of equal standing in the social and economic consultation. Although their interests differ, they need each other.

The scientific approach. Industrial relations fall under the social sciences. The purpose of scholarly research into industrial relations is to gain a better understanding of labour market relations and the institutes involved therein. Industrial relations as a subject of study shares common ground with such disciplines as economics, sociology, social history, political sciences, law and human resources management (HRM). These scholarly insights could be important for negotiations.

Three scientific views

The scientific depiction of industrial relations can broadly speaking be subdivided into three main movements: the unitarian, pluralistic, and radical movements. Each of these trends has its own view of industrial relations and, based on this,

also its own interpretation of industrial disputes, the role of trade unions, works councils and labour legislation.

In the *unitarian view* a labour organisation is seen as an integrated and harmonious whole. In the ideal situation the labour organisation is a '*happy family*', in which management and staff have a purely common goal. The emphasis is on cooperation. The unitarian view is characterised by a paternalistic approach, with the organisation being run from above. Employees are expected to display loyalty. In this view trade unions are superfluous, since the interests of employer, management and employees tally with each other completely. Conflicts are considered as interruptions caused by troublemakers, communication breakdowns and frictions. In this view the strategy of the monologue predominates.

In the *pluralistic view* organisations consist of powerful, diverse subgroups with their own leaders and their own legitimised interests and goals. *An organisation is a melting pot of conflicting and identical interests.* The two dominant subgroups are the management and the trade unions. Trade unions are the legitimised representatives of the employees. The role of the employer/management is not so much one of driving on and checking up on the staff, but rather one of inspiring, exploring, and bringing opposing positions face to face if necessary, albeit always with the aim of cooperation. Conflicts are settled by means of collective bargaining and are not necessarily a bad or annoying thing. After all they are professional – not personal – in nature, and if they are managed effectively (via good labour relations), positive changes are brought about. The parties know that they depend on each other for results to be obtained and that this situation calls for mutual trust. The dominant strategy in this view is strategic dialogue between relevant interested parties.

The *radical view* (sometimes typified as Marxist, although generally more wide-ranging than that) is based on the fundamental difference between labour and capital and looks at industrial relations in that light. *Companies are the scene of battle of fundamentally conflicting interests.* Inequality in power and economic prosperity is seen as stemming from the roots of the capitalist system. In this view conflicts are unavoidable. Trade unions are the workers' natural answer to their exploitation by capital. Consultation between trade unions and employers is seen more as a reinforcement than a debilitation, because it confirms rather than combats the continuity of capitalism. The dominant strategy in this view is the avoidance of dialogue and the deployment of combative strategies combined with mobilisations and strike action.

AWVN opts for an inclusive pluralistic approach

The employers' association AWVN opts for an *inclusive* approach, with attention devoted to both practical and ethical aspects. In terms of scientific approach, AWVN ranges itself behind the *pluralistic* approach, the melting pot of interests, in which the focus is placed on the settlement of conflicts. The best agreements are reached further to a strategic dialogue with trade unions or employees, based on a transparent company policy and a shared view of the HR policy. In a dialogue the partners can influence each other in labour relations and better results are achieved than when conflicts or disputes are fought out – a situation in which everyone loses. Dialogue sees to it that every party assumes its responsibility in the negotiating process. This approach proves to be the most successful in practice, and is therefore the basis for the constructive negotiation method expounded in this book, for negotiations and labour relations at company level.

A company's staff are its most important capital asset

In past centuries machines were a company's primary capital asset. In a knowledge economy it is a company's staff who constitute the most important capital. Worker performance is increasingly important as an indicator of successful business management. A good example is staff training and development. Through this the employee's interest is served on the one hand, since his position on the job market and career prospects are enhanced, whilst on the other hand the employer's interest is also served since the way in which and degree to which the employee can be deployed is improved, and the quality of the work increases.

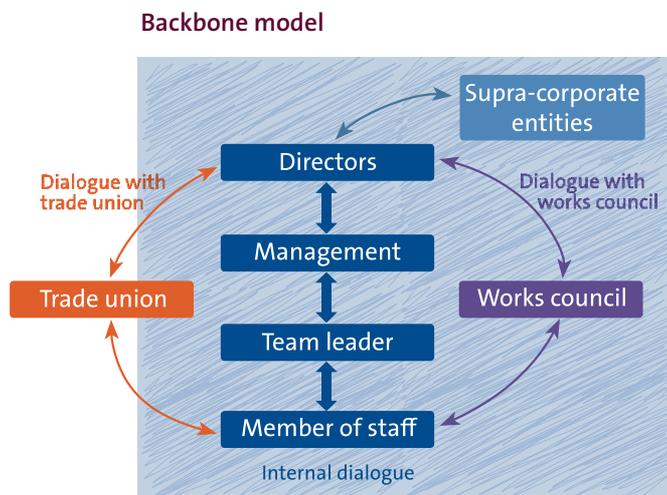
If the employer fails to contemplate the mutual interest, pay-and-conditions talks soon end up in a 'yes it is, no it isn't' atmosphere, and all the more so if the company has to tighten its purse strings. The trick is to focus on combined investments in the continuity of the organisation, and this is an area in which there is a great deal to be gained for negotiators. That begins with an awareness of the importance of the negotiations for industrial relations and consequently for the company's results. It is very important for all interested parties, both employees and negotiators, financiers and investors, to think along these same lines.

View of and strategy for labour relations at company level

For negotiations it is important for a good view of labour relations to be developed beforehand. This calls for an analysis of who the directly interested parties are. At company level the labour relations can be visualised in the so-called backbone model, the most direct relations in which are the vertical connections: the organisation's backbone (see Figure 2). The works council and trade unions are

representational parties in this structure, whereby the members of the works council form part of the organisation and the trade union leaders do not.

Figure 2



A strategy then has to accompany this analysis, outlining how this analysis is going to be used. The first question a negotiator has to ask himself is: Why would I negotiate with these other parties? What have I got to gain from it? This question can be answered by making the company's own objectives the pivotal issue. After all, they are the leitmotif guiding the HR policy and the terms and conditions of employment. This leads to a view being formed of the terms of employment as a basis for the negotiations (see Figure 1 on page 9). The negotiator knows what he wants and why he wants it, and also knows what his limits are. The second question is: What are the interests harboured by the parties to the negotiations on the other side of the table? Why would they negotiate? What have they got to gain from it? What are their interests?

When a clear perspective of one's own situation and an idea about the other party's interests have been gained, it becomes clear that both parties need each other in order to serve their own interests. This results in an understanding of the other party – which does not mean that the two parties are in agreement. The employer needs the commitment and motivation of his employees to be able to fulfil his business objectives. The employee needs the employer to be able to organise his work in such a way that he can develop his talents and reconcile work and private life.

Employers and employees therefore both have something to gain from negotiation. This concerns much more than the percentage of the pay rise, but calls for courage on the part of both sides to listen to each other. To this end it is vital that a clear distinction be made between task-related aspects (what we ourselves want) and environment-related aspects (what others want and how that dovetails with what we want). Both aspects need to be addressed to enable results to be achieved that are satisfactory to both parties.

The task-related aspects relate to both substance and procedure:

- *Substance*: issues on the negotiating table, pay level, productivity
- *Procedure*: structure (how we meet and negotiate, what parties there are, when talks are held and with whom, what legislation and rules and regulations apply).

The environment-related aspects relate to the relationship and feeling:

- *Relationship*: how do the parties go about their dealings with each other, what is the management style, how might one characterise the atmosphere in a negotiation meeting between the director and the works council, what is the communication like between employer and trade unions?
- *Feeling*: what feeling does the consultation evoke among the parties concerned and how is this reflected in their conduct? Sometimes talks between the works council and the director are very procedural in nature. The reason is often to be found in environment-related aspects. The works council might feel it is not taken seriously, for example, and therefore seeks support in rights such as those that can be derived from the Staff Councils Act.

Towards new industrial relations

Sometimes companies are apprehensive of an approach in which everyone should be able to have a say on everything. For what good is that to the company? The answer is all to do with the challenge facing companies in the Netherlands and in Europe. In order to cope with (international) competition, we have to start working more astutely and labour productivity has to be raised. The ageing of the population is also leading to a shortage on the job market, which is another reason why increased labour productivity is needed. The 2.0 employee also has different requirements to an employee in the previous century. He wants autonomy, a good balance between professional and private life, and flexibility in working times and employment conditions. Employees are increasingly expected to work for longer, to work more energetically, and to be more and more enterprising and productive. This will only be achieved if companies and employees themselves invest in people's vigour and energy.

The key concept for the future is dialogue – or rather dialogue in the backbone. This is where it begins, in AWVN's view. This increasingly means different dialogues: with employees with an open-ended contract of employment and staff employed on a flexible basis, as well as with self-employed workers. Employees are increasingly specialists who want respect for their autonomy and professionalism. They want a working environment in which people work together and give each other constructive criticism and feedback, so that they can further develop and strengthen their degree of professionalism. A roadworker who is proud of the paving he has laid will stick at the job for much longer than a fellow worker who is only doing it for the money. People can be set to work for longer when what they do is in keeping with what they regard as important. The psychological component of the work is thus at least as important as the physical aspect.

If dialogue is entered into in the backbone, this has a positive effect on industrial relations, both between the staff and between the 'layers' in the backbone. And that has a positive effect on labour relations with the works council and trade unions. As one trade union leader once aptly put it: 'If there is no dialogue in the backbone, it becomes a hernia model: the management is then literally 'bothered' by the trade unions and/or works council'.

If industrial relations are good, labour productivity will rise and people can be set to work for longer. Employers and employees must therefore invest together in know-how, health and enduring availability for work. This shared responsibility leads to mature industrial relations and calls for constructive talks that give consideration to all interests.

3 The tension between substance and relationship

Many negotiators do think about the result they want to achieve from the negotiations, but much less about the way this will be obtained. A negotiator who consciously opts for a strategy, but is also able to adjust this during the course of the talks, will have a strong starting position.

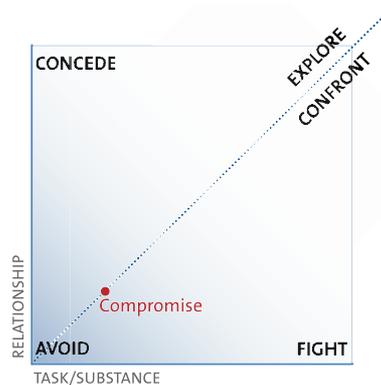
What is more important: the outcome or the relationship?

The result of the negotiation seems to be the most important thing, but an obsession with this gives little room for flexibility. Imagine that the result of the negotiation is very important for you. Your company is in a very difficult situation and this means your scope for negotiation is very limited. If you choose the hard line, this will certainly have an effect on the relationship with your interlocutors. Reluctance to make concessions to or listen to the other party all too quickly leads to irritation with the other side's lack of understanding.

When the parties to the negotiation stand in front of you in line, you obviously choose the partner with whom you can do the best deal, and you ignore the others. It works like that, for example, when you buy a car on the second-hand car market. You make the best possible deal with someone you will probably never see again, and for that reason you do not have to concern yourself with fostering a good relationship. But in negotiations with trade unions, it is a different story. The relationship between employers' and employees' negotiators has a long-term character. Going and looking for a new trade union because the old one is not to your liking is not an option. The two parties are more or less 'condemned' to deal with each other, or at any rate that is the case in the Dutch situation. This means that negotiators have to look for a balance between the substance (what they themselves want) and the relationship (taking account of what the other party wants). That calls for a good strategy. Figure 3 on the following page presents five possible strategies, which are then explained.

Figure 3

Dialogue model step 1



1 Avoid

A negotiator who does not want to put the relationship on the line, but does not want to make any concessions to the other party either, can opt to avoid the talks. The strategy of avoidance (doing nothing) can be the best strategy in certain phases of a negotiation process, for example if a negotiator wants to wait for the results of other talks. But when avoidance becomes a habit, or is overused as a tool, in the end it does not do anyone any good. This strategy leads to a lose-lose outcome.

2 Fight

A negotiator who is only interested in winning chooses the fighting style. He is not willing to concede anything, even if this entails the other party losing out heavily. The fighter is not worried about the fact that the other party will subsequently be intent on revenge. For a negotiator who wants to show his muscle in a particular stage of the negotiations, this is a good style. But there is the possibility of this combative approach continuing to pull punches in the form of negative value judgements or personal accusations, which can cause the relationship to deteriorate. Anyone who digs in his heels in defence of his own ideas makes a fight/conflict almost inevitable. The other party becomes the enemy and not the fellow party to the negotiations with whom creative solutions should be found. This strategy leads to a win-lose outcome.

3 Concede

The negotiator who regards the relationship between the parties as the most important factor and wants to keep this intact is quickly inclined to make concessions in negotiations. This is the fastest way of arriving at that goal.

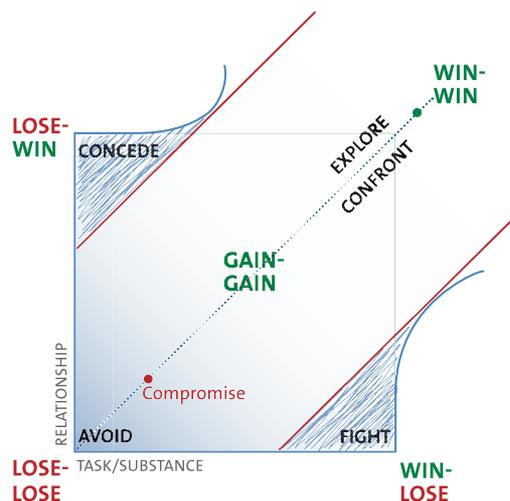
However, this leads to a lose-win outcome. If a negotiator only concedes, he admittedly gets a deal done quickly, but the party he is representing will say that he has made light of the matter. What is more, conceding does not lead to complete satisfaction for the other party, either, since the latter may think that a concession was made so readily that perhaps they did not ask for enough. Concession therefore does not lead to a better relationship between the parties. Working towards a better relationship means being prepared to understand the other party's motives and possibly also going along with his ideas, even though you do not share them. An understanding of the other party enables the negotiator to seek out common interests which he can use in his own arguments.

4 Arriving at compromises/cooperation

The compromise strategy is midway between substance and relationship, but does not do justice to either, mainly because the substance is not really entered into. Most compromises are a sign of impotence. At the end of the day nobody is satisfied, and this gives rise to a lose-lose outcome. A situation in which the negotiator does not know what he wants and does not know what the other party wants either, often leads to settlements and premature arrangements which no one really abides by. In actual fact the parties are beating about the bush. The real solution is deferred to a subsequent occasion, which in advance places a strain on the next round of talks.

Figure 4

Dialogue model step 2



5 Explore / confront

Contrary to the four strategies described above, the explore/confront strategy involves each party's interests being laid on the table and subjected to some serious wrangling. As a rule there are as many common interests as there are conflicting ones. The common interests can form a basis with a view to finding creative solutions on matters on which the parties disagree. For example, if the negotiators have differing opinions regarding pay rises, they can bring issues such as training and social innovation into the equation. *The pie is therefore made bigger before being cut into slices.* And since everyone receives a larger piece, everyone can end up satisfied. This leads to a win-win outcome, or at any rate a gain-gain situation in which all parties come away with something more than a compromise (where the pie is not made bigger).

Gain for both parties can only be achieved by jointly exploring the scope for solutions – solutions that go further than merely a 'yes or no' deal on a single subject. A 'package deal' creates the room for manoeuvre to accommodate all the parties.

The best result which also ensures a good relationship is maintained

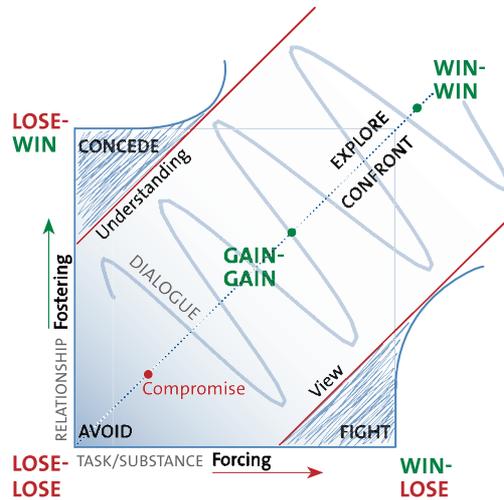
The choice of strategy to be followed is determined by two important questions: What exactly do you want to achieve? And what importance do you attach to a lasting relationship with the parties to the talks? The answer to these questions leads to the best strategy. Of course you can always change strategy during the negotiations. Sometimes it is wise to do nothing for a while, whilst at times a negotiator is advised to bear his teeth. A compromise born of impotence may have a negative effect in the long run, although it may give you breathing space in the short term. But ultimately negotiators obtain the best result when they explore and test out each other's interests and motives, and when they know what they themselves want and what the other parties want. The explore-and-confront strategy is not the easiest strategy, but it does lead to the best negotiated result and keeps the good relationship between the parties to the negotiations intact.

This strategy involves you, as an employer, opting for creative dialogue. This requires a clear idea of your own view and an understanding of the view espoused by the other parties to the negotiations (see Figure 5). It also calls for flexibility and good communication skills. Too great a focus on following your own path may create a feeling of "forcing" on the other side. The opposite of this is "fostering", whereby the negotiator in fact concentrates more on following the other party's footsteps. By raising targeted open questions, the negotiator can

help the other party gain additional insights into all interests, and the possibility of some of these being common interests (see Chapter 6 for more details). The next chapter discusses the five rules of thumb for arriving at creative dialogue.

Figure 5

Dialogue model complete step 3



4 Five rules for creative dialogue

Negotiations can often turn out to be little more than individual monologues presented by the two parties sitting around the negotiating table. The process does not involve any actual discussion between them of the issues at hand, let alone the formulation of lasting solutions to the problems the parties are experiencing. During negotiations such as these, trust between the parties diminishes rather than increases.

In enduring relationships, including those between employer and employees, trust is a must. Without trust motivation is low and people bring the weak rather than the strong points in each other to the fore. That also leads to a substantial loss in labour productivity in companies and organisations. That is a loss from a social viewpoint, but the economic results very much suffer the effects of this, too. Costs increase due to the need for extra supervision, a lack of motivation and high absenteeism.

In successful negotiations the parties on either side of the table actually engage in dialogue with each other, and efficiently and amicably arrive at an agreement that is satisfactory to all the participants. Everyone can look back at the negotiation process with satisfaction, especially if the parties realise that the end result could only be achieved thanks to those other parties. The University of Harvard developed five rules of thumb for getting dialogue going between parties and keeping it in check, if necessary. Over the past thirty years AWVN has further developed these rules for long-lasting industrial relations.

Rule 1 Foster trust, be relationally oriented

Employers and employees need each other, even if they may not agree with each other. But trust is needed in order to start talking about that difference of opinion. Without trust, negotiators do not lay bare their interests at the negotiating table and creativity is lacking in the search for good solutions.

Negotiators can quite often fall into the trap of thinking in terms of ‘the enemy’. Hostile thinking of this kind is to do with prejudices. Appearance, conduct or a simple comment can set the negotiations on edge from the very outset. Negotiators must be well aware of this pitfall.

Every negotiator wants to reach an agreement that serves his professional interests, but this agreement should not be at the expense of the good relations with the other parties. During the negotiations, therefore, account has to be taken of both the result and the relationship. The trick is to keep substance and relations separate and nonetheless do justice to both, even if this proves anything but easy in practice. A letter from the trade union setting out what they want to achieve in the forthcoming round of collective bargaining may be construed as a personal attack by the employer. He runs the risk of getting annoyed with the person who sent the letter, and this could immediately stand in the way of a good agreement. In practice it has been shown that annoyance and mistrust reduce creativity in the negotiation process. The parties look for something behind everything and presume there are hidden agendas. Negotiators who come up against a relational problem during the negotiations will have to clear the air (and this is mainly in their own interest) before the talks on the substance of the matter can begin.

The objective of a negotiation process is for the discussion partners to take the same route together and to complete the journey together as well. The building of relationships succeeds or fails according to the regularity with which the parties see each other. The better people know each other, the better the communication will be on the often difficult matters that employers and unions have to talk to each other about. To build a relationship and foster trust, it is a good idea to create an atmosphere of communality at the beginning, rather than solely focusing on the matters in dispute.

The negotiators reach a particular agreement on the basis of their relationship, but this agreement is only complete when it has been formally established and has been disassociated again, as it were, from the people. Ultimately it has to be approved by the rank and file and the mandators.

People are disassociated by means of open and transparent communication on the issues being negotiated, and therefore on both the substantive intentions and circumstances and the relational motives of the parties.

Negotiators must make sure that they furnish all details that could provide clarity in difficult matters. A poorly informed fellow negotiator can lead to unpredictable reactions. If all the parties are well informed of and knowledgeable about the

matter at hand, they know where they stand in respect of each other, even if they do not (always) agree with each other.

The five basis rules for trust:

- 1 Be transparent: say what you are going to do.
- 2 Act honestly: do what you say you are going to do.
- 3 Show respect: accept people as they are and as they come across to you.
- 4 Have an understanding for other people's (different) intrinsic view and interests.
- 5 Make provision for the right skills: make good what you say and want, and help other parties to acquire the skills.

Rule 2 Adopt an interest-based approach: what is there behind the standpoints?

If negotiators start by translating their interests into a result they want to achieve, the negotiations will be stuck fast from the outset. This happens, for example, if trade unions publish their package of demands in the papers. This may indeed be effective as propaganda and as a signal to their rank and file, but it has the effect of paralysing the negotiations. In these cases it appears there is no possible outcome other than a compromise, in which both parties have to forfeit some or all of their demands and wishes. The outcome is less than optimal from the word go, and leads to a lose-lose situation.

The negotiators are either on the defensive or on the attack. An example of this is two girls who are negotiating over an orange. In the end they arrive at a compromise, whereby each gets half of the orange. But if they had had a better knowledge of each other's interests they would have discovered that one wanted to drink the juice and the other wanted the peel for use in the baking of a cake.

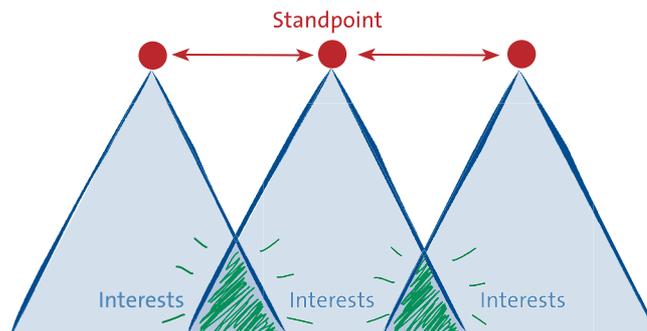
Every party has standpoints and ways of thinking, but behind these lie that party's interests, and the art of the negotiator is to get these interests onto the table. This concerns your own interests and therefore your own view: what do you want to attain? And it involves gaining an insight into the other party's interests. The unions' interests, for example, are appraised on the basis of contacts and letters setting out their concerns. Interests can be listed by seeking an answer to the following questions: What drives you, what are your motives and what are your underlying goals? Why do you want something? What do you (really) need and what do you regard as very important?

Standpoints, interests and ways of thinking:

- A *standpoint* is a situation in which a party declares itself to be in favour of or against a proposal.
- An *interest* is that which a party supports in an economic or normative sense, where the party's own benefit is involved ('what comes first for you?').
- A *way of thinking* lies between standpoints and interests: a particular way of looking at developments, a view that is clearly expounded.

Figure 6

Behind standpoints there are interests



By considering what the other party wants, and why, it becomes clear what points the parties agree and disagree on, and where there may be possibilities for a win-win result. This calls for the employer's delegation to listen actively to the other negotiating delegations and to abandon any prejudices in respect of the other parties – since these do not help lead to an understanding of what the other party wants. However, this is not always simple. All told, the unions' demands may represent an enormous increase in the total wage bill, and this could cause emotional turmoil making it difficult to listen attentively. The trick then is to move with the other party's ideas.

Understanding should not be confused with assent (or concession). It entails gaining a clear grasp of the interests behind the other party's standpoints, and in doing so it is important that you constantly ask what the interest behind any particular proposal is. Then your own interests can be juxtaposed with these (how does this fit into our view?). The very fact of outlining the different interests results in the type of connection becoming discernible (what links us and what sets us apart?). This is a form of constructive confrontation.

The condition is that the negotiator must have a clear idea of what he himself wants to attain and at the same time is also able to have an understanding of the other party's interests.

Rule 3 Broaden the talks and the creativity; make the pie as big as possible

Before we slice up the pie, we have to make it as large as possible. A constructive and positive list of all interests produces a list of subjects that give a view of what the two parties stand for and what their interests are. The parties can then set to work on finding suitable and coherent solutions: what is known as the package deal. This means that talks on employment conditions are not just about pay, but also cover matters such as social innovation, flexibility, training and long-term availability. Extending the scope of the talks to include various themes appreciably expands the playing field on which the negotiations are played out.

The negotiation process is in fact a decision-making process that leads to a conscious decision to conclude an agreement – or not. This process begins with an exploration, which entails an investigation of problems and possible solutions. The formation of a judgement involves the definition of the criteria that the final solution must meet and an identification of the possible solutions. In the decision making, the final choices are made, together with the arrangements as to the way in which they are to be implemented. These steps are intended as preparation for the eventual agreement. This provides the opportunity for some further manoeuvring between the various themes until the definitive agreement is produced.

The negotiations may end up too quickly in a situation of 'tough negotiation'. It is important for the negotiations to be kept 'open' for as long as possible, which implies attentive listening and the ability to think along the other party's lines. As long as we are increasing the size of the pie, nobody will be expected to make concessions, since concessions curb creativity and lead to pledges that cannot yet be examined in the light of the overall package. If negotiations move into the 'tough phase' at too early a stage, it is wise to look into the reasons why this has happened. Try not to be condemnatory or patronising, but ask for feedback. The only way to guarantee progress in the dialogue is to continue exploring and confronting.

In this way both parties jointly look for solutions for conflicting interests, on the basis of what connects them. All the creativity at the table is directed at finding a solution that is optimal for all the parties. The means of doing this is a question

formulated in the 'we' form, in which mention is made not only of the non-conflicting interests but also the main conflicts of interest. For example. 'How can we see to it that employees' purchasing power, staff development and the positive working experience are increased, whilst at the same time labour productivity also rises?' Use of the 'we' form means it is in all the parties' interest for the question to be answered. There is no discrepancy, but rather a common goal.

This creative thought process does not get going all by itself. Often one participant will have to take the lead, which means steering the dialogue in such a way that the other participants adopt the investigative stance. The employer could open in a way that invites a broad exploration, for example with the aid of a flipchart. The board is an invitation to creativity and maintains undivided attention. A variant is to appoint joint representation committees, which, with guidelines from the negotiation delegations, work out creative questions in greater detail and come back with a number of options. This results in the playing field being broadened before the actual negotiations begin. The agenda for a collective labour agreement is often a many-hued pallet of colours and interests. What to one party is a relatively small matter may be a service of some value to another. The offering of that service creates goodwill and gets the parties pulling together. There is good chance that issues can thereby be solved in a mutually satisfying manner.

Rule 4 Make a deal based on reasonableness and openness; look for objective criteria

When the agreement comes into sight, it is important to stress the positive sides of the negotiation process. First deal with those points on which the parties can reach agreement quickly, and then the matters in dispute that are still outstanding. The parties are more inclined to be reasonable if the negotiation process has passed off in a context of good understanding and mutual respect. One principle that promotes objectivity is that one can have his cake and the other can eat it. A discussion about profit margins is different if it is linked to the question as to whether this margin reasonably guarantees the company's continuity. What this entails is the search for principles and procedures based on reasonableness (objective criteria). If necessary a neutral third party (a mediator) can be involved in this search. He can supervise the negotiation process and ensure that no one suffers loss of face.

Just when agreement has been reached on a number of factors, one party may advance a firm standpoint in respect of a conflict of interests that has not yet been resolved. The first step in this case is to go back to rules 1 and 2 and reduce

the standpoint to the interests again. 'Too expensive', for example, can then be interpreted as 'my interest is that I should not pay too much'. This phase often involves obtaining clarity regarding the remaining conflicts of interests. In most cases these points of friction are diametrically opposed to a whole series of common interests, and it may be helpful to reveal these common interests again. In this way the negotiator's approach continues to be relation- and interest-driven.

Then a 'perceived conflict of interests' may be held up to the light of objective criteria. In the last example, the question is then 'What is paying too much?' Benchmarks, general figures or previously agreed measuring systems (think for example of performance appraisal as in the ORBA system) can play a major role in this. A creative solution can then be found by spreading out the requested pay rise over a longer period. This solution can make it easier to go back on a previously expressed standpoint without loss of face. The use of objective criteria makes it easier to take decisions. In addition, careful consideration should definitely be given to the terminology used. 'Involuntary discharge', for example, sounds very different to 'supervised job-to-job transition'.

Regel 5 Define the fallback option in advance and test the outcome against it; know what you are beginning and what you are concluding

This rule is the last in the list, yet should be applied early on in the preparations. It is important to have clarity in advance as to when there is no point in negotiations and the fallback option is the best alternative: the Best Alternative To Non-Agreement (BATNA). The prior formulation of the fallback option, in the event of the deal being unsuccessful, makes the negotiators less dependent and helps them show themselves to be more balanced. However, it is unwise to threaten a BATNA during the negotiations, since doing so actually always has a negative effect.

A BATNA can also be important to assess the result achieved. Before the negotiations every negotiator states what he wants to achieve and what he achieves if he does not negotiate. His gain falls in between the two. In the case of collective bargaining, the BATNA is never strong. In many cases for employers this means no new collective labour agreement, and for the unions it means them either accepting that there will be no wage increases or deciding to stage a walkout or take strike action. This is one of the main reasons for approaching the negotiation process with great care.

The quality of the process should be optimal as regards both relational aspects and substantive matters so as not to harm labour relations, and thereby the employer's BATNA, for a longer period.

When weighing up the agreement (in principle) at hand and the BATNA, the parties must be well aware that the development of the agreement is in itself an investment in the relationship. Generally speaking, it can be said that commitment gives trust and satisfaction.

5 Negotiating in six phases

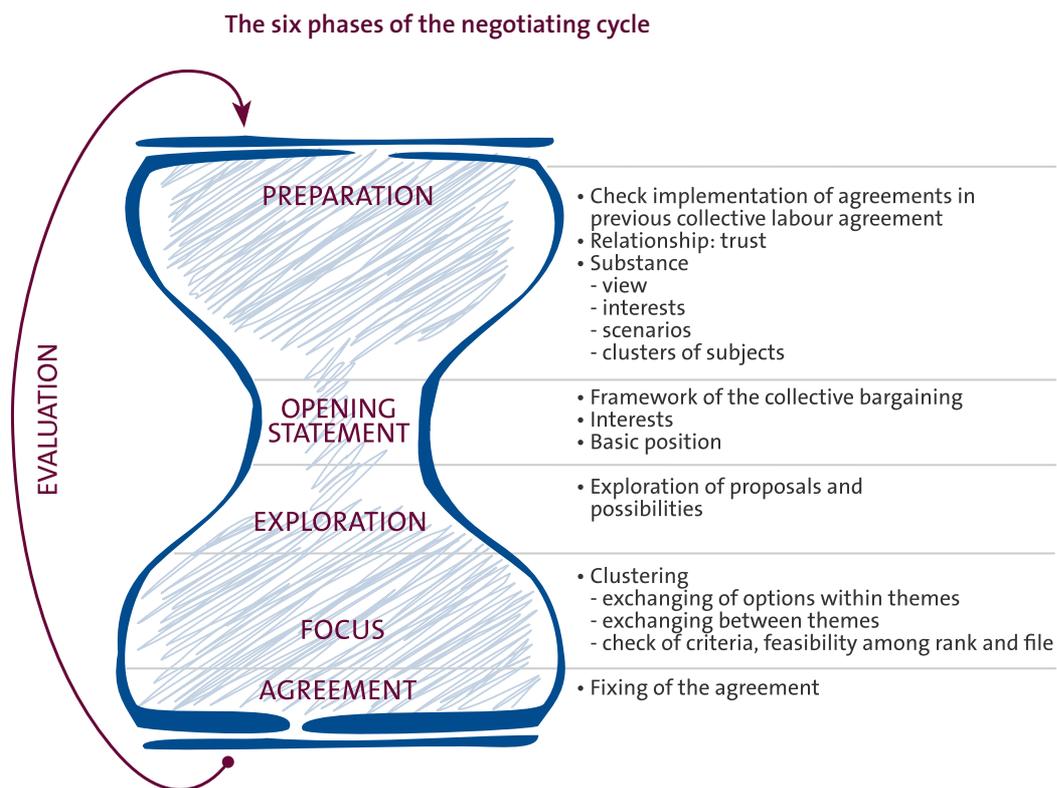
For a long time there was often only one subject of primary importance in pay-and-conditions talks: the wages. The main question would be: what will the percentage wage increase be this year? However, this kind of focus on a single aspect automatically led to a win-lose scenario. Much is made of these kinds of talks in the media, particularly when they are accompanied by (the threat of) demonstrations and strikes. On this account pay-and-conditions talks do not enjoy a very positive image and employees are not exactly dying to become members of negotiation delegations. Many negotiators on the employer's side aim only to carry out a damage limitation exercise, rather than grasping the opportunities that a proactive attitude can produce.

And yet these opportunities are most certainly there, certainly if negotiations are structured as a process in which the participants systematically work towards an agreement. This chapter deals with the six phases of the negotiation process. By going through these phases, negotiators gain a better grasp of the process and also exert a greater influence over the end result.

The negotiation process begins with phase 1 (the preparation) and ends with phase 6 (the assessment of the way the process has passed off and the agreement achieved; see also Figure 7). Each phase consists of various steps. In this process we again encounter the five rules of thumb for creative dialogue, which were described in Chapter 4.

This means: 1) constantly fostering trust; 2) always looking for the interests behind the standpoints; 3) making the playing field as large as possible; 4) establishing clear criteria for the choices that are ultimately to be made; and finally 5) ascertaining that the agreement reached is better than the alternative without negotiations (BATNA).

Figure 7



Phase 1 Preparation

Anyone wanting to gain a better grasp of the negotiation process is well advised to prepare it meticulously, and this includes working as a negotiating team. It is important to be on the same wavelength as a team and to act with one voice vis-à-vis others, particularly if and when the talks hit troubled waters. The negotiations (with the mandators, for example) and influencing processes that occur beforehand (in the organisation) are also very decisive for the line of approach and the outcome of the collective bargaining.

Fostering trust

Good preparation starts with an analysis of the fields of influence: who are the parties to the negotiation and who are they representing? What are relations with them like? Are there matters from the past that still have to be resolved? Do we have to clear the air first, or is there enough trust on both sides of the negotiating table for the talks to begin? If not enough attention is devoted to this aspect, there will not be much scope for creative dialogue and win-win solutions.

For that matter this involves not only the relationship between the board of directors, the trade unions and/or the works council, but also, and even more so, the relationship between the board/management and employees. Lack of trust means that employees will urge the trade unions or the works council for “tough” deals and will refuse qualitative agreements or obligations to make efforts, because they are not confident enough that these agreements will be carried through correctly. If there is mistrust on the shop floor, there is a good chance that the works council will opt for a defensive stance and take on the role of lobbyist. Gaining or keeping employees’ trust is therefore more important than investing in a good relationship with the trade associations or the works council.

Formal and informal sources should be used for the analysis of the fields of influence. If you wish, focus groups, panels and social media can be deployed to get employees involved in the issues and negotiations. If, as negotiators, you engage in dialogue with them, you will be able to further elucidate the management’s view (transparency) and thereby build up a greater understanding. Trust can increase when there is less of a difference in information and knowledge between the shop floor and staff representatives (such as the works council or trade union leaders). (See Figure 2 on page 13.)

Fostering trust also means working on negotiation skills. As well as agreements on how the negotiation process is to pass off, arrangements can also be made as to how that progress is assessed. In this way any emotional hurdles can be removed. Making the negotiation procedure a subject of discussion can open up ways of finding solutions for disputes that could otherwise lead to clashes. The skill of the negotiation delegation is enhanced through training sessions and good preparation.

Develop a view of your own

The second, equally important question is: what do I, as an employer responsible for the company’s continuity, want to achieve at these negotiations? Knowing what you do not want (e.g. you do not want to go along with the unions’ demands) is not enough. Some negotiators are inclined to say ‘no’ to the other party’s demands in advance. Developing a view of what you do want to attain can take you beyond the win-lose scenario. The employer’s view of labour relations determines in large measure whether he is willing to turn up at the negotiating table and what attitude he will adopt (see Chapter 2). The basis of what the employer then aims to achieve at that table lies in the company’s

objectives and the HR strategy associated with them. See in this regard the model of enterprising or good employment practices (Figure 1 on page 9).

Therefore make sure you yourself are clear about what shape your company is in, what this means for the employees, and how you can use the negotiations to serve your company's interests – and thereby the employees' interests. The collective labour agreement or other agreements on terms of employment must support the corporate policy, not undermine it.

The criteria for arriving at agreements can be inferred from the company's objectives. For example, will a change in working times lead to the extra productivity that the company needs? What effect will wage increases have on the product price and profit? What repercussions will that have for the company's continuity? The results of negotiations in other sectors and companies of course also play a role, but in principle the enterprise's own corporate policy is the leitmotiv. Clearly defined corporate objectives make it clear to all parties what scope there is for making agreements.

Explore the goals and interests of the parties to the negotiations

Subsequently it is important to chart the different interests, wishes and demands of the parties to the negotiations. Put yourself in your opponents' shoes in an attempt to understand their interest from their perspective. By doing that you will gain an idea of what they are aiming for, what is of concern to them, where sticking points appear and what possible solutions there are. Use a chart of interests (see Figure 8) to bring the interests at stake clearly into focus.

Make a clustering of themes

One-issue deals are by definition lose-win deals. One gains what the other loses. For this reason it is important to chart all the interests, demands and wishes and to cluster these into themes, such as pay, training or the achieving of greater flexibility. If and when all subjects, wishes and interests are in a line and the points on which there is agreement or difference of opinion are clear, possible scenarios for solutions can be devised, for example by deploying change. If, as an employer, you do not want to implement a structural wage increase, would you be prepared to agree to a one-off increase for matters such as training, health management or other subjects that are in the interest of all parties?

Figure 8

Chart of interests

EXAMPLE OF A CHART OF INTERESTS

	UNION 1	UNION 2	WORKS COUNCIL	SUPRA-CORPORATE ENTITY	
RELATIONSHIP	++	+/-	0	+	
Initial	• ... • ...	• ...	• ... • ...	• ... • ...	< Interests >
Pension	• ... • ...	• ...	• ... • ... • ...	• ...	
Productivity	• ... • ...	• ...	• ... • ...	• ...	
Flexibility	• ... • ...	• ... • ...	• ... • ...	• ... • ...	

QUESTIONS FOR PREPARATION PURPOSES, BROKEN DOWN INTO ASPECTS RELATING TO PEOPLE, INTERESTS AND CHOICES:

People	Who are the interested parties, what is the relationship like with these parties and what are the potential themes?
Interests	What are the interests of the different parties per theme?
Choices	What are the possible options for joint gain? What are the central interests both for the employer and for the other negotiators?

MEASURES TO BE TAKEN IN PREPARATION FOR THE NEGOTIATION:

People	Work on the relationship with the interested parties.
Interests	Clarify the mandates of each representative for each theme. Analyse possible sticking points for each theme: some matters are difficult to discuss (with parent company or rank and file). Devise a goal and fallback scenario of your own for each theme; make an appraisal for the other party/parties.
Choices	Prepare orientations for solutions and explore the possibilities for joint data gathering and gain.

By pooling demands in different solution scenarios, a loss on one point can be offset by a gain on another point. The various packages can meanwhile be explored in the preparatory phase. Since the parties are given the possibility of choosing from among the different package solutions, they end up striking a deal from which all the parties draw benefit. It is also a good idea for a win-win deal of this kind to be explained to the rank and file.

Ensure a good mandate is laid down and establish the BATNA

In this phase of the negotiations, the negotiators' mandate also has to be fixed. The best mandate is one for a package deal, with guidelines as to what interests have priority and what results are unacceptable. It should be explained to the mandators why the strategy of exploration and confrontation is the best strategy for negotiations, because it leads to a win-win scenario.

If only one matter counts for the mandator, the negotiation delegation has a problem, since it is forced into a one-issue deal. In this case it is advisable to involve the mandator in the preparatory stage, so that he will see how important it is to preclude one issue deals.

It is also important for the best alternative to non-agreement (BATNA) to be established during this preparatory phase. This helps develop demands and criteria for possible solution scenarios.

Timely communication with all the interested parties (see Chapter 2) can help increase the level of trust. This not only leads to positive industrial relations, but also helps to manage expectations. In the case of ostensibly opposing interests, it also affords the possibility of seeking solutions early on with those most directly concerned: the employees and their immediate superiors. If their involvement in the deliberation and discussion process has been possible in the preparatory phase, and if the results are recognisable for them, the result of the negotiation will also receive their backing. These are then also their results; support no longer has to be 'created', since it is already there. If the representational bodies (such as trade unions and the works council) are involved in the process in the same way, it becomes easier to bring about the desired changes in the organisation, and thus also the collective labour agreement.

Take the time to carry out an informal check

It is then time to sound out informally what the other parties to the negotiations are doing and what the mood is among those parties. Does your feeling about the possible solutions in these negotiations tally with the other negotiators' feelings?

How can you get a handle on their expectations? It might be possible to organise an informal meeting during this phase, with the aim of sounding out what the possibilities are. All parties will benefit from an agreement that can be presented to the rank and file and is easy to defend.

Trade unions consult their members first before presenting their wishes and demands to employers. If the employer does not drop any of his expectations, the union representative does not have anything by which to guide the expectations of his rank and file, whereupon the employer may be faced with sky-high demands that he can never meet. A situation such as this is not in anyone's interest; neither the employer's nor the employees'.

The preparations may reveal that there are subjects requiring further examination. The negotiation delegation may decide to consult experts and advisors in the preparatory phase in order to arrive at intrinsically good solutions. It is important to have sound information at one's fingertips and to know all the relevant ins and outs. After all, this concerns not only the content, but also the impact that solutions will have on people's interests. All this needs to be clear before the negotiations get under way.

It may be advantageous for a joint preparatory meeting to be held between the parties to the negotiations. The employer may invite the unions to prepare certain matters en bloc. The great advantage here is that the unions are then well informed and can also help find solutions in the common interest. This kind of preparation helps lead to win-win solutions being found for very complex subjects, such as pensions and working time, for example.

In negotiations, by definition you have to deal with different interests and parties. This means that as an employer you cannot superintend all aspects of the negotiations. However, if you devote attention to all the aforementioned points in the preparation, as an employer you may gain control – or more control – over the direction taken by the negotiations.

Phase 2 Opening statement

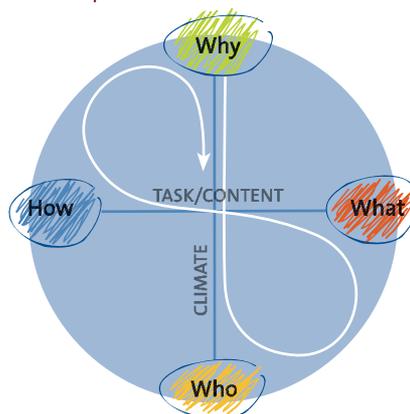
The opening during the actual negotiations is very important as regards setting the tone and the course to be taken by the talks. The opening statement has an invitational purpose, but should also make it very clear what is at stake. Hard times call for the greatest possible creativity to do justice to everyone's interests. If the preparation has been good, it will be of good use to you now. You can summarise the preparation in a couple of main issues, which become the point of departure for the negotiation. For example: 'What we are dealing with in these negotiations is...,' followed by three or four main points that are briefly touched on. The points are mentioned in terms of the interest and objectives for the negotiating parties.

The opening statement can be tested against the 'helix' below. Sufficient attention should be paid to all four of the factors: why, who, what and how? See also Chapter 7, Preferred Styles.

Figure 9

The why-who-what-and-how helix

Show inspiration



It is very important that the opening statement also reveal the inspiration, intentions and feeling of the negotiation delegation. Your own view of the opportunities offered by these negotiations helps to actually propagate inspiration, and this can also lead to a bond being created with the other negotiators. Body language has an important role to play here: an active and open posture should be adopted, whereby you are slightly bent forward towards the other negotiators. Value judgements, insinuations and presuppositions do not exactly serve to extend an invitation to the other parties. These kinds of comments usually constitute a signal to sharpen the knives, and the effects this may have on the further progress of the negotiations should not be underestimated.

Pay attention to the other parties' interests

By also giving attention to the other party's interests in the opening statement, you are showing that you are mindful of the parties on the other side of the table. A balanced approach to all the interests helps the parties to set about the negotiations with greater mutual trust.

Tips on what the opening statement should contain:

- clearly define the problem and the situation;
- be clear and firm about interests, but flexible as regards solutions;
- give plenty of attention to the other party/parties;
- recognise realities concerning power: show an understanding for the context in which the parties operate;
- let inspiration, intention and feeling also have a say;
- mention higher goals, such as result, commitment and the steps to be taken;
- know 'why' you are entering into the negotiations.

And don't forget to make one more important basic rule clear beforehand:

During the negotiations, everything can still be withdrawn until such a time as the actual agreement is reached.

This rule is very important because it creates the possibility of talking freely during the whole process and holding a brainstorming session on solutions that serve everyone's interest. To arrive at a final agreement, it should be possible to reconsider previous solutions per sub-theme, precisely in light of the progress being made.

Phase 3 Exploration

Keep an open mind

The third phase in the negotiation process is the exploration phase, in which we make the negotiating playing field as large as possible so as to secure a good package deal. This means that everything anyone says offers opportunities to make win-win agreements. In practice that can prove rather tricky, since on occasions you get to hear things from the other side that you would rather not hear. The inclination in these cases is to deny or even challenge what you have heard, but you should not do that since this is a brainstorming phase, and brainstorming stops the moment there is debate and argument. It is extremely important to keep an open mind in this phase. Try to find out not only what the other party wants, but in particular where its interests lie. Endeavour to devise as many solutions together as possible.

The exploration phase sometimes calls for a complete shift in the communication:

- from standpoints to interests: look at the interests underlying the standpoints;
- from demands to wishes and requirements: show interest in what the other parties want or need, not in what they do not want;
- from value judgements to feedback: do not come with accusations, but name the problems you yourself are experiencing and ask for the other parties' help in solving them;
- from the past to the future: the future provides possibilities for solving problems, the past shows us that this does not always work;
- from distrust to trust: foster trust;
- from rejection to appreciation: if you do not hold the other party in regard, try to find something for which you can show appreciation;
- from formal to informal: an overly formal approach is often perceived by the other parties as a lack of trust. So don't be too formal;
- from thinking in terms of problems to thinking in terms of possibilities.

The opening statements often reveal major differences between the wish lists of the various parties. The exploration phase involves an investigation of the areas where 'coalitions' are within reach, and those areas for which support still has to be found. When there has been sufficient exploration and the playing field is at its largest, the negotiation themes are clustered into main subjects, on which there is then further negotiation. If necessary some bartering and trading can take place on the main subjects in order to remain within the (usually) financial framework.

Place solutions in a broader context: work on a package

When employers and employees jointly search for the backgrounds to the differing demands, they come up with creative solutions that serve the interest of both parties. This leads to a number of separate and unrelated solutions that have to be linked up with each other and negotiated until settlement is reached at the end of the talks. Viewing solutions in a broader context creates possibilities for bartering and trading and the reciprocal cancelling out of conflicting interests. Trade unions will be more willing to drop a call for more free time if this is counter-balanced by a good education policy or senior citizens policy, in which employees are given enough facilities in terms of time. Or to put it another way, solutions that have been reached together often cancel out other discrepancies.

Phase 4 Focus

When all the subjects for negotiation have been established and the playing field has been defined, it is time to focus on possible agreements. The margins within which the negotiations take place are often very narrow, and it is here where a solution has to be found in the clustering and bartering/trading of subjects. Clustering may not imply that subjects are barred from discussion or are covered up, since that can lead to distrust, which is precisely what needs to be avoided.

Effective focusing involves a list having to be made of a number of subjects:

- check with all parties whether the exploration has been wide-ranging enough;
- state the need for an agreement to be aimed for in this phase of the negotiations;
- try to reach agreement on the objective criteria for agreements;
- consider 'what if...' scenarios and 'if only we...' scenarios;
- identify the different possibilities and scenarios.

Avoid surprises at the end

This whole exploration and clustering procedure may lead to a collective labour agreement coming into being that is very far removed from what the parties could ever have imagined in the preliminary negotiating path. Therefore at the end it is well worth carrying out another careful examination of the relationship with the other parts of the package. For example, if a one-year collective labour agreement risks turning into a two-year one, all kinds of new aspects could play a role, such as the development of the voluntary early retirement/pension costs and tax rulings such as premium savings and the premium transfer allowance. A two-year collective labour agreement can also offer scope for the incorporation of more policy-induced matters in the package. The rank and file should be kept abreast of the progress being made on agreements during the negotiations, so as to prevent them from being completely surprised by the result.

Take the time to arrive at a good conclusion

In the focus phase it is recommended that another careful examination be made of the different interests that were identified in the preparatory phase. Try to combat restricted awareness. Avoid winding things up too quickly with too narrow a package, since this will only lead to problems further down the line.

Phase 5 Agreement

The focus phase brings into view the moment when the package deal definitely takes shape. There is a list with specific points on which there is agreement between the interested parties. Then comes the moment when all the interested parties have to pronounce upon whether they are able and willing to conclude an agreement on the basis of this list.

Before a verdict is given, it is very important to check whether the agreement meets the following criteria:

- Does the agreement fit into the framework of the mandate?
- Does it fit into the view that had been developed beforehand?
- Is it in line with the pre-determined business (substantive) and relational objectives?
- Is there enough support for this agreement (in the long term, as well) among all stakeholders: employees, works council, executive team and management, board of directors and trade unions?

Negotiations do not always lead to an agreement

If and when the answers to all these questions are in the affirmative, the parties can come to an agreement. In practice an agreement is not reached in all cases. The negotiations may conclude with a *negotiated result* or with a *final offer* from one of the parties. An overview of the possibilities is presented below:

- 1 Final offer: no agreement has been reached. The party making the final offer sees no chance of an agreement being reached and unilaterally puts its final offer on the table. This final offer is presented to the rank and file either neutrally or accompanied by a negative opinion, and the rank and file can either accept or reject it. Once a final offer is on the table, no further concessions of any substance can be made, otherwise a final offer will not be taken seriously the next time one is made.
- 2 Negotiated result: the negotiators have jointly reached a final result. This result does not correspond entirely to the mandate, but is satisfactory enough as far as its content is concerned, and is therefore usually referred to as a result that has been reached jointly. The negotiated result can be presented to the rank and file either neutrally or accompanied by a positive opinion.

- 3 Agreement in principle: an agreement in principle is an agreement which, in the negotiators' opinion, fits into the predetermined mandate. An agreement in principle is by definition presented to the rank and file with a positive opinion, and is defended by the negotiators. That is usually (although not always) a guarantee of a successful conclusion to the negotiations.

The status of the agreement is very important for the way in which the agreement is received, and so the status needs to be stated explicitly. It may be that in the end the parties will subsequently give preference to their BATNA.

Agreement checklist:

- Are the interests of all the interested parties given their due in the agreement?
- Has the agreement been written out in full?
- Have subsequent matters been sorted out? (timetable, allocation of tasks, implementation)
- Is it clearly stated how outstanding points are to be resolved?
- How is the agreement presented and how is it communicated to the rank and file?
- Can this agreement count on enough support?

Bring together all the details of the agreement on paper

In the euphoria of having reached an agreement, there is often less of a willingness to set down the details of the agreement on paper. However, this is a necessity. All too often it turns out after the event that there are areas on which the parties' views do not coincide after all, and this can lead to a lot of fuss and bother that can be avoided if the text of the agreement is drafted on the spot, and read and approved by all the interested parties. One point to which attention needs to be paid is the inclusion of dates and lead times, for example the dates on which the various changes in the collective labour agreement come into force and the lead times within which studies, for example, have to be completed. When casting off, agreements may also have to be made (either jointly or not) on communication to third parties, including the press. It is also important for the parties to inform each other when the rank and file/mandator are/is consulted.

Phase 6 Evaluation

The evaluation runs over the process from phase 1 to phase 5 again. An examination is made, per phase, of the way in which the talks passed off as regards content, procedural aspects and relational matters. Have we done what we had planned to do? What were the strong points, and what points are open to improvement? After an initial listing of experiences within the negotiators' own delegation, it is advisable for the negotiation process also to be assessed with the other parties to the negotiations. Experiences with this are very positive, since an open attitude proves in practice to be much appreciated by all parties.

In conclusion

The negotiation process is an ongoing cycle that begins with the phase of developing a view. In this preparatory phase three aspects call for considerable attention: the relational side (the relationship between the parties), the interests (lurking behind standpoints and ways of thinking) and the choices for the pathways along which solutions should be sought. Once a view has been formed, the actual negotiations begin with an opening statement from both sides, after which come the exploration and focusing phases. This eventually results in a package deal that is supported by all the parties concerned, their rank and file or mandators. Another important phase is the evaluation phase, since here an evaluation is made of the negotiations as regards content, procedural aspects and relational matters. This also constitutes the prelude to a new round of talks.

6 Effective communication: a requisite for genuine dialogue

6.1 The importance of communication

One of the most important tools for negotiators is communication. The tone and style of the communication contribute to the atmosphere: a quarrelsome atmosphere, a defensive atmosphere or an atmosphere in which the parties are open and frank about what their interests are. There is a style of communication for every strategy. One style is aimed primarily at maintaining good relations (questioning, solicitous, and keen to avoid conflict), whilst another focuses purely on content (coercive, pushy). A greater insight into communication and ways of communicating effectively can appreciably improve the negotiation process.

A few examples are given below of types of conduct associated with the different styles of communication.

Indulgence and avoidance:

- exploring the matter over and over again;
- not comparing the different interests, or bringing them up for debate;
- submitting;
- not giving any feedback;
- only making positive value judgements.

Exploration:

- constantly asking why something is important for the other party, and looking for ways and areas in which these interests tally with one's own interests;
- citing areas on which there is agreement and differences of opinion, and engaging in debate on these;
- showing understanding and asking for understanding;
- giving feedback.

Confrontation:

- asking for understanding of one's own interests;
- stating clearly and openly one's own possibilities and limitations;
- summarising joint and conflicting interests without value judgement.

Fighting:

- making insinuations and discrediting the other party;
- making negative value judgements (for example as to someone's background);
- making personal attacks (accusing the other party of lying, for example);
- only citing the negative sides of the other party.

Creative dialogue calls for the style of communication that goes with exploration and confrontation. To avoid the negotiations leading to separate monologues on either side of the table, negotiators need communication skills to raise matters without imposing them on or selling them to the other party, as well as the skill to be able to put themselves in the other party's place and recognise its interests.

6.2 Effective and ineffective communication

If effective communication is lacking, negotiations simply take on an intrinsic negative dynamic. Negotiators react to each other, as a result of which the remarks they make get harsher and aggressiveness can sometimes even come to the fore. If the negotiator opens with a statement in fighting terms, he is going to provoke a vehement reaction from the other party. With a calm and peaceable opening, in which he also asks for understanding of his own interests, he can create respect and trust in the fellow negotiator, whereupon the latter will feel more or less obliged to abandon any unreasonable requests he may have had. If a reaction from the other party is observed, the negotiator can immediately act on this from his own train of thought, or ask himself what has caused this reaction: to what extent is the negotiator himself the cause of this reaction?

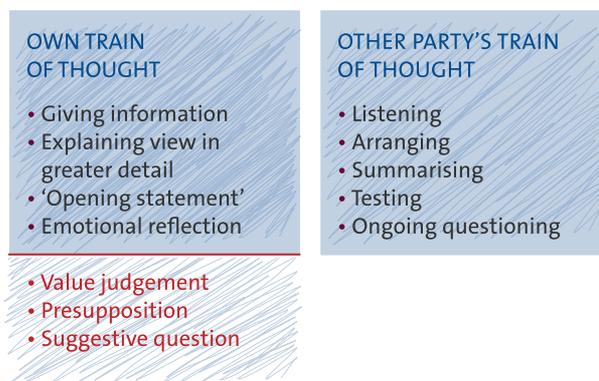
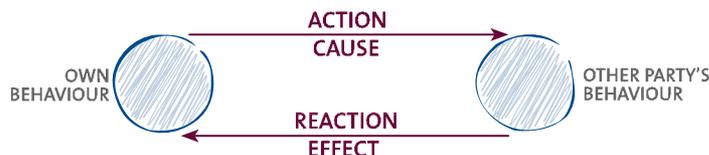
Follow the other party's train of thought

The negotiator who only follows his own train of thought presents his own view and raises questions on subjects he himself wants to discuss. When the tension increases, he will easily let slip value judgements and presuppositions about the other negotiator (the 'tu quoque/you too argument'). He might take notice of the other party's clothing, hairstyle and manners, and let himself be influenced by these. The effect of this on the negotiations is negative.

Conversely, the negotiator can opt to follow the other party's train of thought. In that case he adapts himself to his interlocutor. He is clear about his own view, but also tests whether he has correctly understood the other party's message and carries on asking these questions until the interests are clear. The effect on the negotiation is positive.

Figure 10

Two trains of thought



A good negotiator is adept both at making his own view clear and following the other party's line of thought. He makes sure that all the information needed to keep the relationship at an optimal level, to familiarise himself with the other party's interests, and to explore possible paths for solutions, is laid on the table. This leads to the parties to the negotiations intrinsically and procedurally coming onto the same track. From a relational viewpoint this approach commands trust and respect. There is a clear interest in and understanding of each other's opinion and interests.

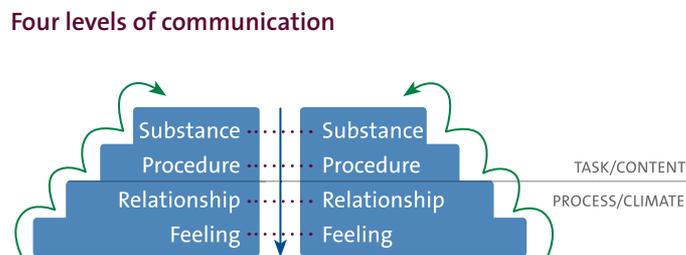
Too much focus on one's own line of thought can lead to a feeling of 'forcing' on the other side (see Figure 5). Fostering is the method in which the negotiator

concentrates more on the other party's way of thinking. By raising targeted, open questions as a negotiator, you can help the other party gain a better grasp and understanding of all the interests at stake and the possible collective character of these interests.

6.3 Four levels of communication

Communication is always played out at four levels: substance, procedure, relationship and feeling (see Figure 11). For many negotiators what counts most is the result of the talks, an attitude that places them explicitly at the level of substance and procedures: agreements, agenda, apportionment of time and reporting. The process-related and relational aspects of communication, that is to say the interaction between the consulting parties and the feelings arising from the talks, are accorded much less attention. In practice 95% of the time the communication is substance-driven, and 5% of the time it is relational.

Figure 11



Communication also entails an exchange of feelings

Nevertheless the first rule of thumb for constructive negotiations concerns, of all things, the relationship. Foster trust! A negotiated result becomes better as and when the negotiation increasingly takes on the characteristics of a good discussion. A good discussion is a rhythmic interchange between speaking and listening, whereby the people talking to each other are interested in each other's contribution and give each other the opportunity to paint a complete picture before they form an opinion. This also entails an exchange as far as feelings are concerned. It is important to observe this exchange and talk about that, too. It often already happens unconsciously, but negotiators can also train themselves to detect this, so as to be able to react more knowingly to contributions made at emotional level. After all, if the discussion stagnates at emotional level, there is no point in carrying on the argument at substantive level. You first have to clear the air, for example by asking the question 'Am I right in thinking you are still irritated? What exactly is bugging you?'

Example:

Trade union leader (in suggestive tone): 'I'm sorry, but this is now the second time that you have failed to keep to the agreements we laid down in the covenant'.

Employer's reaction (at different levels):

- *Substantive level:* 'We will do what we can to observe the agreements as soon as possible. We are doing everything to avoid this happening in the future'.
- *Procedural level:* 'I would first like to tell you what the background to this situation is. Then I would like to discuss with you the problems this could lead to for you and the way in which we could solve those problems. Do you agree with that?'
- *Relational level:* 'Actually what you're saying is that you've entered into talks with a bunch of unreliable negotiators. Am I right?'
- *Emotional level:* 'I have the feeling you're still rather piqued on this issue', or 'I think it's most irksome that we have caused problems for you'.

Be attentive to body language

One major aid in perceiving and interpreting what someone means is body language. Non-verbal behaviour also provides information, especially about the relational and emotional aspects of the message being conveyed. For example, the way someone is sitting at the table can be a pointer as to his feeling about the negotiations. The attentive negotiator on the other side of the table will notice this and do something about it.

If you want to build a basis of trust, it is important not only to be in keeping with the other party, but also to indicate what your own experiences and feelings are – insofar as this may be useful with a view to practical and substantive progress being made in the negotiations.

Communicate on an equal footing

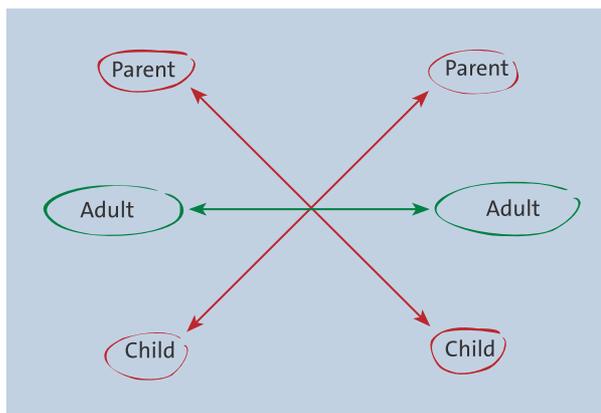
Negotiations also call for mature communication; a discussion between partners on the same footing. A delegation may often adopt a position of superiority or indeed subordination, and both attitudes provoke relational tensions. The theory of transactional analysis cites three possible reactions, corresponding to the reactions of a parent, a child or an adult.

In an attitude of superiority the negotiator will pose as a superior, whilst in a position of subordination he will feel the victim. The interlocutor will then be inclined either to react like a parent and address the other party in reprimanding terms, or opt for the child's/victim's role and start nagging, whereupon a mature

discussion is out of the question for the time being. Negotiators can land up in this situation if and when they (often unconsciously) use value judgements and preconceptions. The other party experiences this as belittling and patronising and will react at that level (feeling, pressure on the relationship). They will either give the other party a sound lecturing as well, or will react like a whimpering child: 'I can't do anything about it anyway'. The issue does not even get addressed here; rather, the relationship is what is at stake. The only effective way of reacting is mature communication between interlocutors on an equal footing.

Figure 12

Transactional analysis diagram



6.4 Giving and receiving feedback

By giving each other feedback, the parties to the talks make each other party to their feelings as to the progress of the negotiation process. The trick is to do this in a constructive, confrontational manner. Feedback is only effective if the other party can do something with it and if the relationship between giver and receiver remains intact. If there is not enough trust between the interlocutors, it is difficult to give and receive feedback.

By way of an example, if the other negotiator shows up for the umpteenth time ten minutes late, the other party could react to this in various ways:

- 1 You have turned up ten minutes late. This disrupts the meeting and I'm sick of it;
- 2 Evidently you're unable to arrive on time;
- 3 Clearly being on time is no concern of yours;
- 4 You're not very good at timekeeping. Could you make sure you keep an eye on the clock?

Intrinsically all the comments are about arriving late, but they have differing effects on the party in question. If someone arrives late on one occasion, he does not immediately expect judgements of his skills (2), his attitude (3) or his identity (4). Such reactions come across as a value judgement of the person rather than of demonstrable conduct. Criticism aimed at the individual provokes considerable irritation and also literally makes the discussion more personal. The comment will in many cases be counterproductive.

The question is, how do we give vent to our frustration or other negative feelings about the negotiations in a manner that clears the way for positive progress? The most important factor when it comes to giving feedback is for us ourselves to realise that we are the ones who have that feeling, and that the problem therefore also lies with us. The mere fact that other people are involved does not mean we solve our problem by reproaching others (the 'tu quoque/you too argument'). Giving feedback thus begins with ourselves and has the form of an 'I message'.

Figure 13

Feedback diagram



When you do this, follow the following steps:

- describe the behaviour you have observed (without value judgements);
- describe the effects you have observed (without value judgements);
- describe your own feeling in this respect,
- jointly look for a solution.

The art of giving feedback is to keep the message yourself and not to point to the other party. That applies not only to communication at the negotiating table, but at all times, and hence also before, during and after the negotiations, and also when you communicate with managers, employees and third parties. Make sure you communicate transparently, honestly, respectfully and appropriately, for in this way you will show yourself to be a trustworthy employer and therefore also a trustworthy partner in negotiations.

7 Preferred styles: team building and bridge building

7.1 The negotiator as a success factor

In a negotiation process the negotiators themselves are a major success factor. The interaction between the negotiators has a very considerable influence on the final result. Good relations promote mutual trust, and trust is the basis for creative dialogue on possible solutions.

Every individual has his own personal style characterising the way he deals with and works with others, and of course this also applies to the negotiation process. There are differences in style and conduct both within and outside the negotiation delegations. If the negotiating style on one side of the table is in keeping with the style on the other side, the negotiations generally pass off more smoothly and with better effect, whilst if the styles do not dovetail, or if they clash, negotiations become a lot more awkward.

However, the fact that negotiators do not get on with each other can never be a reason to break off the talks. To solve this problem, and even to make the most of disputes, it is important to gain an insight into people's preferred styles. This enhances mutual understanding. If it is clear in advance that a party to the negotiations wants to set about the work quickly and decisively, he will not be expected to bury himself in bulky reports that do not have a concise summary. On the basis of that insight, bridges can be built between the negotiators.

Four behavioural preferences

Our practice reveals that it is very workable for behavioural preferences to be subdivided into four main styles. This subdivision is based on the LIFO method¹. Two of these are relationally oriented: the visionary and the integrator focus mainly on people and what they want to achieve in the long run. They regard it as important for negotiations to be conducted in a pleasant and harmonious atmosphere. The other two preferences are more task-oriented: the doer and the thinker have a task to accomplish and place a lot of emphasis on the result.

The four preferences are explained in greater detail below. This classification is a distinction that in reality is never as black and white as it seems, since every individual has more than one style of behaviour and deploys a particular style according to the context (environment, professional or private, other people, etc.).

1 Doer

The key word in the 'doer' style is *action*. He wants to be seen as an active and competent person. In the event of uncertainties he resorts to carrying out activities as a way of giving himself something to go on. Characteristic questions are: what are the possibilities, what does it produce and is it exciting?

The doer's main question can be summed up as: WHAT? If you want something to happen in the negotiations, in the doer's view you need to attend to that yourself: take the helm and convince others. The doer wants to control the process, and does not easily let matters be dealt with via other people's contributions. His conduct can sometimes slip into domination, and that is when you can sometimes catch the doer making comments such as 'Let me explain it to you once again'. Doers often concede themselves that they would like to have a little more patience in negotiation situations. The speed with which they see through complex situations has the disadvantage that (overly) quick solutions are devised in a phase in which the parties are far from ready for solutions, because the playing field (charts of interests) first has to be explored.

2 The thinker'

The key word in the 'thinker' style is *reasonableness*. He would like to be seen as an objective and rational person. His answer to uncertainty is structure.

The thinker's main question can be summed up as: HOW? In negotiation situations

¹ The LIFO® method is the property of Business Consultants Network Inc. Bcon LIFO® International. In the Netherlands BCon is represented by Match bv, Marathon 9-c, 1213 PE Hilversum; 035-683 47 70; website: www.match-bv.nl. Het LIFO® material can only be obtained after a licence has been granted.

he wants to know the in and outs of all the issues and also whether there might still be alternatives. Then he works on a step-by-step plan, with a detailed job allocation (who does what, when and where). His basic premise is: keep what you have. The thinker makes a structuring, penetrating, investigative and analytical contribution, which familiarises the parties with the substance of the talks. He acts prudently, in a well-considered manner, and is happy to further build on the results achieved in the past, with as little wastage as possible. The thinker's behaviour becomes less productive if he approaches all new ideas in advance with a 'yes, but'. In his urge to retain, he rejects new pathways for solutions with very clever and detailed arguments. In so doing, he sinks his teeth into counter-arguments, along the lines of 'research has demonstrated that this is not practicable'.

3 The visionary

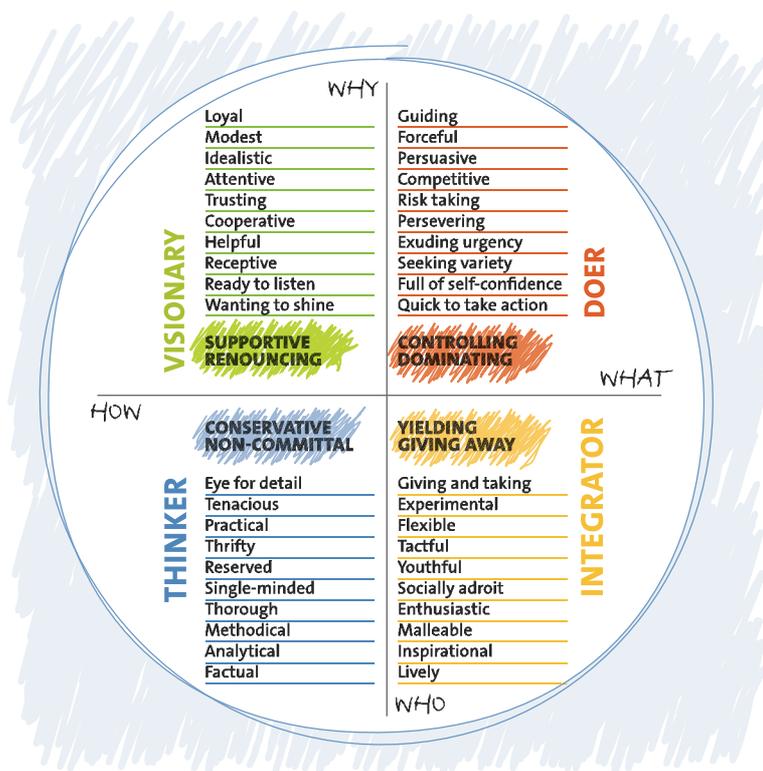
The key concept in the 'visionary' style is *giving shape to ideals*. Characteristic questions for him are: 'How useful is it?'; 'Is this the best for everyone?'; 'Is it fair and just?'; and 'Why are we actually doing this?'. *The visionary's main question can be summed up as: WHY?* The visionary's aim is to strive for what is right and good on the basis of a loftier view. From this perspective he gives support to the negotiations and the parties taking part in them. If he is frustrated in these aspirations, his style becomes counter-productive. The visionary wants to obtain and maintain clarity as to the reason for the negotiations and the greater whole to which these talks should be contributing. Driven by this, the visionary focuses on finding out what interests are at stake in the negotiations, and attempts to link these interests at company level with the HR policy and the agreements laid down in the collective labour agreement.

4 The integrator

The key word for the 'integrator' style is *harmony*. He would like to be regarded as pleasant and be able to get along well with everyone. Characteristic questions are: 'What do we have in common and what are our differences?'; 'What does the other party think of that?'; 'How can we see to it that it is also agreeable for the other party?'. *The integrator's main question is: WHO?* His basic approach is to move with others. Since he has a good understanding of what is at stake on both sides of the table, the integrator can prevent and settle conflicts. The integrator's approach is aimed at ensuring that all parties at the table see that their interests are served. The focus on common interests makes the integrator compliant when it comes to working out solutions, as long as the common interest is served. His style becomes counter-productive, however, the moment he gives himself away and agrees to outcomes that are disadvantageous to him.

Figure 14

Four behavioural types



7.2 Effective assignment of roles and tasks within the negotiating delegation

An insight into preferred styles helps in the understanding of the preferred behaviour (and thereby some needs) of the negotiators on the other side of the table. It is also useful when it comes to distributing the roles within your own negotiating delegation and helps you gain an understanding of the dynamic of your own team.

In the ideal situation every negotiating delegation will consist of members who complement each other in terms of behaviour, but in practice this is not always possible. Nonetheless in negotiations it is important to pay attention to all four behavioural styles (doing, thinking, vision and integration), or to the questions: what, how, why and who. Practice shows that many employers tend to be task-focused, meaning they concentrate more on the ‘what’, and less on the ‘who’, ‘how’ and ‘why’.

Their contribution is aimed at the company's continuity; agreements have to offer an added value for the company. But in order to do a deal with which everyone can be satisfied, some attention does also need to be devoted to the relationship, or the human factor.

Negotiation calls for teamwork

A negotiation process is all about good teamwork. Every negotiator has his own quality, resulting in synergy coming into being within the team, as long as there is clarity within the delegation as to everyone's role and task. It is recommended that this division of tasks also be brought up during the preparations. A clear allocation of tasks among the members of a negotiating team promotes cooperation, since maximum use can be made of each person's strengths and a good mix can be created between substance and process. For example, it should immediately be clear who the leader of the delegation is. It is disastrous if members of his own delegation contradict him during the talks, and for this reason it is important for the whole team to develop a common view beforehand. The different delegation members can of course talk about separate constituent subjects, but it is the chairman who always has the last word. Well-defined role allocation creates clarity (in respect of the parties on the other side of the table as well) and thereby helps build trust.

Divide up the tasks

As well as the chairman, it is important also to appoint a 'process observer', whose job it is to observe the progress of the negotiations and to keep an eye on the atmosphere. That involves this person looking at the way the process passes off and examining how the parties are dealing with it. This member of the delegation above all needs an antenna to detect cases of resistance among the other parties, and will therefore be someone of the integrator or visionary type. It may also be useful to allocate certain themes to particular members of the delegation, according to who is most at home in what field. Another tactic that proves to work well is the inclusion of line managers in the delegation, in order to be able to test out certain solutions straight away.

During adjournments, it may help to change roles briefly. An adjournment can be taken advantage of to evaluate the process. There is no point in merely confirming positions that have been taken relative to one another. Here it may be of help briefly to appoint one of the other delegation members – preferably a visionary or integrator type – to the position of chairman, and then

to talk first about how the process is passing off before going on to discuss the substance.

Agreements should also be made within the delegation as to the attitude and conduct to be adopted vis-à-vis all the parties. This does not involve rehearsing a play, but it is important that the members of the delegation are aware of their opinions of their fellow negotiators on the other side of the table. Any prejudices or preconceptions sooner or later lead to blunders. This can give rise to an atmosphere of reproach, which is at the expense not only of mutual trust but also of the desired creativity in the negotiation process. Provision should also be made for a good table arrangement. An oval table is an ideal shape, because everyone is in view – the other negotiators and the members of your own delegation.

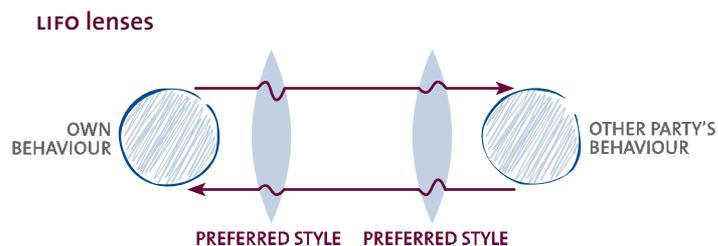
Effective communication and LIFO lenses

Your own preferred style determines (in large measure) the way in which your interlocutors' behaviour is perceived, and subsequently also the reaction to that behaviour. This naturally applies to both parties (see Figure 10, model of action and reaction). We therefore talk of a 'LIFO lens' on both sides.

A 'doer' perceives and interprets an integrator's behaviour in a different way to how he would react to the conduct of someone with the same doer style. This can lead to tensions in situations where there is (considerable) pressure. The doer may perceive the integrator-type conduct to be unfocused, laborious and 'wishy-washy', whereas from the standpoint of the integrator style, this is precisely what is required to react flexibly and to keep a keen eye on whether the atmosphere is still propitious and on how people are feeling.

Effective communication calls for both discussion partners to be aware of their own preferred style, to be able to recognise the other party's style, and to take account of this in their interpretation of each other's behaviour.

Figure 15



8 What to do in difficult negotiation situations

Negotiations can be or become very awkward indeed, and there are many examples of how this can happen. One delegation can make things very difficult for the other. But matters in dispute are not always negative. After all, a 'constructive quarrel' yields something good in the end if those involved set about things with a constructive approach.

Many conflicts begin with resistance among the other parties. Resistance is a form of reticence, which is often expressed indirectly – in the form of body language, caustic remarks or a joke with a particular undertone. Resistance is triggered in all kinds of ways, for example as a reaction to what the leader of the employer's delegation has said. Dealing with resistance requires a lot of energy being spent, but for the negotiations to make progress it is important that something be done about it. Look into what went amiss, and what it was that made the other party angry. Try to find out what the source of the emotion was. It is important to be clear about what the cause was, since resistance can grow into a conflict and escalate further and further. Conflict management has a higher priority than progress being made on matters of substance.

8.1 Dealing with cases of resistance

If you detect resistance, act as follows:

1 Adopt a helicopter view of things

Distance yourself from the situation, by adopting a 'helicopter view' of the conflict. What is the reason for the resistance? Try to understand what you yourself have contributed to this situation and what the other party has contributed. Look at the situation without making judgements.

2 Put yourself in the other party's situation

Denying, admitting the other party is right, or coming up with counter-arguments – none of this helps. The only thing that counts is understanding;

listening, and showing respect for the other party's arguments. Try to understand the situation from his point of view. Put yourself in his shoes. If necessary, write out the points at issue in a clear and orderly fashion on a flipchart.

3 Place the problem in a wider context

By viewing the situation from a different standpoint, new possibilities appear for solving the problem. Therefore ask about the underlying interests in as much detail as possible.

4 Build a bridge

Encourage the other party to the negotiations to further develop his ideas: What is his view, what interests does he have? Offer possibilities that could help the other party to strike a good deal, but do not give everything away – not even in an awkward situation in which the other party is threatening strike action, for example. Keep talking primarily at the relational and emotional level. After all, most disputes are settled at this level. If you solve the problem by conceding on the substance, you will also lose the other party's respect and will give the impression that more can be gained. The relationship will have to be repaired in such a way as to make constructive cooperation possible again. The aim is to find solutions that have something for all the parties. A negotiator who ignores his own interests loses his credibility.

What to do in the event of an unexpected attack?

You may sometimes be attacked from out of the blue. You have no idea what went wrong or what you said that may have been out of place. In a situation such as this, you can formulate your feeling in an 'I message'. When doing so, it is very important that you remain calm. Reduce the tension by putting yourself on your discussion partner's wavelength. Ask what happened and what the cause was, until the other party has calmed down again. Any opinion or argument you may utter will only further stoke the fire. Take the time to reduce the tension. The most important thing is for the other party once again to be ready and willing to listen to you. Remain patient when attempting to find solutions together with your fellow negotiator.

8.2 Exercises in relaxation

On occasions negotiations go on for so long and the atmosphere gets so tense that it is difficult to keep thinking clearly. A lot of negotiators know a thing or two about that. Awkward situations inevitably entail stress. Things that waste a lot of energy are power struggles, negative discussions and thoughts, feelings of

guilt, and continuing to give when the other party backs out of his responsibility for the process. Only by maintaining an inner calm and blocking out factors that waste energy is it possible to make effective progress through all phases of the negotiation process and to survey the consequences of proposals and agreements.

One technique that can be very helpful in this respect is 'Aikido', a Japanese method designed to help the individual to keep very alert but stress-free. The Aikido principles can be applied without the other party necessarily being aware of it. The essence of the Aikido method is that attention is focused on the midpoint of the body, a spot three finger-widths below the navel. From this midpoint, endless energy flows through the whole body. An Aikido disciple learns to focus on his midpoint, and the more he does so, the more the energy flows. Aikido means 'the path to energy in harmony'.

For small children it is a matter of course, but as we grow up many people lose contact with their centre. The effect is a poor balance between the body and the head. Anyone who practises focusing attention on the midpoint becomes more self-assured and attains a better equilibrium with himself. The road to self-realisation is via the centre! The more someone focuses on the midpoint in his body the better the energy will flow and pressure on the head will diminish.

You can use Aikido during stressful negotiations by focusing on the midpoint of your body. This frees the head of tensions. You achieve this by means of abdominal respiration: sit upright in your chair, focus your attention on the place where your body is in contact with the chair and keep your mind focused on this spot. This will result in your breathing going lower. By maintaining your focus here, and coming back to it if you are distracted, you will end up feeling physically better. You will feel calmer and will notice the stress dissipating.

The Aikido principles

1 Consciously breathe out

As soon as you feel the tension mounting in your body, the breathing becomes shallow and high – at a point level with the breastbone and higher. Consciously breathe out, and you will realise that by so doing you yourself are releasing the stress reaction. Feel your breath come into the lower part of the stomach, hold it there for a moment, and then slowly breathe out again.

2 Experience the midpoint as the fulcrum

The midpoint of your body (three finger-widths below the navel) is your body's fulcrum or point of support. Focus your attention on the centre. Walk, move and communicate from your midpoint. If problems arise and you have to deal with awkward questions, receive and cushion these in your point of support.

3 Occupy space

From your midpoint move the focus of your attention on the other party; don't turn in on yourself.

4 Be who you are!

Before engaging in a difficult discussion or going into an awkward meeting, be aware that you are at your strongest when you are simply being yourself. You do not need to make yourself bigger (or smaller) than you really are.

5 Become a person of weight

Keep the weight on the underside of your body. Feel your weight resting on your chair, and your back resting against the backrest. This provides a counter-weight to the tension and stress in your head.

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Annex 2 About AWWN

'Good employment practices' offers organisations a head-start. AWWN gives employers advice on the development of their HR strategy, their organisational development and their staff development, and on the design of their employment conditions. AWWN works on the basis of the philosophy that it is precisely these aspects of what it means to be an employer that contribute in large measure to achieving a company's goals. A positive corporate climate, with constructive industrial relations, is vital to this process. AWWN refers to this as 'good employment practices'.



If you would like to find out more about the possibilities AWWN offers, we would be delighted to hear from you. You can contact us by calling our employers' line on 070 850 86 05, or sending an e-mail to werkgeverslijn@awvn.nl.

Annex 3 About the authors



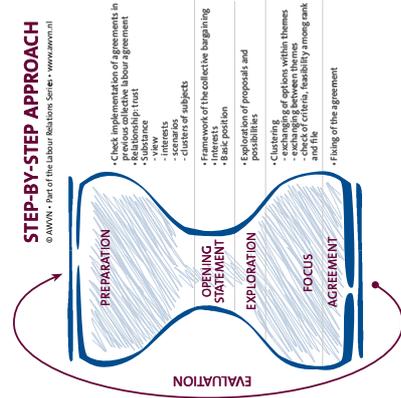
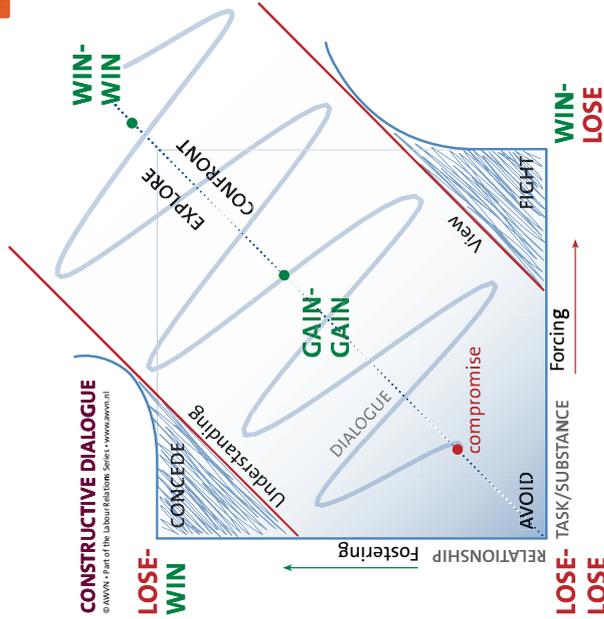
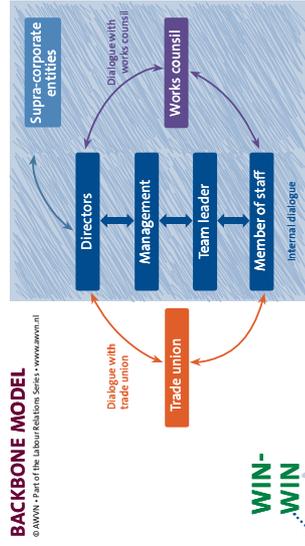
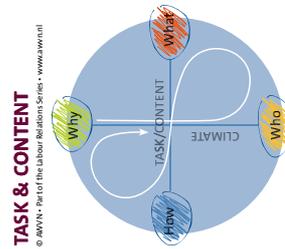
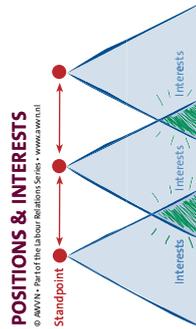
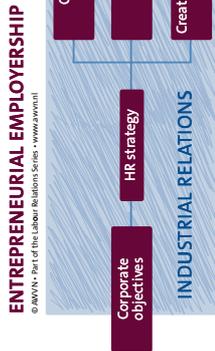
Dirk Joosse (1948) studied sociology in Amsterdam and joined AwwN in 1980 as an organisation consultant. He deals with the industrial relations between employer and employees, in particular in the field of negotiations and conflict mediation. Joosse obtained a mediator's certificate (CEDR Mediation Course, London) in 1998 and in 1999 followed various courses on negotiation and conflict settlement in Harvard, Cambridge Massachusetts, USA. In 2003 he followed a course on *Conciliation and Mediation in Industrial Relations* at the ILO (International Labour Organisation) in Italy. Joosse built up an exceptional reputation in employers' circles as a course instructor on the subject of negotiation, a trainer of collective bargaining negotiators and as a supervisor of negotiating delegations for *inter alia* Unilever, Tata Steel, Shell, Sappi, ING, Rabobank, ProRail, NS and ABP. In recent years his sphere of activity has extended to Europe, East Africa and Vietnam, where the insights gained in the Netherlands into social dialogue prove to be very useful and popular in a specific local context.

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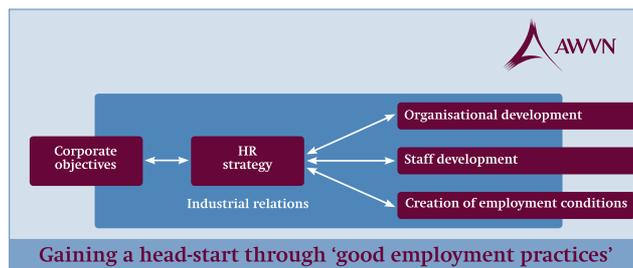
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