CHAPTER
13

Phases, Techniques and Tools of Negotiation

https://doi.org/10.61030/rvfk-edkg

Introduction

The previous chapters have explained what is at stake in a negotiation, where power comes from and how strategic interaction can be analysed. Negotiators, however, must also act: they must open the talks, make offers, respond to the other side's proposals, decide when and how much to concede, close an agreement and then live with it. This chapter turns from analysis to practice. It examines the phases through which negotiations pass, the techniques most useful in each phase and the practical tools helping negotiators to manage complex talks.

The chapter proceeds in four steps. Section 13.1 asks how talks open: how agendas are set, who should make the first offer and how ambitious it should be. Section 13.2 examines offers and concessions: their size, their timing and what their pattern signals to the other side. Section 13.3 asks how agreements are closed, drafted and implemented, a phase that negotiators often neglect, although it determines whether the value created at the table is realised. Section 13.4 presents tools that bring structure to complex negotiations: planning templates, issue matrices, scoring systems and the single negotiating text.

The chapter draws on all three pillars of the book's framework. Offers and concessions divide **profit**; their timing and sequence reflect **power**; and the way they are presented and justified is a matter of **persuasion**. It builds on the phases introduced in Chapter 4, the preparation of Chapter 7 and the tactics of claiming and creating value in Chapter 8. Its Deal File follows one of the longest negotiations in the history of international trade: the agreement between the European Union and Mercosur, the trading bloc of Argentina, Brazil, Paraguay and Uruguay, which took more than a quarter of a century to negotiate and was still being contested after it had been signed.

DEAL FILE

EU–Mercosur, a Quarter-Century Negotiation

Negotiations between the European Union and Mercosur began in 1999. They were meant to create one of the largest free trade areas in the world, linking more than 700 million people. In 2024 trade in goods between the two blocs was worth more than €111 billion, almost evenly balanced, with EU exports of about €55.2 billion and imports of about €56 billion; more than 80 per cent of this trade was with Brazil (Council of the EU, 2026). The interests were clear: European manufacturers of cars, machinery, chemicals, wine and cheese wanted access to protected South American markets, while South American producers of beef, poultry, sugar, ethanol and soya wanted better access to Europe's.

The same interests made the negotiation difficult. European farmers, particularly in France, Ireland and Poland, feared competition from South American agriculture produced under different environmental and food-safety standards. Environmental groups warned that the agreement would encourage deforestation in the Amazon. South American governments, for their part, sought protection for their industries and resisted European demands on sustainability. The talks were interrupted for long periods. A political agreement reached in 2019 was reopened, and the negotiations were concluded in December 2024.

Table 13.1

The EU–Mercosur agreement at a glance

Parties	The European Union, represented by the European Commission; Mercosur, comprising Argentina, Brazil, Paraguay and Uruguay; within the EU, the member states and the European Parliament
At stake	The removal of most tariffs on trade between the two blocs; access for EU manufactured goods and services; access for Mercosur agricultural products; environmental and food-safety standards
Timeline	Negotiations launched in 1999; political agreement in 2019; negotiations concluded in December 2024; approval by the Council on 9 January 2026; signature in Asunción on 17 January 2026; referral by the European Parliament to the Court of Justice on 21 January 2026; provisional application from 1 May 2026
Terms	Gradual elimination of tariffs on more than 90 per cent of trade in each direction, saving EU exporters an estimated €4 billion a year in duties; tariff cuts phased in over periods of up to 18 years for sensitive products; tariff-rate quotas and special safeguard arrangements for EU agriculture; commitments on sustainable development

Note. Author, based on Council of the EU (n.d.), European Parliament (2026a), European Commission (2026b) and Fleischhauer Corrêa da Costa and Regazzoni (2026).

The final phase. The closing phase was as contested as the negotiation itself. To allow the trade provisions to take effect without ratification by every national parliament, the agreement was divided into two instruments. The EU–Mercosur Partnership Agreement, which combines political dialogue, cooperation and trade, requires ratification by every member state. The Interim Trade Agreement covers only trade and investment liberalisation, needs to be ratified only by the EU and will expire when the Partnership Agreement enters into force (Council of the EU, n.d.). On 9 January 2026 the Council of the EU authorised the signature of both instruments by a qualified majority of 21 member states to 5: Austria, France, Hungary, Ireland and Poland voted against, and Belgium abstained (Fleischhauer Corrêa da Costa & Regazzoni, 2026). The agreements were signed in Asunción, Paraguay, on 17 January (Council of the EU, n.d.). Four days later, the European Parliament voted by 334 to 324, with 11 abstentions, to ask the Court of Justice of the EU for an opinion on whether the agreement was compatible with the EU Treaties. Parliament could not vote on its consent until the Court had given its opinion (European Parliament, 2026a). The Mercosur side moved quickly: Argentina ratified the Interim Trade Agreement on 26 February 2026, Uruguay on 27 February and Brazil's Senate on 4 March (Fleischhauer Corrêa da Costa & Regazzoni, 2026), and by 23 March Paraguay had ratified it too. The Commission then announced that the Interim Trade Agreement would apply provisionally from 1 May 2026 (European Commission, 2026b), a decision seen by opponents as sidestepping the Parliament. Figure 13.1 shows how narrowly the agreement passed through the EU's institutions.

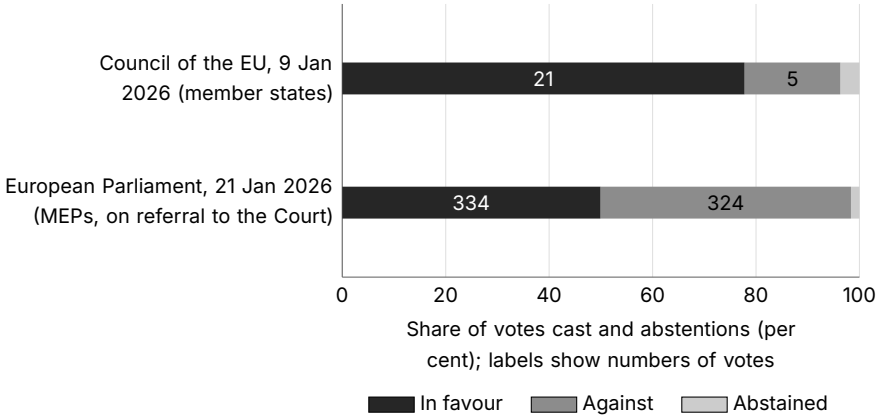
Questions to keep in mind. Why did a negotiation with such obvious gains for both sides take more than twenty-five years? How did each phase, from the opening to the closing, shape the next? Why did the closing phase reopen questions that seemed settled? And what tools might have helped the negotiators manage so many issues, parties and constituencies? The chapter answers these questions in turn.

13.1 How Do Talks Open?

Chapter 4 set out the phases through which most negotiations pass, from preparation to implementation. This chapter does not repeat that sequence. It asks instead what a negotiator should actually do at each turning point, beginning with the moment at which the talks open, and it asks what each choice is worth in terms of the profit that will eventually be divided.

Figure 13.1

Votes on the EU–Mercosur agreement in EU institutions, January 2026



Note. Author, based on Fleischhauer Corrêa da Costa and Regazzoni (2026) and European Parliament (2026a). The Council votes are those of member states on 9 January 2026; the Parliament votes are those of Members of the European Parliament on the referral to the Court of Justice on 21 January 2026. A vote "in favour" in the Parliament was a vote for the referral, which delayed consent.

Getting to the Table

Before parties negotiate the substance of a deal, they must first agree to negotiate at all. Saunders (1985) argued that this **pre-negotiation** phase deserves more attention than it usually receives. In it the parties decide that a negotiated solution is worth exploring, define the problem in terms each can accept, agree who will take part and settle the broad terms of reference. Much of the eventual outcome is shaped here, because a problem defined narrowly allows only narrow solutions, while a problem defined broadly invites trades across many issues.

Pre-negotiation is also where the costs of negotiating are weighed. Talks absorb management time, reveal information and create expectations among constituents. A firm or government enters them only when it expects the gains from an agreement, discounted for the probability of reaching one, to exceed these costs. This calculation explains why so many negotiations begin with exploratory contacts, framework agreements and statements of intent rather than formal offers: such steps lower the cost of finding out whether a zone of possible agreement exists before either side commits its reputation to the outcome.

The EU–Mercosur negotiations illustrate the point. A framework cooperation agreement signed by the two blocs in 1995 committed them to work towards closer trade relations before any formal negotiation on tariffs had begun, and

the formal talks launched in 1999 inherited its broad definition of the problem: a comprehensive agreement covering goods, services, investment, public procurement and cooperation, rather than a narrow arrangement for a few products. That definition created the potential for large gains from trade, but it also brought every sensitive constituency on both sides into the negotiation from the start.

Setting the Agenda

The opening phase of a negotiation shapes everything that follows. Before any offer is made, the parties must agree, explicitly or implicitly, on who will take part, which issues will be discussed, in what order and under what rules. These procedural choices are rarely neutral. An agenda beginning with the issues on which agreement is easy can build momentum and trust; one beginning with the hardest issue can test the parties' resolve early. An agenda linking issues allows trades among them, as Chapter 8 showed; one separating them may simplify the talks but prevent the creation of value. Table 13.2 summarises the main choices in setting the agenda.

Table 13.2

Choices in setting the agenda

Choice	Advantages	Risks
Easy issues first	Builds momentum, trust and a habit of agreement	Leaves the hardest issues to the end, under time pressure
Hard issues first	Tests feasibility early; avoids wasted effort	Early deadlock may end the negotiation
All issues together, as a package	Allows trades across issues; nothing agreed until everything agreed	Complexity; slow progress
Issues one at a time	Simplicity; visible progress	Prevents trades; each issue becomes distributive
Agreed principles first, details later	Creates a framework, as in the formula and detail of Zartman and Berman (1982)	Principles may later be interpreted differently

Note. Author, based on Zartman and Berman (1982) and Lewicki et al. (2020).

Many complex negotiations adopt the rule that "nothing is agreed until everything is agreed". The rule allows negotiators to make provisional concessions on some issues without fear that the other side will pocket them and demand more, and it preserves the possibility of trading across issues until the end. The EU–Mercosur negotiations followed this rule, which helps to explain both their length and their final shape, a package in which concessions on agriculture were traded against access for industry.

The First Offer

Should a negotiator make the first offer? Chapter 7 showed that first offers can act as **anchors**, pulling the final outcome towards them (Galinsky & Mussweiler, 2001). Making the first offer is therefore often an advantage, particularly when the negotiator has good information about the value of what is being negotiated. It is a disadvantage when the negotiator knows little and risks opening too low as a seller, or too high as a buyer, leaving value on the table. In that case it may be wiser to let the other side open and to use its offer as information.

A first offer should be ambitious but justifiable. An offer which is too modest gives away value; an offer so extreme that the other side regards it as unserious can damage the relationship or end the talks. The best first offers are near the top of what can be defended with objective criteria, accompanied by a clear rationale and, where several issues are involved, presented as packages that reveal the negotiator's priorities only selectively, as the multiple equivalent offers described in Chapter 8 allow.

KEY MOVE

Treat the opening as a negotiation in its own right. Shape the agenda to allow trades across issues, decide in advance whether you will make the first offer and, if you do, make it ambitious, justified and hard to dismiss.

13.2 How Should Offers and Concessions Be Made?

The Size and Pace of Concessions

After the opening, negotiations typically proceed through an exchange of offers and concessions. Chapter 8 introduced the "negotiation dance" and the pattern of diminishing concessions. Three principles guide the making of concessions.

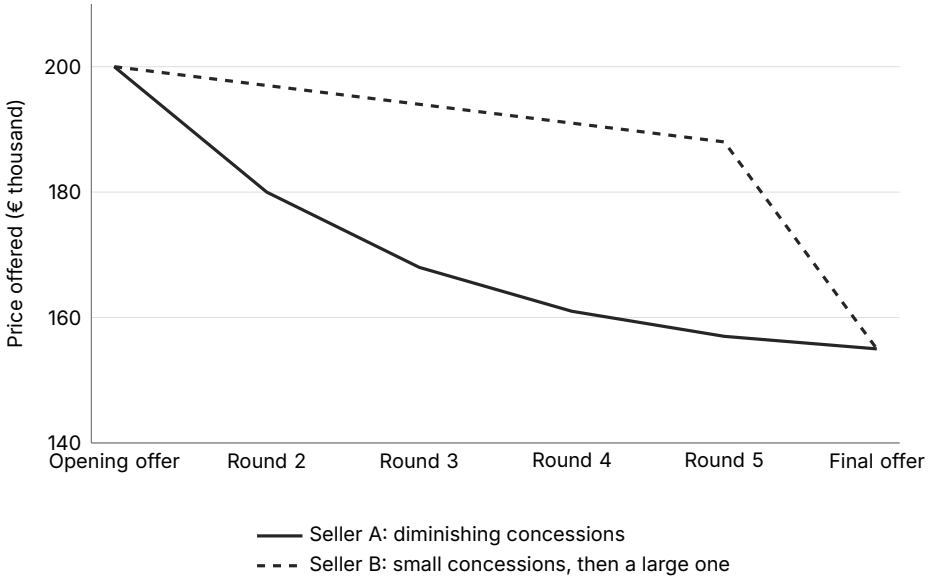
The first is **reciprocity**: concessions should be exchanged, not given away. A negotiator who concedes without receiving anything in return teaches the other side to expect more. Linking each concession to a concession from the other side, for example with the words "if you can accept our delivery schedule, we can consider a lower price", makes the exchange explicit.

The second is **diminishing size**. Concessions becoming smaller over time signal that the negotiator is approaching his or her limit, while concessions staying large or growing suggest much more room to move. Figure 13.2 compares two sellers who begin and end at the same prices but follow different patterns.

Seller A's pattern signals clearly that it is close to its limit. Seller B's pattern, with a large concession at the end after a series of small ones, invites the buyer to

Figure 13.2

Two patterns of concession by a seller (offers in € thousand)



Note. Author's illustrative example. Seller A makes concessions of diminishing size; Seller B makes small concessions and then a large one in the final round.

keep pressing, since the last move suggests that more room may remain. Experimental research points the same way: negotiators who began tough and then became more conciliatory obtained more concessions from their counterparts than those who began soft and later became tough (Hilty & Carnevale, 1993), although toughness carried too far risks deadlock.

The third principle is **justification**. Each concession should be accompanied by a reason, ideally one linked to an objective criterion or to a new piece of information. A concession presented as a response to new information does not signal weakness; a concession presented without a reason invites the other side to ask for another.

Estimating a Limit from the Concession Pattern

Chapter 8 showed in a worked example what a pattern of diminishing concessions signals. The signal can also be put to quantitative use, to estimate where the other side's limit lies. Consider again Seller A in Figure 13.2. Its concessions in successive rounds were €20,000, €12,000, €7,000, €4,000 and €2,000. Each is roughly six-tenths of the one before. If the pattern continues, the sum of all remaining concessions will be small: a further €1,200, then about €700, then about

€400, and so on, adding up to roughly €3,000 in total. A buyer who reads the pattern in this way would estimate Seller A's limit at about €152,000 and would conclude that pressing for much more than another few thousand euros is likely to waste time and goodwill.

Seller B's pattern supports no such inference. Its concessions of €3,000 in each of four rounds give no sign of approaching a limit, and the final concession of €33,000 suggests that the earlier firmness was a tactic rather than a constraint. A buyer facing Seller B has every reason to continue pressing, because the seller has taught it that patience pays.

The calculation is simple, but it rests on an assumption the other side may exploit: that the pattern of concessions reflects the true limit. A skilled negotiator can shape its pattern deliberately to suggest a limit that is higher, for a seller, than the real one. Reading concessions therefore works best in combination with other evidence, such as market prices, the other side's alternatives and the reasons it gives for each move. It also cuts both ways. A negotiator who concedes erratically, or who makes a large concession late in the talks, sends a signal that it may not intend, and pays for it in the profit it leaves on the table.

Tactics in the Middle Phase

The middle phase of a negotiation is where most tactics are used. Table 13.3 summarises several common ones and how to respond to them; Chapter 17 examines difficult tactics in more detail.

Table 13.3

Common tactics in the middle phase of a negotiation

Tactic	How it works	Response
Bracketing	Making offers so that the midpoint is the outcome one wants	Re-anchor with your own justified offer
Trial balloons	"What if" proposals that test the other side's reaction without commitment	Respond to the substance; ask for a firm proposal
Packaging	Combining issues into a single offer to permit trades	Evaluate the package as a whole, using a scoring system
Nibbling	Asking for small additional concessions after the main deal seems agreed	Ask for something in return; treat the deal as a whole
Good cop, bad cop	One negotiator appears tough, another reasonable	Address the substance, not the roles
Limited authority	Claiming that a superior must approve any concession	Ask who has authority and how to reach them

Note. Author, based on Lewicki et al. (2020) and Thompson (2020).

DEAL SNAPSHOT

The United Kingdom and the EU Reset Their Relations, 2025

On 19 May 2025, five years after the United Kingdom left the European Union, the two sides held their first summit and agreed a framework for closer relations. The package linked issues valued differently by each side. The EU obtained an extension of its fishing boats' access to UK waters by twelve years, to 2038. The UK obtained agreement to negotiate a common area for food and agricultural trade, which would reduce checks on its exports, in return for following EU rules in this area dynamically. The two sides also committed to work towards a scheme for young people, to explore linking their carbon trading systems and to cooperate on security and defence (McIver & Davies, 2025). Much of the package was a set of principles, with the details left to later negotiations. The case shows how an agenda that links issues of unequal value to each side, here fishing and food trade, can unlock agreement after years of stalemate, and how many negotiations close the formula before they close the detail.

In the EU–Mercosur negotiations, packaging was central. European concessions on beef, poultry and sugar were offered in the form of tariff-rate quotas, limited volumes of imports at reduced tariffs, rather than full liberalisation, and were balanced against Mercosur concessions on cars, machinery and public procurement, with long transition periods for sensitive industries.

KEY MOVE

Concede slowly, in diminishing steps, and only in exchange for something. Give a reason for every concession, and watch the other side's pattern as carefully as it watches yours.

13.3 How Is an Agreement Closed and Implemented?

Closing

Negotiations rarely end smoothly. As the parties approach agreement, each fears conceding too much in the final moments and is tempted to hold out for one more concession. Several techniques help to close a deal: summarising what has been agreed and identifying what remains; proposing a final package that resolves the remaining issues together; splitting the difference on the last gap, with the risks described in Chapter 8; setting or using a deadline; and offering a small concession conditional on immediate agreement. Each carries risks. An **exploding**

offer, one expiring unless accepted quickly, can force a decision but may damage trust; a deadline which is not respected loses credibility.

Drafting

An agreement in principle is not yet an agreement. The parties must record it in terms which are clear, complete enough to guide future conduct and acceptable to the constituencies whose approval is needed. Drafting is itself a negotiation: ambiguity can be a way of postponing disagreements that the parties cannot resolve, but it is also a source of later conflict, as the dispute between Kroger and Albertsons in Chapter 9 showed. Negotiators should check that the written text matches what they believe they have agreed, define key terms, specify procedures for resolving disputes and for amending the agreement, and consider how the agreement will be interpreted by those who were not at the table. When the agreement is drafted in more than one language, each version must carry the same meaning. Moore and Woodrow (2010) describe a negotiation between a Chinese party and a New Zealand shrimp farm that stalled over the phrase "technology transfer": to the New Zealanders it meant sharing know-how, while in translation the Chinese heard it as giving their technology away and losing control of it. Only when the interpreters of both teams identified the difference could the parties agree on wording acceptable to both.

Culture and the Meaning of Closure

Cultures also differ on what the end of a negotiation is. Moore and Woodrow (2010) contrast **contract-oriented** cultures, such as mainstream North American and northern European ones, with cultures of **holistic relationships**, common in many Asian, Middle Eastern and traditional societies. Contract-oriented negotiators expect a written, detailed and binding agreement of limited duration, with explicit consequences for non-compliance and renegotiation only under pre-agreed conditions; they rely on the contract, not the relationship, to secure performance. Negotiators from holistic cultures see agreements, like relationships, as works in progress: terms may be general, oral or open to revision as circumstances change, and compliance rests on commitment, honour and continuing contact. Each side can misread the other. Contract-oriented negotiators may suspect bad faith when terms keep shifting, while their counterparts may see insistence on exhaustive terms as rigid and distrustful. When Mazda opened a car plant in Flat Rock, Michigan, its Japanese managers sought a flexible agreement with the American workforce, one which could be adjusted within a continuing relationship; over time workers and managers asked for a more formal contract, and the Japanese managers found their American staff resolving disputes in a more adversarial way than they had expected (Moore & Woodrow, 2010).

The procedures by which an agreement is approved vary in the same way. A negotiator may have authority to approve it alone; it may need to pass through a bureaucracy; it may be circulated up and down a hierarchy until a consensus forms, as in the Japanese *ringi* process described in Chapter 18; or it may be put to a vote of union members or to a meeting of the community. Agreeing early how each side will approve the outcome avoids the surprise of a deal the people at the table cannot deliver.

Implementation

Ertel (2004) argued that many negotiators focus so intently on getting to agreement that they neglect what happens afterwards. An agreement which is hard to implement, poorly understood or unsupported by the people carrying it out, or resented by the other side, may produce less value than a more modest agreement that works. He recommended negotiating as if implementation mattered: involving those who will implement the agreement, discussing how it will be put into practice, anticipating problems and agreeing how they will be handled.

The Deal File shows how implementation can reopen a negotiation. The signature of the EU–Mercosur agreement did not end the conflict over it. The European Parliament's referral to the Court of Justice, the provisional application of the trade agreement by the Commission and the continuing protests of farmers all reflected constituencies that did not regard the closing as legitimate. A negotiation concentrating on reaching agreement with the other side, but neglecting the two-level game described in Chapter 4, risks an agreement which cannot be implemented.

Building in Review and Renegotiation

Chapter 8 described the post-settlement settlement, in which parties who have already agreed look for a package that would make both better off. Many agreements go further and write the possibility of improvement into the text. **Review clauses** require the parties to meet at fixed intervals to assess how the agreement is working; **price adjustment formulas** link payments to indices so that changes in costs do not have to be renegotiated from scratch; **reopener clauses** allow one party to reopen specified terms if defined events occur; and **joint committees** give the parties a standing forum in which to settle problems before they become disputes.

Each device trades a little certainty for flexibility, and the trade has an economic logic. Chapter 2 showed that long-term contracts are always incomplete, because no one can foresee every contingency. A contract without any mechanism for adjustment leaves the parties to renegotiate whenever circumstances change, and the party which has made specific investments is then exposed to

DEAL SNAPSHOT

Paying College Athletes, 2025

For decades the National Collegiate Athletic Association (NCAA) prohibited American universities from paying their athletes. A series of antitrust lawsuits challenged the rule, and in 2024 the NCAA and the largest athletic conferences agreed to settle the case known as *House v. NCAA*. On 6 June 2025 a federal court in California gave final approval to the settlement. The defendants agreed to pay US$2.576 billion in compensation to former and current athletes, and from the 2025–26 academic year each university may pay more than US$20 million a year directly to its athletes. The rules on payments run for ten academic years, and disputes over deals between athletes and third parties must be resolved through neutral arbitration (*In re College Athlete NIL Litigation*, 2025). The settlement shows the importance of implementation: an agreement reached in court required new institutions, new rules and new procedures before it could work, and its effects on smaller sports and on athletes outside the settlement continued to be debated after approval.

hold-up. A contract with well-designed review and adjustment mechanisms reduces this risk, because it settles in advance how surplus will be shared when the unexpected happens. The cost is that reopeners and reviews can be used strategically, to reopen terms one side simply regrets having accepted. Good drafting therefore defines the triggering events narrowly, limits what can be reopened and specifies what happens if the parties fail to agree, for example by referring the issue to an expert or to arbitration, as described in Chapter 5.

Trade agreements use the same devices on a larger scale. The EU–Mercosur agreement establishes institutional bodies to oversee its application and includes bilateral safeguard procedures that allow tariff preferences to be suspended temporarily if imports surge and harm domestic producers. The EU's separate safeguard regulation for agriculture, adopted by the Council on 5 March 2026, allows tariff preferences on Mercosur farm imports to be suspended temporarily, through faster procedures than existing instruments, and provides for closer monitoring of sensitive products such as beef, poultry, sugar and rice (Council of the EU, n.d.). It is a reminder that such mechanisms are often negotiated not with the other side but with one's own constituents, as the price of their consent to the closing.

KEY MOVE

Before you close, test the agreement against the people who must approve and implement it. Draft clearly, agree how disputes and changes will be handled and plan the implementation as carefully as the negotiation.

13.4 Which Tools Help? Templates, Issue Matrices and Scoring Systems

The Planning Template and the Issue Matrix

Chapter 7 introduced a planning template that brings together a negotiator's goals, interests, alternatives, targets, limits and priorities. For negotiations with many issues, an **issue matrix** extends the template. It lists each issue, the negotiator's target and limit, an estimate of the other side's target and limit, the relative importance of the issue to each side and possible trades. The matrix makes it easy to see where interests differ, and therefore where value can be created, and where they conflict directly.

Scoring Systems

When a negotiation involves many issues, it can be hard to compare packages that differ on several of them at once. A **scoring system** assigns points to each possible outcome on each issue, reflecting its value to the negotiator, so that the total score of any package can be calculated and compared with the negotiator's reservation score. Raiffa (1982) described how such systems can be constructed from a negotiator's priorities. Table 13.5 shows a simple example.

A worked example. Suppose the supplier in Table 13.5 has decided, after studying its alternatives, that any package scoring less than 50 points is worse than its best alternative, which is to sell the same output to an existing customer on standard terms. Fifty points is therefore its **reservation score**, the multi-issue equivalent of a reservation price. During the talks the buyer proposes two packages:

- Package X: €95, 40,000 units, 1 year, 60 days and 2 weeks, which scores $30 + 10 + 0 + 2 + 1 = 43$ points.
- Package Y: €85, 60,000 units, 3 years, 45 days and 2 weeks, which scores $10 + 30 + 15 + 6 + 1 = 62$ points.

A negotiator who focused only on price would prefer Package X, which offers €10 more per unit. The scoring system shows that Package X falls below the reservation score and should be rejected, while Package Y, despite the lower price, is well above it. The difference comes from volume and contract length, which the

Table 13.4

An issue matrix for a supply negotiation (supplier's view)

Issue	Our target	Our limit	Their likely target	Importance to us	Likely importance to them	Possible trade
Price per unit	€100	€85	€80	High	High	Concede on price for volume
Annual volume	60,000	35,000	40,000	High	Medium	Offer price discount above 50,000
Payment terms	30 days	60 days	75 days	Low	High	Accept longer terms for higher price
Contract length	3 years	1 year	2 years	Medium	Low	Seek longer contract at little cost to them
Delivery time	4 weeks	2 weeks	2 weeks	Low	High	Concede on delivery for price

Note. Author's illustrative example.

Table 13.5

A simple scoring system for a supply negotiation (supplier's view, maximum 100 points)

Issue	Weight	Options and points
Price per unit	40	€100: 40; €95: 30; €90: 20; €85: 10
Annual volume	30	60,000: 30; 50,000: 20; 40,000: 10; 35,000: 5
Contract length	15	3 years: 15; 2 years: 10; 1 year: 0
Payment terms	10	30 days: 10; 45 days: 6; 60 days: 2
Delivery time	5	4 weeks: 5; 3 weeks: 3; 2 weeks: 1

Note. Author's illustrative example. A package of €90, 50,000 units, 3 years, 45 days and 2 weeks scores 20 + 20 + 15 + 6 + 1 = 62 points.

supplier values highly and which the buyer may be willing to give because, as Table 13.4 suggests, they matter less to it. The scoring system thus turns the abstract logic of trading across issues into a rule that a negotiating team can apply at the table, under pressure, without losing sight of the profit at stake.

A scoring system makes trade-offs explicit, allows quick evaluation of packages during the negotiation and helps teams to agree on priorities before the talks. Its limitations are threefold: the weights are subjective, interactions between issues may not be captured, and negotiators may treat the scores as more precise than they are.

The Single Negotiating Text

In complex negotiations with many parties and issues, the **single negotiating text** can break deadlock. Instead of each side presenting its own proposals, a mediator or one of the parties drafts a single text, which all parties criticise and which is revised repeatedly until no further improvement can be found. Fisher and Ury (1981) described its use by American mediators at the Camp David talks between Egypt and Israel in 1978. The technique shifts the parties from defending their own positions to improving a common text, and it is widely used in trade and treaty negotiations, in which the negotiating parties work from a consolidated text with bracketed passages marking unresolved issues. Table 13.6 summarises this and other tools for structuring complex negotiations.

Table 13.6

Tools for structuring complex negotiations

Tool	Purpose	Best used when
Planning template (Chapter 7)	Organise preparation on one page	Before any significant negotiation
Issue matrix	Compare targets, limits and priorities across issues	Several issues with different importance to each side
Scoring system	Evaluate and compare packages	Many issues and many possible packages
Single negotiating text	Focus parties on improving one draft	Many parties, entrenched positions, a mediator available
Bracketed consolidated text	Track agreed and unresolved provisions	Long, technical negotiations such as trade agreements

The author's research on trade cooperation between India and Europe, and his companion textbook on multinational strategy, discuss how firms prepare for and use the provisions of trade agreements such as those negotiated by the EU with Mercosur and with India (Kumar, 2026a, 2026b).

KEY MOVE

For any negotiation with more than a few issues, build an issue matrix and a scoring system before you meet. In multi-party talks, propose a single text and invite everyone to improve it.

BACK TO THE DEAL FILE

Reading the EU–Mercosur Negotiations

The tools of this chapter help to explain why the negotiations took so long and why the closing remained contested.

The opening set a broad agenda with a package rule. By treating all issues together and agreeing nothing until everything was agreed, the parties preserved the possibility of trading agriculture for industry, but they also tied every issue to the most difficult one.

Concessions were packaged and phased. European concessions on agriculture were limited by quotas and safeguards; Mercosur concessions on manufactured goods were spread over long transition periods. Phasing allowed each side to make concessions that its constituents could accept.

The closing phase reopened the negotiation inside the EU. The division of the agreement into two instruments, the vote in the Council and the provisional application were procedural choices designed to close the deal; the referral to the Court of Justice was a response by those who considered the closing illegitimate. The narrow vote shown in Figure 13.1 reflected a two-level game in which the European win-set was barely large enough.

Implementation became the next negotiation. Provisional application from May 2026, special safeguard arrangements for agriculture and the pending opinion of the Court of Justice meant that the agreement would continue to be negotiated in its application, through the use of safeguards, the monitoring of standards and the response of member states.

Tools mattered. A negotiation of this scale was conducted through consolidated texts, issue-by-issue working groups and repeated rounds, the tools of Section 13.4 applied over a quarter of a century.

MA EXTENSION

Sequencing and Agenda Setting in Negotiation Theory

Formal models of negotiation show that the order in which issues are negotiated can change the outcome. When issues are negotiated one at a time, each becomes a distributive contest, and the outcome depends on the parties' bargaining power on each issue separately; when they are negotiated as a package, the parties can exploit differences in priorities. Agenda setting can also be a source of power: the party controlling the agenda can determine which proposals are considered and in what order, a point developed in the theory of voting and committees. Apply these ideas to the Deal File. How did the rule that nothing was agreed until everything was agreed affect the parties' incentives? How did the division of the agreement into two instruments change the EU's internal agenda and the power of its different institutions?

ETHICS CHECK

The Commission applied the interim trade agreement provisionally from May 2026, although the European Parliament had asked the Court of Justice for an opinion and had not given its consent. Supporters argued that provisional application was lawful and delay would harm European firms; opponents argued that it bypassed the elected Parliament. When the closing phase of a negotiation is contested, is it legitimate to implement an agreement before all the bodies whose approval is normally required have given it? How should negotiators weigh the benefits of speed against the legitimacy of the process?

Pillar Scorecard

Table 13.7

Pillar Scorecard: the EU–Mercosur negotiations, 1999 to 2026

Pillar	Importance in this case	Evidence
Profit	High	More than €111 billion of annual trade and expected gains for exporters on both sides were at stake
Power	High	Agricultural constituencies, the voting rules of the Council and the powers of the Parliament and the Court shaped each phase
Persuasion	High	Supporters and opponents campaigned over standards, sustainability and fairness to farmers throughout the closing phase

Your Move

This is a constructed teaching case.

You lead a team from a Polish manufacturer of agricultural machinery based in Poznań, negotiating a five-year agreement with a distributor in Brazil now that the EU–Mercosur interim agreement has begun to reduce Brazilian tariffs on your products. The issues include the price to the distributor, minimum annual volumes, exclusivity in Brazil, payment terms, after-sales service and training, and the use of your brand. The distributor wants exclusivity for the whole of Brazil, payment at 120 days and a commitment from you to hold spare parts in São Paulo.

1. Build an issue matrix for the negotiation, using Table 13.4 as a guide.
2. Construct a scoring system for your side and calculate the score of one package you would accept and one you would reject.
3. Plan your opening: would you make the first offer, how would you set the agenda and which issues would you link?
4. How would you plan the implementation of the agreement, given the long transition periods in the EU–Mercosur agreement and the risk that its provisions could change if the Court of Justice found problems?

Conclusion

Negotiations pass through phases, and each calls for different techniques. In the opening, the agenda and the first offer shape everything which follows: agendas linking issues allow value to be created, and well-justified first offers can anchor the outcome. In the middle phase, concessions should be reciprocal, diminishing and justified, and negotiators should watch the pattern of the other side's concessions as carefully as their own. Closing requires techniques for bridging the final gap, careful drafting and attention to the constituencies that must approve the agreement, and implementation, often neglected, determines whether the value created at the table is realised. Tools such as planning templates, issue matrices, scoring systems and single negotiating texts bring structure to complex negotiations. The EU–Mercosur negotiations show all these phases and tools at work over a quarter of a century, and they show that the closing of an agreement can itself become a new negotiation when important constituencies are not persuaded. Chapter 14 turns to negotiations with many parties, coalitions, teams and agents, in which the complexity seen in this chapter is multiplied.

Exercises

A. Objective Questions

1. The rule "nothing is agreed until everything is agreed" mainly allows negotiators to:
   a) make provisional concessions and trade across issues until the end
   b) avoid making any concessions
   c) close the negotiation quickly
   d) negotiate one issue at a time

2. Making the first offer is usually an advantage when the negotiator:
   a) knows little about the value of what is negotiated
   b) is negotiating with a friend
   c) has no alternative
   d) has good information about the value of what is negotiated

3. A pattern of concessions of diminishing size signals that the negotiator:
   a) has much more room to move
   b) is about to walk away
   c) is approaching his or her limit
   d) has no limit

4. Nibbling refers to:
   a) making a very low first offer
   b) asking for small additional concessions after the main deal seems agreed
   c) splitting the difference
   d) using a mediator

5. According to Ertel (2004), negotiators should:
   a) negotiate as if implementation mattered
   b) focus only on reaching agreement
   c) avoid drafting agreements in writing
   d) leave implementation to lawyers

6. A single negotiating text is:
   a) the first offer of the stronger party
   b) the final agreement
   c) a common draft that all parties criticise and revise
   d) a legal opinion

7. On 21 January 2026 the European Parliament voted to refer the EU–Mercosur agreement to the Court of Justice by:
   a) 21 to 5
   b) 334 to 324
   c) 440 to 151
   d) 69 to 3

8. In Table 13.5, a package of €90, 50,000 units, 3 years, 45 days and 2 weeks scores:
   a) 52 points
   b) 62 points
   c) 72 points
   d) 100 points

B. Short-Answer Questions

1. Compare three approaches to setting the agenda of a negotiation, with the advantages and risks of each.
2. When should a negotiator make the first offer, and when should he or she let the other side open?
3. Explain the three principles for making concessions described in this chapter, with reference to Figure 13.2.
4. Describe three tactics used in the middle phase of a negotiation and how to respond to each.
5. Why is drafting itself a negotiation? Give an example of how ambiguity can cause later conflict.
6. Explain how an issue matrix and a scoring system help negotiators in multi-issue negotiations.
7. Describe the single negotiating text and explain why it can break deadlock.

C. Long-Answer Questions

1. Analyse the EU–Mercosur negotiations phase by phase, from the opening to implementation. How did each phase shape the next, and why did the closing remain contested?
2. "The agreement is not the end of the negotiation." Discuss with reference to the EU–Mercosur agreement, the settlement of *House v. NCAA* and the work of Ertel (2004).
3. Compare the closing of the EU–Mercosur agreement with the framework agreed between the United Kingdom and the EU in May 2025. What do they suggest about the relationship between agreeing principles and agreeing details?
4. Design a complete set of tools, including a planning template, an issue matrix and a scoring system, for a multi-issue negotiation of your choice, and explain how you would use them during the negotiation.

Further Reading

Ertel, D. (2004). Getting past yes: Negotiating as if implementation mattered. *Harvard Business Review, 82*(11), 60–68.
Why implementation should be negotiated with the agreement.

Fisher, R., & Ury, W. (1981). *Getting to yes: Negotiating agreement without giving in*. Houghton Mifflin.
Including the single negotiating text at Camp David.

Galinsky, A. D., & Mussweiler, T. (2001). First offers as anchors: The role of perspective-taking and negotiator focus. *Journal of Personality and Social Psychology, 81*(4), 657–669.
The power of first offers.

Hilty, J. A., & Carnevale, P. J. (1993). Black-hat/white-hat strategy in bilateral negotiation. *Organizational Behavior and Human Decision Processes, 55*(3), 444–469.
Experimental evidence on sequences of tough and soft concessions.

Kumar, P. (2013a). The US factor in the relations between the European Union and India. In *UTKARSH: Opportunities and challenges in business management*. Himalaya Publishing House.
The author's analysis of how third parties shape the EU's trade negotiations with a large emerging economy.

Kumar, P. (2013c). Evolution of India and the European Union trade relations: A realistic approach towards cooperation. In R. Chopra (Ed.), *Beyond norms: Strategies for excellence* (pp. 164–174). Bloomsbury Publishers.
The long negotiation of trade relations between India and the EU.

Kumar, P. (2026a). *Multinational enterprise strategy in the global economy: Theory, evidence, and international case studies*. University of Opole Publishing House (forthcoming).
The author's companion text, including the use of trade agreements by multinational firms.

Kumar, P. (2026b). Entrepreneurship in a fragmented world: India–Europe trade cooperation as a catalyst for business development. *Ovidius University Annals, Economic Sciences Series, 26*(1), 59–68.
Trade negotiation and cooperation between India and Europe.

Lewicki, R. J., Saunders, D. M., & Barry, B. (2020). *Negotiation* (8th ed.). McGraw-Hill Education.
Detailed treatment of the phases and tactics of negotiation.

Moore, C. W., & Woodrow, P. J. (2010). *Handbook of global and multicultural negotiation*. Jossey-Bass.
See chapters 12 and 13 on closure, forms of agreement and implementation across cultures.

Raiffa, H. (1982). *The art and science of negotiation*. Belknap Press of Harvard University Press.
Including the construction of scoring systems for multi-issue negotiations.

Saunders, H. H. (1985). We need a larger theory of negotiation: The importance of pre-negotiating phases. *Negotiation Journal, 1*(3), 249–262.
Why getting to the table matters.

Thompson, L. L. (2020). *The mind and heart of the negotiator* (7th ed.). Pearson.
Practical guidance on offers, concessions and closing.

Zartman, I. W., & Berman, M. R. (1982). *The practical negotiator*. Yale University Press.
The phases of diagnosis, formula and detail.