

Nuts & Bolts of Conducting Cross Border Negotiations

Background paper for presentation at the ABA – Section of Business Law, Young Lawyer Forum

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in Vancouver, BC, April 18, 2009

Introduction

Face-to-face negotiations are crucial aspects of inter-organizational relationships like joint ventures, mergers and acquisitions, licensing and distribution agreements, and sales of products and services. As the proportion of foreign to domestic trade increases, so does the frequency of business negotiations between people from different countries and cultures. To successfully manage these negotiations, businesspeople need to know how to influence and communicate with members of cultures other than their own.¹

Differences in cross-cultural values and behaviour lead to additional conflicts in negotiations beyond the obvious substantive conflicts. During the negotiations, prospective business partners may exhibit behaviour that may be strange, and at other times be insulting and offending. While it is tempting and easy to interpret such behaviour within the prism of our own culture, doing so can create a high degree of friction and frustration thereby jeopardizing business deals.

Culturally, the world may be divided into a large number of groups, with each group having its own traditions, experiences, traits and values. While people often speak in generalities, referring to groups as Asians, Latinos or Western, having a broad perspective about such groups will work to the detriment of the negotiation as a Japanese negotiator may hold different values than an Indian or Chinese.² Similarly, culture and nationality are not always the same. For example, in India, South Indians represent a different culture and hold values that are different from North Indians. Indian Muslims are a different cultural group from Hindus. Thus, a country may have several distinct cultural groups.

Negotiators need to acquire cultural knowledge on the following:

¹ N.J. Adler et al., “Cross-Cultural Interaction: The International Comparison Fallacy?”, *Journal of International Business Studies*, Vol. 20, No. 3 (Autumn, 1989), 515 – 533, at 516.

² P.A. Herbig et al., “Do’s and Don’ts of Cross-Cultural Negotiations,” *Industrial Marketing Management*, Vol. 21, 1992, 287 – 298

1. Traditions, etiquette and behaviour of the group (which can be further split into protocol and deportment and deeper cultural characteristics); and
2. Players and the process

This paper begins with a discussion of Edward T. Hall's theory of high-context and low-context communication and its relevance to intercultural communications before progressing to a discussion of the four dimensions of culture as postulated by Geert Hofstede. Subsequently, the paper attempts to analyze both the influence that cultural differences have on negotiations and the importance of ascertaining and identifying the players in negotiation and the processes they employ. Finally, the paper examines the 'getting to yes' approach to negotiation before discarding it in favour of a more culturally responsive negotiation strategy.

Communication

Cultural knowledge must be used with caution. Forming stereotypical notions about a group and considering them as a universal truth is a sure shot way of ruining the negotiating process. On acquiring cultural knowledge, the negotiator must use this in the pursuit of effective cross-cultural communication.

Communicating across cultures is even more demanding than working at effectively communicating within a single culture, because there is hardly any common ground in the participants' references, experiences or filters. The negotiating parties, however, must first recognize the additional challenges that cross-cultural disputes bring.

Cultures can be predominantly verbal or non-verbal. Cultures that use verbal communications transmit information through a code that makes meanings both explicit and specific. In nonverbal communications, the nonverbal aspects become the major channel for transmitting meaning. This ability is termed as 'context.' Context includes both the vocal and non-vocal aspects of communication that surround a word or passage and clarify its meaning – the situational and cultural factors affecting communications.³ High-context or low-context refers to the amount of information given in communication. These aspects include factors like the rate at which one talks, the pitch or tone of the voice, the fluency, expressional patterns, or nuances of delivery. Nonverbal aspects include eye contact, pupil contraction and dilation, facial expression, odour, colour, hand gestures, body movement, proximity, and the use of space.⁴

The greater the contextual portion of communication in any given culture the more difficult it is for one to convey or receive a message. Conversely, it is easier to communicate with a person from a culture in

³ E.T. Hall, *The Silent Language*, (New York: Anchor Books, 1973) at 24.

⁴ *Id.*

which context contributes relatively little to a message. In high-context cultures, information about an individual (and consequently about individual and group behaviour in that culture) is provided through mostly non-verbal means. Information flows freely within the culture although outsiders who are not members of the culture may have difficulty reading the information.⁵

Information transmitted through an explicit code in a low-context communication compensates for a lack of shared meaning or specifically, words. In such cultures, the environment, situation, and non-verbal behaviour are less important and negotiators must provide information that is more explicit. A direct style of communications is valued. Relationships between individuals are relatively shorter in duration and personal involvement tends to be valued less. Low-context countries tend to be more heterogeneous and prone to greater social and job mobility. Agreements tend to be in writing rather than verbal and are final and legally binding. The difference between high-context and low-context communication, pioneered by Edward T. Hall, is probably the most important cultural difference in many cross-cultural negotiations.⁶

(Please see Table 1 in the Annexure for a better understanding of the difference between high-context and low-context communication.)

Dimensions of Culture

Dutch cultural anthropologist Geert Hofstede's remarkable empirical study of cross-cultural differences must occupy the heart of any work on cross-cultural negotiation. Hofstede based his work on over 116,000 questionnaires from IBM employees in 53 countries. According to him, the way people in different countries perceive and interpret their world varies along four dimensions:

1. Power Distance,
2. Individualism versus collectivism,
3. Masculinity, and
4. Uncertainty Avoidance.⁷

The Power Distance or the Distribution of Power

Power distance refers to the degree of inequality among people the population of a country considers acceptable (i.e., from relatively unequal to extremely unequal). In some societies, power is concentrated

⁵ *Ibid.*, at 25.

⁶ Anthropologist Edward T. Hall is considered the founder of the cross-cultural communication field. He called this field "intercultural communication." His work focused on differences between Japan and the United States.

⁷ Geert Hofstede's Cultural Dimensions, <http://www.geert-hofstede.com> (visited on: 16-02-2009).

among a few people at the top who make all the decisions. People at the other end simply carry out these decisions. Such societies are associated with high power distance levels. In other societies, power is widely dispersed and relations among people are more egalitarian. These are low power distance cultures. The lower the power distance, the more individuals expect to participate in the organizational decision-making process.

The United States of America (USA) records a middle-level rating on power distance, but Sweden much lower ratings.⁸ In these countries, leaders are more likely to give subordinates the initiative to participate. (Power distance scores for a sampling of countries appear in Table 2 in the Annexure.)

With reference to negotiations, the relevant questions the negotiator needs to ask himself/herself (as far as this dimension is concerned) are these:

1. Are significant power disparities accepted?
2. Are organizations run mostly from the top down, or is power more widely and more horizontally distributed?

Individualism versus Collectivism

Individualism denotes the degree to which people in a country learn to act as individuals rather than as members of cohesive groups (i.e., from collectivist to individualist). In individualistic societies, people are self-centred and feel little need for dependence on others. They seek the fulfilment of their own goals over the group's goal. Managers belonging to such societies are competitive by nature and show little loyalty to the organizations for which they work.⁹

In collectivistic societies, members have a group mentality. Their individual goals are subordinate to the group goals. Collectivistic managers have high loyalty to their organizations and subscribe to joint decision making. The higher a country's index of individualism, the more its managerial concepts of leadership are bound up with individuals seeking to act in their ultimate self-interest.¹⁰ USA, Australia and the United Kingdom show high ratings on individualism while India, Japan and Brazil exhibit low ratings.

A negotiator should determine whether the culture of the other party emphasizes the individual or the group.

Individualism scores for a sampling of countries appear in Table 3 in the Annexure.

⁸ G. Hofstede, *Cultural Consequences: International Differences in World-Related Values*, (London: Sage Publications, 1980) at 24.

⁹ *Supra* note 8, at 31.

¹⁰ *Supra* note 8, at 31.

Masculinity or Harmony versus Assertiveness

Masculinity relates to the degree to which “masculine” values such as assertiveness, performance, success, and competition prevail over “feminine” values such as quality of life, maintenance of warm personal relationships, service, care for the weak, and solidarity.¹¹ Masculine cultures exhibit different roles for men and women.

A relatively high masculinity index for the United States and Japan is prevalent in approaches to performance appraisal and reward systems. In low-masculinity societies such as Denmark and Sweden, qualitative goals set as a means to job enrichment are motivating factors.

For cross-cultural negotiations, a negotiator should know if the culture emphasizes interpersonal harmony or assertiveness.

Masculinity scores for a sampling of countries appear in Table 4.

Uncertainty Avoidance Index

Uncertainty avoidance concerns the degree to which people in a country prefer structured over unstructured situations. At the organizational level, factors such as rituals, rules orientation and employment stability are indicative of uncertainty avoidance. Consequently, personnel in less structured societies face the future as it takes shape without experiencing undue stress. The uncertainty associated with upcoming events does not result in risk avoidance behaviour.¹²

To the contrary, managers in low uncertainty avoidance cultures abstain from creating bureaucratic structures that make it difficult to respond to unfolding events. But in cultures where people experience stress in dealing with future events, various steps are taken to cope with the impact of uncertainty. Such societies are high uncertainty avoidance cultures, whose managers engage in activities such as long-range planning to establish protective barriers to minimize the anxiety associated with future events. With regard to uncertainty avoidance, the USA and India score low indicating an ability to be more responsive coping with future changes. But Greece, Portugal and Japan score high indicating their desire to meet the future in a more structured and planned fashion.

The pertinent question for cross-cultural negotiations is this: How comfortable are people with uncertainty or unstructured situations, processes or agreements?

Uncertainty Avoidance scores for a sampling of countries appear in Table 5.

¹¹ *Supra* note 8, at 38.

¹² *Supra* note 8, at 49.

How do Cultural Differences Influence Negotiations?

Given that cultural differences exist, can be measured, and operate on different levels, the question that then needs answering is, how they influence negotiations. Culture influences negotiations across borders in at least eight different ways:¹³

Definition of Negotiation

Concepts of negotiation, like the definition of negotiation, negotiable topics, and procedure can differ greatly across cultures. For instance, Americans tend to view negotiation as a competitive process of offers and counteroffers, while the Japanese consider it a means to share information.¹⁴

Selection of Negotiators

The criteria used to select negotiators vary across cultures. These criteria can include knowledge of the subject matter up for negotiation, seniority, family connections, gender, age, experience and status. Different cultures weigh these criteria differently, leading to varying expectations about what is appropriate in different types of negotiations.¹⁵

Protocol

The degree to which protocol, or the formality of relations between the two negotiating parties, is different in different cultures. American culture is among the least formal cultures in the world. A generally familiar communication style is quite common and negotiators prefer to use first names, while generally ignoring titles. On the other hand, most European countries are very formal, and not using the proper title when addressing someone is considered insulting.¹⁶

Communication

Cultures influence verbal and nonverbal communication. There are also differences in body language across cultures; a behaviour that may be highly insulting in one culture may be completely innocuous in another. To avoid offending the other party in negotiations across borders, the international negotiator needs to observe cultural rules of communication carefully.¹⁷

¹³ R.J. Lewicki et al., *Essentials of Negotiation*, (New York: McGraw-Hill/Irwin, 2004) at 215.

¹⁴ *Id.*

¹⁵ *Ibid.*, at 216.

¹⁶ *Supra* note 14, at 216.

¹⁷ *Id.*

Time

Cultures largely determine what time means and how it affects negotiations. In most Western cultures, people tend to respect time by appearing for meetings at an appointed hour, being sensitive to not wasting the time of the other people, and generally holding that “faster” is better than “slower” because it symbolizes high productivity. In traditional societies, the pace is slower. This tends to reduce the focus on time as these cultures prefer to focus on the task, regardless of the amount of time that it takes. The opportunity for misunderstandings because of different perceptions of time is great during cross-cultural negotiations.¹⁸

Risk Propensity

Cultures vary in the extent to which they are willing to take risks. Some cultures tend to produce bureaucratic, conservative decision makers who want a great deal of information before making decisions. Other cultures produce negotiators who are more entrepreneurial and who are willing to act and take risks when they have incomplete information. The orientation of a culture toward risk affects negotiations substantially in that the content of the negotiated outcome may vary. Those in risk-avoiding cultures are more likely to seek further information and take a wait-and-see stance.¹⁹

Groups versus Individuals

Cultures differ according to whether they emphasize the individual or the group. Individual-oriented cultures value and praise independence and assertion. Group-oriented cultures, in contrast, favour the superiority of the group and see individual needs as second to the group’s needs. This cultural difference can have a variety of effects on negotiation. Decision-making in group-oriented cultures involves consensus and may take considerably more time than in individual-oriented cultures. In addition, because so many people can be involved in the negotiations in group-oriented cultures, and because their participation may be sequential rather than simultaneous, negotiators must be prepared to face a series of discussions over the same issues and materials with many different people.²⁰

Nature of Agreements

Culture also has an important effect both on concluding agreements and on what form the negotiated agreement takes. In advanced legal systems, agreements are formal, and enforced through the legal system if the standards mentioned in the agreement are not honoured. In other cultures, however, who you are or whom you know forms the basis for obtaining a deal (e.g. family, political connections) rather than on

¹⁸ *Id.*

¹⁹ *Supra* note 14, at 217.

²⁰ *Id.*

what you can do. In addition, agreements do not mean the same thing as they do in all cultures. The Chinese frequently use memorandums of agreement to formalize a relationship and to signal the start of negotiations whereas Americans interpret the same memorandum of agreement as the completion of the negotiations that is enforceable in a court of law. Again, cultural differences in how to close an agreement and what exactly that agreement means can lead to confusion and misunderstandings when negotiating across borders.²¹

The visible manifestations of protocol and deportment and the deeper cultural characteristics that influence how people interact form integral parts of cross-cultural negotiating etiquette. Lapses in etiquette can derail negotiations. The list enumerating various cultural quirks goes on and on and can certainly help the negotiator to avoid mistakes. However, the complexity and detail of these rules makes it difficult to memorize, and the likelihood of regional variation further complicates matters.²²

Nonetheless, negotiators would do well to consider a range of questions about these mannerisms when preparing for international negotiations, either by consulting the literature or by engaging in conversations with people who have experienced the culture at hand.²³ Table 6 outlines the categories of surface behaviours most likely to affect the tenor of negotiations. While the list is not exhaustive, seeking answers to those questions will at least provide a degree of familiarity with the basic do's and don'ts in any given culture.

Players and Process

While it is important for a negotiator to learn about culture and negotiating style, it may be more crucial to know about the organization that the negotiators belong to and the process they must follow in seeking final approval of the agreement. A meaningful business agreement goes through a hierarchy of individuals in an organization before it is finalized. Therefore, it is useful to find out who the individuals are that might influence the negotiation outcome, what role each individual plays and what the informal networking relationships are between the individuals that might affect the negotiation.²⁴

Key Individuals

Key individuals are those people both inside and outside the company whose approval must be sought before a negotiated deal is finalized. For example, in the United States of America, any large deal must be

²¹ *Id.*

²² J.K. Sebenius, "The Hidden Challenge of Cross-Border Negotiations," *Harvard Business Review*, March 2002, 77-89, at 85.

²³ *Id.*

²⁴ *Ibid.*, at 77.

approved by the company's top officers and the Board of Directors, as well as the Securities and Exchange Commission, the Federal Trade Commission and others.²⁵

It is essential that the attitude of key individuals toward particular types of agreements be thoroughly examined before beginning to negotiate. To avoid any unpleasant surprises, a negotiator must compile a list of all individuals who have a say in an agreement.

Decision Process

Equally important is the need to understand the role each individual is likely to play in the approval process. The questions that the negotiator should get answered are:

- What are the particular aspects of the deal is an individual concerned with?
- Who has the authority to override the concerns a person might raise?
- What kind of information can be used to generate a favourable response from different individuals?²⁶

Informal Influences

Many countries have webs of influence that are more powerful than the formal managerial executives. These influences may not have formal standing, but they can make or break negotiations. A negotiator should determine the role of such influences and factor them into his or her negotiation approach.²⁷

However, simply knowing the individuals who are involved in the process is not enough. When negotiating with people, a negotiator is typically seeking to influence the outcome of an organizational process that takes different shapes in different cultures. Since different processes call for different negotiating strategies, a negotiation approach should be carefully crafted depending on the individuals involved and the process they follow.

Abandoning 'Getting To Yes'

The 'Getting to Yes' approach to cooperative, problem-solving conflict resolution is characterized by its four core principles:

1. Separating the people from the problem;
2. Focusing on interests and not on positions;

²⁵ *Supra* note 22, at 77.

²⁶ *Supra* note 22, at 78.

²⁷ *Id.*

3. Inventing options for mutual gain; and
4. Using objective criteria.

This approach is so representative of American values that it is useless in a cross-cultural conflict. It reflects high individualism, medium power distance index, and low uncertainty avoidance.

The first principle of ‘separating the people from the problem’ reflects an individualistic perspective which clashes with collectivist cultures where there is more of a focus on building and maintaining relationships than on the tasks at hand or the issues being negotiated. In such countries, it may be impossible and unwise to ‘separate the people from the problem’ as the people are intertwined with the problem and in some cases, might even be the problem. This fact needs to be addressed and negotiation strategies chosen accordingly.²⁸

In high power distance cultures, having and maintaining power is a critical interest and negotiators adopt positions that relate to hierarchy and power interests. Negotiators may be less concerned with apparent substantive interests than appearing powerful. Negotiators not only want to be powerful, they also must look powerful to maintain their status and hierarchy. In this sense, a negotiated solution must not only be good, it must also look good.

The idea of ‘inventing options’ suggests a willingness to try novel, and not-yet-proposed solutions, or at least solutions that were not proposed initially by one of the parties to the negotiation. Inventing options is the norm in uncertainty avoidance cultures, such as the U.S. However, for someone from a high uncertainty avoidance culture, what is different is dangerous. They have an interest in avoiding uncertain situations and nurturing the status quo.

Striving for ‘mutual gain,’ or win-win goals, or anyone else’s goals, might seem quite naive or feminine for someone from a culture high in masculinity. In such a culture, aggression, competition, and dominance are prime cultural beliefs and any approach that deviates from this is weak. Negotiators from such cultures are more likely to use a competitive negotiation style and seek win-lose solutions. Thus, to negotiators from a masculine culture, the ‘Getting to Yes’ approach to negotiation might sound like an approach for the weak. More importantly, establishing objective criteria may be exceptionally difficult for negotiators from different cultures who hold different values. What is fair to one side, may not seem completely unfair to the other.

²⁸ J. Barkai, “Cultural Dimension Interests, The Dance of Negotiation, and Weather Forecasting: A Perspective on Cross-Cultural Negotiation and Dispute Resolution,” *Pepperdine Dispute Resolution Law Journal*, 8 Pepp. Disp. Resol. L.J. 403, at 444.

The 'Getting to Yes' approach to negotiation is perhaps, the most culturally insensitive negotiation strategy. Thus, it is pertinent to discuss culturally sensitive negotiation strategies.

Culturally Responsive Negotiation Strategies

While there has been considerable scholarship on international and cross-cultural negotiation, scant attention has been devoted to giving prescriptive advice to those facing the challenge of international negotiation. Two contributions stand out as universally practical and particularly effective.

Initially, many negotiation scholars advised the practitioners to follow the approach attributed to Saint Augustine: "When in Rome, do as the Romans do."²⁹ Currently, there is a widespread consensus that this advice is oversimplified and therefore rather impractical.³⁰ Ideally, international and cross-cultural negotiators should:

1. *Anticipate differences in strategy and tactics that may cause misunderstandings.* It has been established that a negotiator's culture affects his/her negotiating behaviour and style. Anticipating these differences is a source of advantage in international negotiations. Awareness of cultural differences reduces the negative attributions about the negotiation partner and helps view the difference as an inherent part of international negotiation process.
2. *Analyze cultural differences to identify differences in priorities that create value.* Differences add value to negotiation rather than similarities. A high level of cultural differences in international negotiations implies greater potential for integrative agreements.
3. *Recognize that the other party may not share your view of what constitutes power.* Power or the ability to influence other people's decisions, is highly subjective and therefore context dependent. International negotiators should be aware that the other party's estimate of power is based on completely different factors that may even seem unimportant. Engaging in a power contest may reduce the probability of an integrative agreement.
4. *Avoid attribution errors.* Attribution error occurs when people assume that a person's behaviour is influenced more by what "kind" of person he is, rather than on the social and environmental forces that influence that person. Culturally sensitive negotiators should view their partners' behaviour within the prism of cultural and situational norms and not attribute it to their underlying personality.
5. *Find out how to show respect in the other culture.* It is very important to show respect for the other party before starting negotiation. However, it is wrong to assume that display of respect is the same way in each country.

²⁹ J.N.P. Francis, "When in Rome? The Effects of Cultural Adaptation on Intercultural business Negotiations," *Journal of International Business Studies*, Vol. 22, 1991, 403-428.

³⁰ *Id.*

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TABLE 1**Difference between Low-Context Culture and High-Context Culture**

LOW-CONTEXT CULTURE	HIGH-CONTEXT CULTURE
Overtly display meanings through direct communication forms.	Implicitly embeds meanings at different levels of the sociological context.
Values individualism.	Values group sense.
Tends to develop transitory personal relationships.	Tends to take time to cultivate and establish permanent person relationships.
Emphasizes linear logic.	Emphasizes spiral logic.
Values direct verbal interaction is less able to read non-verbal expressions.	Values indirect verbal interaction and is more able to read non-verbal expressions.
Tends to use “logic” to present ideas.	Tends to use more “feeling” in expression.
Tends to emphasize highly structured messages, give details, and place great stress on words and technical signs	Tends to give simple, ambiguous, non-contextual messages.
Perceive highly verbal persons favourably.	Perceive highly verbal persons favourably.

TABLE 2**Power distance scores for a sampling of countries**

COUNTRY	POWER DISTANCE INDEX	COUNTRY	POWER DISTANCE INDEX
Malaysia	104	South Korea	60
Philippines	94	Taiwan	58
Russia	93	Spain	57
Mexico	81	Japan	54
China	80	Italy	50
Indonesia	78	Australia	36
India	77	United Kingdom	35
USA	40	Germany	35
France	69	Sweden	31
Hong Kong	68	Norway	31

SOURCE: G. Hofstede, *Culture and Organizations: Software of the Mind* (London: McGraw-Hill, 1991).

TABLE 3

Individualism scores for a sampling of countries

COUNTRY	INDIVIDUALISM SCORE	COUNTRY	INDIVIDUALISM SCORE
United States of America	91	India	48
Australia	90	Japan	46
United Kingdom	89	Russia	39
Canada	80	Brazil	38
Netherlands	80	Germany	35
New Zealand	79	China	20
Spain	51	Singapore	20
Thailand	20	Taiwan	17
South Korea	18	Indonesia	14

SOURCE: G. Hofstede, *Culture and Organizations: Software of the Mind* (London: McGraw-Hill, 1991).

TABLE 4**Masculinity scores for a sampling of countries**

COUNTRY	MASCULINITY SCORE	COUNTRY	MASCULINITY SCORE
Slovakia	110	United Kingdom	66
Japan	95	Germany	66
Hungary	88	United States of America	62
Austria	79	Australia	61
Italy	70	South Korea	30
Mexico	69	Thailand	34
China	66	Finland	26
India	56	Norway	8
Denmark	16	Sweden	5

SOURCE: G. Hofstede, *Culture and Organizations: Software of the Mind* (London: McGraw-Hill, 1991).

TABLE 5

Uncertainty Avoidance scores for a sampling of countries

COUNTRY	UNCERTAINTY AVOIDANCE INDEX	COUNTRY	UNCERTAINTY AVOIDANCE INDEX
Greece	112	Indonesia	48
Portugal	104	United States of America	46
Japan	92	Philippines	44
Spain	86	India	40
South Korea	85	United Kingdom	35
Mexico	82	China	30
Germany	65	Hong Kong	29
Sweden	29	Singapore	8

SOURCE: G. Hofstede, *Culture and Organizations: Software of the Mind* (London: McGraw-Hill, 1991).

Table 6

Do's and Don'ts in Protocol and Deportment

Greetings	How do people greet and address one another? What role do business cards play?
Degree of Formality	Will my counterparts expect me to dress and interact formally or informally?
Gift Giving	Do businesspeople exchange gifts? What gifts are appropriate? Are there taboos associated with gift giving?
Touching	What are the attitudes toward body contact?
Eye Contact	Is direct eye contact polite? Is it expected?
Deportment	How should I carry myself? Formally? Casually?
Emotions	Is it rude, embarrassing, or usual to display emotions?
Silence	Is silence awkward? Expected? Insulting? Respectful?
Eating	What are the proper manners for dining? Are certain foods taboo?
Body Language	Are certain gestures or forms of body language rude?
Punctuality	Should I be punctual and expect my counterparts to be as well? Or are schedules and agendas fluid?

SOURCE: J.K. Sebenius, "The Hidden Challenge of Cross-Border Negotiations," *Harvard Business Review*, March 2002, 77-89.