

CEMUS: Climate Change Leadership Course, Spring 2018: Diplomacy and the United Nations.

Preparation for Model United Nations session, to be held on Wednesday, March 14 at 13.15; and preceded by a lecture and discussion on Monday, March 12 at 13.15.

Background text by Bo Kjellén, Associate, Stockholm Environment Institute, former Chief Negotiator at the Ministry of Environment.

Introductory comments

It is interesting for a practitioner to be given the opportunity to develop ideas in an academic setting, and to present an inside view of international environment negotiations. After spending 30 years in the Ministry for Foreign Affairs, I joined the Ministry of Environment in 1990, actively participating in all major environmental negotiations until retirement in 2001. Negotiations for the Climate Change Convention started in early 1991, and went in parallel with the preparations for the major UN Conference on Environment and –development in Rio de Janeiro in 1992. The Rio process made me understand that we were faced with a new kind of diplomacy that had some characteristics which were different from traditional relations between states. I felt the need to try to develop a theoretical framework which materialized in a book, “A New Diplomacy for Sustainable Development: the Challenge of Global Change”¹. One of the characteristics of this new diplomacy is that it is not just about environment, but about the broader notion of sustainable development, encompassing also social and economic components in a complex pattern. This means that the negotiators deal with an extremely profound and diversified reality, which is one of the reasons for the rather slow progress of negotiations. Furthermore, with the new reality of the Anthropocene Epoch, considerations about the human species and the planet have to be integrated in the multilateral agenda.

Section I: Central components of the New Diplomacy

A new perception of threats: In traditional security policy, the enemy is another nation, or a coalition of nations. In the global perception of the Anthropocene Era, the enemy is within ourselves, in our own lifestyles and our own exploitation of resources.

The essence of the long term: Our view of the future has to be extended far beyond the perspective of the next election, or our own expected lifetime. We are the first generation with the capacity to influence living conditions of all following generations, because of our impact on immensely large natural systems.

The need for a broad societal view: These new perspectives require a better, and more critical, understanding of the extremely rapid transformations of our societies, and of new realities for politics and policy options. We are facing existential problems of a new kind.

The concept of national Enabling Conditions: Since the New Diplomacy is global, international negotiations are needed to solve the problems we are facing. But in a world still

¹ Kjellen, B, A New Diplomacy for Sustainable Development: the Challenge of Global Change. Routledge, London, New York, 2008.

dependent on national governments, national enabling conditions are instrumental in formulating instructions for negotiations, thus influencing the prospects for success or failure.

The actors in the negotiations and the role of non-governmental organizations (NGO's): the impact of civil society and the emergence of social media.

The essential role of research: the natural sciences have a fundamental part to play, but increasingly social and behavioural sciences as well as the humanities and law are involved.

Section II: The practice of the New Diplomacy: personal experiences

The normative role of the United Nations: The Stockholm Conference on the Human Environment 1972 and the Rio Conference on Environment and Development 1992.

New Departures in international law: The global Conventions, with focus on the UN Framework Convention on Climate Change 1992, and the Convention to Combat Desertification 1994.

Case studies:

- The Rio Conference process 1990-1994: the Preparatory Committee, the Conference, the outcome, the follow-up.
- Climate change: The preparation, negotiation, implementation measures, and ratification of the Kyoto Protocol 1995-2004.

The Rio Conference on Environment and Development

Personal experience: Chairman of plenary Working Group I, Preparatory Committee (Chapters 9-16, Agenda 21); Coordinator for Chapter 9 (Atmosphere) in Agenda 21 during the Conference; Member of small steering group during the process; leader of the Swedish delegation.

Lessons learned:

1. Importance of a well designed negotiating structure.
2. Need for a background fund of ideas and intellectual capacity: the Brundtland Commission.
3. Good leadership, an extraordinary Chairman of the negotiation: Tommy Koh of Singapore: firm management of the process; skilful leadership of meetings; capacity to represent the negotiation to the outside world.
4. Excellent Secretariat, led by Maurice Strong of Canada.
5. Perception of fairness in relation to all parties of the negotiation: the Chair as mediator, blending knowledge, toughness, and charm.
6. Respect for the complexity of the subjects negotiated.

The Climate Negotiations

Personal Experience: Chief Negotiator 1990-2001; Chairman of consultations between developed countries 1991; Chairman of the negotiation for the Berlin Mandate at COP 1, creating the conditions for the Kyoto Protocol; coordinator for consultations on art. 10 of the Kyoto Protocol at COP 3, 1997; leader of the EU negotiating team at the level of high officials during the Swedish Presidency 2001; adviser to the Moroccan Chairman of COP 7 in Marrakech in 2001: continued advisory role with Swedish negotiators.

Lessons learned:

1. Importance of exploring the prospects for agreement on a firm mandate for a difficult and complicated negotiation.
2. Benefits of a good articulation between the official level and the Ministerial level during a negotiation process.
3. The importance of having a coherent leadership during preparatory negotiations in a working group and in the negotiating Conference itself; the central role of Raúl Estrada of Argentina.
4. The crucial and leading position of EU in the New Diplomacy.
5. The need for a transparent and well organized EU Presidency.
6. decision not to ratify the Kyoto Protocol.
7. On the other hand, the capacity to apply flexible diplomacy as a necessary complement to toughness: “agree to disagree”.
8. The need for careful consideration of the rules for entry into force of multilateral instruments.
9. The role of science and research, in the climate case well represented by the IPCC. Natural science has been a driving force for the negotiations; and the social sciences, humanities, and law are essential to understand and guide the societal transformations that are necessary.

The Five Phases of the Climate Negotiations

1991-1994: Negotiation and entry into force of the Framework Convention on Climate Change (UNFCCC). Concluded and signed in 1992.

1995-2004: Negotiation and conclusion of the Kyoto Protocol (1997) with agreement on terms for the first commitment period 1990-2012. Entry into force 2004.

2005-2007: Preparation of the second commitment period of the Kyoto Protocol and the long-term regime, resulting in the Bali Action Plan 2007, aiming at a major agreement in Copenhagen at COP 15 in 2009.

2009-2015: COP 15 did not manage to agree on a new binding agreement. However, the “Copenhagen Accord” opened new avenues of negotiation for a second commitment period of the Kyoto Protocol (2013-2020) and for a new approach to the long term regime after 2020, the Paris Agreement. The PA does not contain internationally binding commitments for reductions of greenhouse gases, but all states have accepted to establish nationally determined contributions, to communicate them regularly and to accept legally binding control and follow-up.

2015-2020-2030:

The Paris Agreement (PA) entered into force already by the end of 2016, and negotiations since then have been rather constructive. However, many difficulties remain, and the negotiations for the new regime after 2020 continue to be complicated.. The flexibility of the PA means that the Kyoto system of an absolute “firewall” between the commitments of developed and developing countries has disappeared. Nevertheless several questions related to financial transfers, climate-related loss and damage in the south etc, are still open. Furthermore, the US decision to withdraw from the Paris Agreement has created additional problems.

Section III: Negotiating effectively – a concrete summary of essential elements of the art and practice of negotiation

A. What makes you a good negotiator?

1. Some initial comments on the difference between EU internal negotiations and the broader multilateral setting.
2. The relationship between the home base and the negotiating team is essential.
3. You need a good knowledge base of the issues to be able to interpret positions of other states and use your own instructions in a constructive way.
4. More generally, a fair amount of creativity, imagination, and a constructive attitude are important assets in helping to see ways forward in complicated situations.
5. It is essential to be very clear in stating positions – there are always risks for misunderstandings. It helps to make clear points: First, second, third etc. It will always be appreciated if you act according to some words beginning with “C”: be Clear, Consistent, Concise, Courteous, Constructive, and Cooperative
6. Keep good contact with delegates from other countries. Informal talk is always useful; and it is essential to show courtesy and respect under all circumstances. Cultural differences play a role in international meetings.
7. Overall, communication ability is important.
8. If you are chief negotiator you have a duty to manage your negotiating team in an efficient way, making everyone feel appreciated and important.

B. Leadership: What makes you a good Chairperson/Coordinator/Facilitator?

1. Find your own style, we are all different.
2. Remember that you have responsibility not only for chairing meetings, but also to manage the process of negotiation in cooperation with delegations and the Secretariat.
3. Start and end meetings in time; this is particularly important if there is interpretation.
4. Have a clear picture of how you want to structure the meeting and what result you want to achieve; and inform the participants of your plans.
5. Be fair and respectful to everybody; be tough if needed, but also generous.
6. Be ready to make proposals from the Chair, in order to move the negotiation forward.
7. The objective must be to make all delegates feel comfortable and capable to represent their countries in a good way in conformity with their instructions.
8. Reflect continuously on your own performance in a critical way.