

Fall 2006
Don Wood Lecture
in Industrial Relations

Strategic Negotiations

Perspectives from a Road Well-Travelled

George C.B. Smith

The Don Wood Visiting Lectureship in Industrial Relations was established in 1987 by the many friends of Dr. W. Donald (Don) Wood to honour his role in building an outstanding research, teaching and continuing education program at Queen's, and to recognize his accomplishments in the wider industrial relations community. Dr. Wood was Director of the Industrial Relations Centre from 1960 to 1985, as well as the first Director of the School of Industrial Relations from 1983 until 1985. Over his long and distinguished career, Dr. Wood's efforts served to bridge the gap between the academic world and the policy and practice of industrial relations in Canada. In keeping with these achievements, the terms of the Lectureship expressly state that its purpose is to bring to Queen's University "a distinguished individual who has made an important contribution to industrial relations in Canada, or in other countries."

The Fall 2006 Don Wood Lecture in Industrial Relations

**Strategic Negotiations:
Perspectives from a Road Well-Travelled**

George C.B. Smith

CBC/Radio-Canada

ISBN: 978-0-88886-550-2
©2007, Industrial Relations Centre
Printed and bound in Canada

Industrial Relations Centre
Queen's University
Kingston, Ontario
Canada K7L 3N6

Publications' Orders: 613 533-6709

National Library of Canada Cataloguing in Publication

Smith, George C. B.
Strategic negotiations : perspectives from a road well-travelled / George
C.B.Smith.

(Fall 2006 Don Wood lecture in industrial relations)
Includes bibliographical references.
ISBN 978-0-88886-550-2

1. Collective bargaining 2. Negotiation in business. I. Queen's
University. Industrial Relations Centre II. Title. III. Series: Don
Wood lecture in industrial relations

HD6971.5.S64 2007

331.89

C2007-900427-X

Contents

Biography of George Smith, Fall 2006 Don Wood Lecturer in Industrial Relations	<i>vii</i>
Introduction	2
The Theoretical Foundation: What are Strategic Negotiations?	4
The Practical Application	5
Key Success Factors	5
A) Achieving Organizational Alignment	5
B) Managing the Interpersonal Aspect: The Human Element	7
C) Managing the Complexities	9
Summary and Conclusions	13
Appendix	17
Sources	18
Don Wood Visiting Lectureship in Industrial Relations, 1987-2006	20

George Smith, recipient of the Fall 2006 Don Wood Visiting Lectureship in Industrial Relations, is Senior Vice-President, Human Resources and Organization at CBC/Radio-Canada. He was appointed Vice-President, Human Resources, on July 1, 1996 and in May 2001, he was named Senior Vice-President, Human Resources and Organization.

Prior to joining CBC/Radio-Canada, Mr. Smith was Vice-President, Industrial Relations, with CP Rail System, where he was responsible for collective agreement negotiation and administration for multiple bargaining units in Canada and the United States, and for its Employment Equity Program, its Occupational Environmental Health Program and the administration of the *Canadian Human Rights Act*. Prior to joining CP Rail, Mr. Smith held a variety of human resources positions in the Canadian transportation industry, most notably that of Senior Director of Employee Relations at Air Canada for ten years.

Mr. Smith has an Honours degree in Commerce from Queen's University and a Master's of Industrial Relations degree from the University of Toronto. He has taught a course on "The Strategic Management of Industrial Relations" in the Executive MBA program at Concordia University in Montréal for eight years. In addition, he is a frequent lecturer at various other university and corporate groups including the Queen's Industrial Relations Centre and the Conference Board of Canada. In 1998, Mr. Smith received the Morley Gunderson Award from the University of Toronto Centre for Industrial Relations in recognition of his achievements in the field of industrial relations.

Mr. Smith is currently Chair of the Federally Regulated Employers - Transportation and Communication (FETCO), a federal employers group which interacts with Canadian government politicians and policy makers particularly as it relates to laws and regulations impacting industrial relations, employment standards and health and safety.

Other prominent Don Wood Lecturers have included John Dunlop, Harvard University; Jean Sexton, Laval University; John Fryer, National Union of Provincial Government Employees (NUPGE); Tom Kochan, Massachusetts Institute of Technology (MIT); Nancy Adler, McGill University; Lee Dyer, Cornell University; Robert McKersie, Massachusetts Institute of Technology (MIT); Harry W. Arthurs, York University; Paula Voos, Rutgers University; John Crispo, University of Toronto; Francine Blau, Cornell University; Leo Gerard, United Steelworkers of America; Linda Duxbury, Carleton University; and, Buzz Hargrove, Canadian Auto Workers (CAW).



George Smith
CBC/Radio-Canada

Strategic Negotiations: Perspectives from a Road Well-Travelled

Let me begin this afternoon's Don Wood lecture by telling you how honoured and pleased I am to be here. I'm honoured for several reasons. First and foremost, I am honoured to be contributing to the ongoing legacy of Don Wood who contributed so much to the Canadian industrial relations (IR) community during his lifetime.

I have fond personal memories of Don. For a period of ten years in the eighties and nineties, I came to Queen's at least twice a year to participate as a speaker in the Industrial Relations Seminar. Each time I was eagerly greeted by Don who had many questions and observations about events and personalities in the IR community. He sat through my day-long session every time and always had useful comments to make as my presentation evolved.

But equally important, and this is a significant part of Don's legacy which is continuing today, he connected me with others in the IR network and, especially for the students of those seminars, impressed upon them the importance of networking and exchange of ideas on the growth and prosperity of the "profession" of industrial relations.

Secondly, I am honoured to join the impressive list of lecturers who have preceded me, many of whom have certain fame in our profession. I am honoured to contribute to the dialogue, reflection and research necessary for ongoing learning. I am particularly honoured to be, I believe, the first management practitioner to join the list and I can assure you I will do my best to validate this decision and perhaps open the door for others like me who have chosen to practice IR from the management side of the table. And to that point, I think it is important that I believe those of us around the bargaining table are "actors" on this particular stage and as Bob White, former president of the Canadian Auto workers (CAW), once told me, "George, you could run my ratification meeting since many of the arguments I will be making are arguments that you gave me at the bargaining table". I think the real reason Bob told me this, however, was that he wanted to get into the executive suite and run my ratification meeting and I have no doubt he would have been good at it.

Introduction

I said it was a pleasure to be here this afternoon and that pleasure is derived from the opportunity to organize my thoughts and analyze my experience in the preparation of this lecture.

Since completing my studies, I have been involved in over one hundred negotiations involving both small and large bargaining units, in centralized and decentralized environments, in single and multi-employer and multi-union environments and for some of Canada's oldest, largest and most visible companies. I have signed settlements with double digit percentage wage increases, with wage freezes and under Wage and Price Controls and the Anti-Inflation Board (AIB). I have argued for the status quo and against the status quo and after thirty-three years, I marvel at the collective bargaining process, its complexity, its democracy and its ultimate efficiency. I can honestly say I learn something from every negotiation and I see no end in sight for that learning.

I will have been successful this afternoon if I can share with you some of my learnings, if I can identify theory that my experiences tell me "works" in real life and if I can give some suggestions as to where the theory may need more research or refining.

Although I come at this topic with the obvious perspective (some would say bias) of a management negotiator, I believe the messages and lessons are valid for all negotiators, whether management or union. You also need to know that I am a strong believer in free collective bargaining and I believe in unions and the role they play in industry and society. All of the companies for whom I have worked have been highly unionized and I have always seen my challenge to be how to work with unions, not without them.

Finally, by way of introduction, I can reveal that I believe the theory of strategic negotiations works, with some caveats, and I will emphasize three critical success factors:

1. Organizational alignment
2. Managing interpersonal relations
3. Managing the complexities and intervening variables

If you can align your organization in support of a strategy, manage the interpersonal relations and manage the complexities of the process, you have a good chance at succeeding with strategic negotiations. But this is easier said than done as we will see.

I will be using negotiations from three of my employers to illustrate my points today and I will give you some general background as each presented its own particular challenge and each operated within the Canadian industrial relations system where the external environment ultimately affected collective bargaining and its outcomes (see Chart 1 of the Appendix).

At Air Canada between 1982 and 1992, we faced two major business challenges. The first was preparation for privatization and negotiating collective agreements which would pass cost-structure tests during the due diligence process. The second was adapting to technological change and negotiating agreements allowing for automated ticketing, manning aircraft to load and flying long-distance two-engine aircraft with two pilots instead of the traditional three pilots.

At Canadian Pacific Railway between 1992 and 1996, the business strategy was focused on the fact that future business growth was south of the 49th parallel and we needed to make infrastructure and operating changes to deal with this fundamental change in traffic flow from east and west to north and south. This meant, among other things, negotiating the end to lifetime employment security and negotiating short-line agreements.

At CBC/Radio-Canada between 1996 and 2006, we have had no increase in our permanent funding for over thirty years and in present-day dollars, we are operating with the same funding that we had in 1985. This has resulted in defensive bargaining, protecting employer rights and maintaining flexibility in our operations. Most recently we negotiated a single, simplified collective agreement with the Canadian Media Guild (CMG) after a Section-18 merger of the three bargaining units.¹ In the economic environment of CBC/Radio-Canada it is not surprising that management saw the critical issues in that negotiation as being programming commitments, the right to contract out, demonstrated occupational qualifications, and the right to use temporary and contractual staff.

Let me begin with a quick review of the theory of strategic negotiations. Then I will test its application to these three business cases.

¹ Under Section 18 (1) of the *Canada Labour Code*, on application by the employer or a bargaining agent, the Canada Labour Relations Board may review the structure of the bargaining units if it is satisfied that the bargaining units are no longer appropriate for collective bargaining.

The Theoretical Foundation: What are Strategic Negotiations?

Two must-read texts for students of strategic negotiation are *Strategic Negotiations* by Walton, Cutcher-Gershenfeld and McKersie (1994) and *The Transformation of American Industrial Relations* by Kochan, Katz and McKersie (1986). But the definition of the strategic choice framework and strategic negotiation that I will use today comes from Chaykowski and Verma (1992):

1. Industrial relations decisions are made at three levels: business, collective bargaining and the workplace.
2. Effective strategies are those that act in concert at all three levels.
3. Parties face a number of alternate choices in adopting a suitable strategy.

Thus, strategic behaviour in industrial relations can be thought of in terms of decisions that are:

- a) designed to achieve a major goal;
- b) planned and executed from a high level in the organization;
- c) executed over a relatively long period of time; and
- d) likely to have a significant impact on the parties.

These authors talk about negotiating processes in support of strategic negotiations. They talk about win-win (integrative) bargaining and win-lose (distributive) bargaining which have real-life application.

But the processes which are most critical to a strategic negotiation are identified by Walton and McKersie (1965) as:

- shaping inter-group attitudes (relationships); and
- managing internal differences (intra-organizational bargaining)

In other words, what are the relationships between the parties and how do the parties negotiate within their party to organize, present and manage their respective agendas?

There are two key concepts which will be tested against our case studies.

1. The relationship between parties is dynamic and both influences and can be influenced by the negotiations. The behaviours of the parties at and around the bargaining table can and will influence the relationship.
2. The bargaining which occurs within the respective parties is as important to a negotiation as the bargaining between the parties (Freidman 1994 and Chart 2 of the Appendix).

Following my overview of the literature, I can say that the theory resonates with me as being extremely useful to the practice of strategic negotiation. Good theory and research can inform the practice of IR. Now let's test whether good practice can provide further fuel for research and theory.

The Practical Application

Key Success Factors

A) Achieving Organizational Alignment

George Adams (2003, 30) has observed:

These models, indeed all models, are too simplified to capture the complexity of negotiation behaviours and the demands that negotiation imposes on individuals, organizations and their agents. Most models, for example, assume that negotiations take place between two parties who are individuals or unitary decision-makers when, in fact, real-life negotiations are often much more complex.

This quote reinforces the need for alignment within the business if the strategic negotiation model is to be effectively applied.

From my experience, this alignment begins at the “top of the house”. The Board of Directors, the CEO and the senior management team must define the business strategy and then be involved in determining the IR strategy and the execution — in support of the business strategy. They must be committed. At Air Canada, the process of managing internal differences was aided by including senior line managers, who were “connected” to the business, in the bargaining teams.

Furthermore, a truly interdisciplinary committee acted as an IR Strategy Committee. This committee was regularly convened to be updated on issues and progress and to be implicated in contingencies arising from the negotiation. Much bargaining occurred between the various business interests around that table but differences were resolved in private and a united front presented at the bargaining table.

From a company point of view, and this was a feature at Air Canada (as well as CP Rail and CBC), we did extensive internal training for our negotiating teams sponsored by senior executives including negotiation simulation and role-playing which was adjudicated and observed by third parties including Dr. Bryan Downie from Queen's University who was a

mentor of mine and a former Director of the Industrial Relations Centre from 1991 to 1996.

A particularly useful aspect of the training of negotiating teams were “testimonials” from line members of previous negotiating teams who could tell “war stories” and prepare their colleagues in some way for the intense experience they were about to undertake (I’ll come back to the surreal human experience which is negotiation shortly). We also had a practice of ensuring that at least one line member of every bargaining team had been on the previous bargaining team to provide both leadership and continuity. These line managers had important bargaining table responsibilities as well as liaison/communication responsibilities, leading phone-tree communications at least once a week during negotiations. These communication “trees” involved each line manager phoning five designated contacts, who in turn, each contacted five more designated contacts, etc.

The line managers were also featured in road-shows we conducted after negotiations concluded to fully explain changes made to the collective agreement and ensure uniform administration consistent with the intent and content of the agreements. These internal processes served to connect the IR decisions between the levels of the business leadership, the collective agreement and the workplace but inherent to the successful achievement of that objective was the fact that I, as chief negotiator, had a seat at the executive boardroom table (Friedman 1994).

Similarly, my experiences at CP Rail and CBC/Radio-Canada reinforce the importance of the organizational position of Human Resources/Industrial Relations (HR/IR) in successfully implementing strategic negotiations and achieving long-term objectives. However the organization chart is structured, the head of HR/IR must sit at the executive table, not only during negotiations, but for all critical business strategy discussions and decisions. He or she must have “street-cred” with other executives and the confidence of the CEO and Board. This is not easily achieved but is a constant at companies who are successful with a strategic negotiation approach.

To summarize, companies who are successful in strategic negotiations, identify their business strategy and connect it to their bargaining strategy and their workplaces. This requires total organizational commitment. Critical to this “commitment” is an HR/IR executive who has a seat at the table and who can operationalize strategy. Similarly, internal processes to “execute” the strategy at the bargaining table and support it throughout the organization are critical. I’ve identified some of the processes and practices which have been successful in achieving these objectives including:

- Bargaining teams with credible line managers as full time members;
- Training for bargaining teams including bargaining games and role-playing;
- Multi-disciplinary steering committees to help manage the inter-group attitudes and internal differences.

B) Managing the Interpersonal Aspect: The Human Element

Now to return to the personal intensity and emotionality of the negotiation process itself. It is my contention, and remember that I speak from the perspective of large national negotiations, that companies who successfully negotiate strategically have found a way to manage the “human element” and make no mistake about it, collective bargaining is very, very human.

CP Rail – CAW negotiations had become very intense and public in 1994. After a particularly “active” debate on CBC’s *National* one evening, my seven-year old daughter observed “you and Buzz are fighting ...why don’t you give him some jelly beans?” This story eventually appeared in *The Globe and Mail* and while it did not resolve the issues in the negotiations, it had the effect of “humanizing” the negotiations. Once a settlement was achieved, a picture of Kaitlin giving jelly beans to Buzz Hargrove appeared on the front page of both the CP Rail and CAW newsletters. To this day, Buzz uses this story to emphasize that you have to “give a little to get a little” and he teases me that my youngest daughter knows more about bargaining than I do.

Much like the jelly bean negotiation, each set of negotiations takes on a life of its own and creates personal and professional challenges for negotiating team members on both sides of the table. During my career, I have been with chief negotiators from management and labour who have broken down in tears, I have seen mature adults playing kids games to relieve the stress, I have watched people gain twenty pounds and others lose twenty pounds, and I have witnessed people from both sides of the table who end up with a form of post-traumatic stress syndrome. Unless you have been there, it really is hard to explain.

To put it in context, Captain Dave Robinson, who was the Air Canada pilot who was held hostage by a hijacker wielding a fire-axe at the San Francisco airport on November 6, 1987 once told me that the stress and strain he had managed during pilot negotiations at Air Canada prepared him to the point that he was calm with the hijacker and he even used some bargaining table tactics of questioning and deflecting during that hijacking experience. For example, early in the incident, Captain Robinson realized

he needed to buy time in order for security forces to react to the situation. When the hijacker, who was holding the axe with both hands, asked Dave to reach in his pocket to find his cigarettes and light one for him, Dave responded by asking “Why do you smoke?”. A fifteen minute debate ensued led by Captain Robinson, who was an avid non-smoker, which bought the time necessary to lead to an ultimately successful intervention by security forces.

So where is the lesson here? Well, I think both sides to negotiation can benefit from training and education relative to the stresses and strains of the process itself. Participating in team-building, stress relief and plain understanding of the human condition are prerequisites for team membership and especially team leadership. And the ability to manage personalities and emotions is a key skill for chief negotiators (Friedman 1994, Chapter 4; Walton, Cutcher-Gershenfeld and McKersie 1994, Chapters 3 and 11).

The process of shaping inter-group attitudes touches on the detrimental impact that “demonizing” the other party (planned or otherwise) may have on negotiations and no where is the management of this process more important than at the level of the bargaining teams. Uncontrolled, and taken to their extreme, negative inter-group attitudes can affect not only individual items in the negotiation but the negotiation itself and, beyond that, the relationship (perhaps for many years). So there is a real skill required of chief negotiators, not only with their own teams, but with their constituents to promote teamwork relative to the achievement of their team’s goals rather than at the expense of the other party. This is where the art and science of negotiation come together. It’s not a job that everyone can do.

Air Canada pilot negotiations and CP Rail engineer negotiations were the most successful examples of positively managing inter-group behaviour in my experience due at least in part to the fact that there were pilots (or engineers) on both sides of the table that helped keep the “group think” or demonization to a minimum. In addition, in the case of the pilots, there were joint stress relief activities such as squash where I would play the chief-negotiator of the pilots “for total control of the bargaining table tomorrow”. I can tell you, those were really intense games! While this may not be possible for all bargaining teams, the choice of team members and their training must be emphasized and the possibility of promoting non-confrontational interactions between the parties considered.

Another successful example of managing the human element is evident at Radio-Canada. As a result of the toll that successive rounds of conflict-

oriented bargaining had caused on the business, the employees and the negotiators, there was a joint impetus to change the status quo by Radio-Canada and Syndicat des technician(ne)s et artisan(e)s du réseau français de Radio-Canada (STARF) which is our technicians union. Joint training has been used and three successful negotiations have been completed using “*négotiations raisonnées*” (interest-based bargaining or IBB) (Weiss 1996).

This group has jointly redefined the negotiation process to emphasize respect and a problem-solving approach, with considerable effort on each side, and is committed to the new status quo. But make no mistake about it, it is hard work.

The movie “Final Offer” featuring Bob White and the sequel involving Buzz Hargrove and Bombardier negotiations gave some “inside view” of the human aspects and challenges of collective bargaining. I can only say that we need more of these “inside views” and analysis of these complex human interactions, in spite of issues of privacy and confidentiality which are obvious. These movies also illustrate the use of, and absolute need for, humour during this intense process.

To summarize, successfully managing interpersonal relations between the parties to a negotiation as well as among the parties to a negotiation will increase the chances of success. Among approaches you can consider:

- Set objectives relative to the relationship;
- Training and education relative to stress-management especially for chief negotiators, including pre-negotiation medicals;
- Team-building, possibly in the context of bargaining simulations;
- Using emotional intelligence as a competency in choosing negotiating team members; and
- Using and promoting interactions between the parties in non-bargaining environments or consider non-traditional approaches such as IBB/*négotiations raisonnées*.

C) Managing the Complexities

In a perfect world, some of the guidelines I have already suggested would be embraced by professionals who are well-versed in the latest theory and research and we would have rational negotiation with rational outcomes not involving conflict. But it is not a perfect world.

As former Justice George Adams, a superb practitioner of dispute resolution, observed in the section of his book on Criticism of Interest-

Based Bargaining: “The theory may draw too heavily on the principles of organizational development where the relationships are voluntary, the parties are genuinely united around common goals and the parties work from shared informational bases. This is not the bargaining world” (Adams 2003, 55).

So another hiccup in the practical application of theory comes from the fundamentally adversarial nature of the bargaining process. It is a jungle out there with strongly motivated parties, sometimes with deep notions of entitlement and often wanting to get as much as the other party is willing to give them of an often finite resource (Adams 2003, 53). There is no magic formula and interests often are in conflict and not in common. In this adversarial world, power and perceptions of power are real elements affecting the negotiations and because of the dynamic nature of negotiations, these perceptions and realities may change significantly during the negotiation (Walton, Cutcher-Gershenfeld and McKersie 1994, 56; Chaykowski and Verma 1992, Chapter 9).

At the level of managing inter-group attitudes and managing internal differences, the threat or reality of conflict creates magnified pressure and, once again, the emphasis on execution of the strategy is critical. Discussing the possibility of a strike with an executive committee six months before a strike deadline is much different than the same discussion six days before.

At the interpersonal level, and because the stakes are so high, this can translate into, at best, a high level of tension between negotiators and negotiating teams and at worst, threats of physical violence or psychological harassment of company officials and/or negotiators (and I know union officials have a whole set of pressures themselves). Managing these events is guided more by experience and the “school of hard knocks” than research and education. I would suggest that despite the hope that we can all “get to yes”, sometimes focusing on the ugly business of “getting past no” and the exercising of bargaining power is critical to resolving disputes and should be the subject of more research like Dr. Downie’s paper (Downie 1991).

In effect, what I am saying is that conflict is part of negotiation and focusing research and analysis on negotiations that result in conflict is as important as those negotiations concluded without conflict. I would also observe that it is during conflict situations that the long term benefit of the bargaining objective will be examined and re-examined. It is at this time that changes in the context of the negotiations as a result of the time which

may have expired since the conception of the strategy becomes an influencing factor in the negotiations.

In the case of Air Canada /International Association of Machinists and Aerospace Workers (IAMAW) negotiations, a tentative agreement was rejected after months of bargaining because of an intervening settlement in the automobile industry where the CAW had achieved a pension indexation in a very public negotiation with Chrysler. IAMAW members decided to add this to the mandate for their negotiators which completely recast the negotiations. More recently, at CBC, because the negotiations occurred over a 16-month period and as a result of a change in Ministers, eight new Board members were added and had to be completely briefed and brought on side when an approved strategy had been in the execution stage for almost a year.

It goes without saying that a business merger, a bankruptcy or a major economic event (i.e., a significant drop in interest rates affecting the solvency of a pension fund) can have an immediate and profound effect on plans and strategies which did not predict these changes. These events can be disruptive at the best of times but are particularly disruptive during the negotiation process. Pilot negotiations at Air Canada in the 1980s were significantly side-tracked for an extended period as the parties tried to cope with an emerging connector strategy to serve smaller centres with aircraft operated by non-Air Canada pilots.

The simple answer would be to begin and conclude negotiations in a very time-constrained and deadline-driven environment. This may not be possible given the complex issues and the need for joint agreement to this approach.

There are two other complexities I have experienced. The first is the unique role of government, particularly at the federal level, in the negotiation process in Canada. The government not only administers the law, it is itself an employer and has political interest in negotiations.

There is a formal legal role through the conciliation process which is mandatory in Canada. Suffice it to say that given the adversarial nature of negotiations, professional third-party assistance can and will help the parties achieve settlements. I have had many positive experiences with the Federal Mediation and Conciliation Service (FMCS) department including interventions by two of the people in attendance today, Warren Edmondson and Michael McDermott, both former Assistant Deputy Ministers in charge of FMCS.

However, sometimes this third-party role can be complicated by the fact that the government itself is a very large and highly-unionized employer. A recent settlement or dispute involving Treasury Board and one of its unions at the very least will cast a shadow on federal bargaining tables, if not affecting them directly. But the real issue is the potential politicization of negotiations. The Federal Mediation and Conciliation Service department reports through to the Minister of Labour who has a relatively low profile in cabinet unless there is a major dispute on the horizon. But when it is obvious that a conflict may occur affecting the economy or the citizens of Canada the profile of the Minister becomes very high.

There is no other way to say it, the government effectively has a seat at the bargaining table which it may not be qualified to occupy from an industrial relations point of view. I've worked with nineteen Ministers of Labour in the last 30 years and as you would expect, some were better than others. Whatever their skills and understanding relative to IR, they represent a wild card at the bargaining table starting from the reality that the Minister simply wants a settlement and is less concerned by the cost/price to either party. However, since the Canadian government does have a history of imposing back-to-work legislation, the threat/reality of this may develop as a best alternative to a negotiated settlement (BATNA) and affect negotiations between the parties, especially if one (or both) of the parties prefers this resolution to their problem (Thompson 2001, 11 and 138; Adams 2003, 32).

Air Canada had never been legislated back to work but as Christmas 1987 approached and as the IAMAW strike moved into its third week, there began to be a real threat of this, if only so parliamentarians could get home for the holiday break. The company preferred a negotiated settlement for many reasons and it was only as a result of an offer based on a conciliation commissioner's report and the fact that mediator Bill Kelly was able to influence the Minister (and the Cabinet) that an agreement was eventually achieved on December 16th, 1987 without intervention.

Last year, during the CBC-CMG dispute, the Minister of Labour intervened in the negotiations by calling the parties to Ottawa and creating a "lock-in" situation for the negotiating teams. Although this eventually resulted in a negotiated settlement, the remarks of the Minister supporting the union bargaining position on part-time employment had the effect of complicating an already complex set of negotiations. The fact that the government was close to calling an election and the Minister would soon be campaigning further complicated the equation. Politics were definitely a factor. From my Canadian experience, the government is a player in the strategic negotiation game and thus there is an opportunity for research and public debate.

Finally, I must comment on the role of the union in the strategic negotiation process. While I pretend in no way to speak for the labour movement, I do have some observations relative to the difficulty of the role labour leaders must play, particularly in negotiations where employer-driven change is the agenda.

I acknowledge and respect the democracy of negotiations and managing this democracy is certainly required more of union leaders than of their management counterparts. They are similarly challenged by the proliferation of legislation protecting individual rights which, while having its own virtues, intersects with some fundamental principles of collective rights and collective bargaining. What I am saying is that it is more and more difficult to be a union leader and more than ever, strong leadership is required at all levels of the union movement.

To summarize, managing the complexities may be the most difficult success factor to manage. Some suggestions include:

- Preparation, preparation and more preparation. This can include detailed scenario planning which takes into consideration a complete range of potential issues impacting the negotiation and assigns a risk to them as well as identifying a range of responses; detailed research of the internal/external IR environment so that there are as few “surprises” as possible; and, analysis and understanding of the situation of the government of the day and how your negotiation may become a “political” issue. I used to say that preparation should begin six months before an expiry date but with today’s complexities, I suggest 12 months.
- Recognition of the fundamentally adversarial nature of negotiations and examination of a complete range of opportunities to manage real or potential conflict including preventative mediation; pre-negotiation meetings; relationship by objectives; and, post-incident reviews.

Summary and Conclusions

In summary, the general theory of strategic negotiation does work in practice and I can say that I have applied the concepts outlined in the literature during the many strategic negotiations in which I have participated as a management actor. These negotiations have included every type of difficult issue from complex wage and benefit packages to tough operational issues relating to staffing, automation and technological change, contracting-out, and employment security.

In all of these cases, the accepted premise was that we had to negotiate with the union and achieve a freely negotiated agreement respecting the “rules of the game” outlined in the Canada Labour Code. But the strategic negotiation model outlined neatly in texts was not applied easily. It was messy and complex. Unfortunately, while the huge majority of negotiations during my career have resulted in settlements without conflict, several high profile (and arguably high stakes) negotiations have resulted in conflict in the form of a strike or lockout. In all cases, the conflicts were resolved and the relationships have continued. In none of the cases was the union “beaten” and most often, the union claimed victory when a settlement was achieved.

In all cases, both distributive and integrative bargaining strategies were used, even when the parties were formally implementing an interest-based bargaining approach (Weiss and Bedard 2000; Adams 2003, 55). In many cases, there were significantly more parties influencing or trying to influence the negotiations than there were at the bargaining table including advertisers, customers, suppliers and sub-contractors, other unions, politicians, conciliators, and communities to name a few. Then there were the internal negotiations between operations, finance, marketing, customer service, legal services, communications, and human resources all subject to input from the CEO and the Board of Directors.

Add to this the complexity of formal across-the-table negotiations combined with informal backstage negotiations and the odd “end-run” where a party tries to go over the head of a negotiator and you start to get the idea just how complicated this can get. Add the fact that while the models assume some level of rational thought and analysis by the parties in and around the negotiations, the fact is that notions of rationality and fairness are relative and subjective and may be reinforced by large amounts of adrenaline and self-serving interests as well as processes reinforcing certain inter-group attitudes, including framing (Lewicki, Saunders, Minton and Barry 2004, 30-41) themselves and their issues in a positive light, and you realize it is not only complicated but verging on impossible and certainly far from a rational business process.

Finally, add the fact that with the time it takes for large scale negotiations, there may be any number of unpredicted intervening variables affecting either or both parties and you realize that there truly is a measure of good luck as well as good management to succeed in a strategic negotiation no matter how well it is planned and executed.

Walton, Cutcher-Gershenfeld and McKersie (1994, 59) have stated it as follows:

Thus, negotiators seeking fundamental changes in social and substantive contracts may make broad strategic choices and select from a range of tactics. ... However, because of the multitude of potential misperceptions, changing expectations, self-reinforcing dynamics, and formidable dilemmas, both choices and final outcomes are indeterminate.

I have offered some suggestions to create organizational alignment, to manage the interpersonal aspects of negotiation and to manage the complexities surrounding large-scale labour negotiations so that your results will be more determinate. I also believe that research directed toward the further understanding of managing conflict when it occurs, the current and future role of government as a “player” in strategic negotiations, and the management of the multiple parties influencing/ attempting to influence strategic negotiations can contribute to improvement of the theory. As I conclude, I am also convinced more than ever that focussing on the professionals on both sides of the table, their education, training and experience is critical to the success of strategic negotiation.

We must ensure that practitioners not only have exposure to the theory but that they have opportunity for real-life experience to apply the theory. Exposure for business students means core IR courses in undergraduate and MBA programs. This is not a current practice at major Canadian business schools but should be re-considered based on my experiences.

From an experience point of view, all parties – unions, management and government –could benefit from a program such as the Student Training in Industrial Relations (STIR) program sponsored by the Ontario Government in the 1970s. To this extent, I was pleased to hear from Elizabeth McPherson, Director General of the Federal Mediation and Conciliation Service (FMCS) that the Minister of Labour would be sponsoring five candidates for internships which will involve exposure to a company, a union, FMCS and the Canadian Industrial Relations Board over a two-year period. We need more similar programs.

We must also find a way for management and union negotiators to build their skills and share their successes and failures in non-threatening

circumstances if the profession is to truly advance. In this work-a-day world, we have reduced the informal interactions where the actors are more “just people” and their roles can be recognized and respected as separate from their humanity. The parties have a responsibility to address this. Government and academia also certainly have roles to play in creating these opportunities for information exchange and reflection. What we are doing here today in part fulfills this objective. In the words of George Adams, “Negotiators ... can improve their settlements by understanding the mixed nature of all negotiations, by being sensitive to the barriers to agreement and by committing to the adoption of best practices” (Adams 2003, 57).

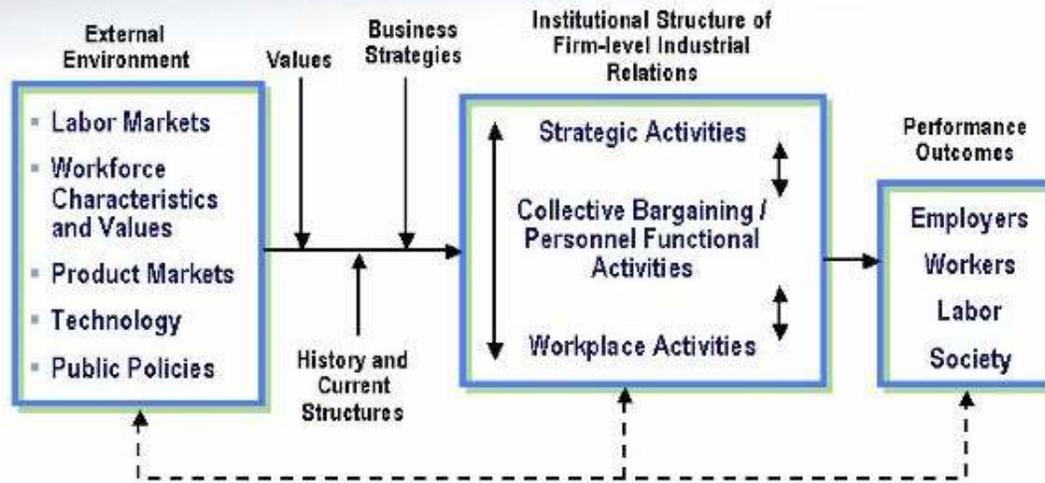
Finally, all of us, no matter what our role, have the responsibility to promote the profession, to share our experiences, to mentor and coach, to demystify the art of negotiation and promote the science, to encourage life-long learning and a network that supports this. As I say these words I like to think of Don Wood sitting in that big comfortable chair at the Donald Gordon Centre nodding in agreement, so this brings me full circle.

Two of the great goals to which Don devoted the IRC and his entire career – the professionalization of Canadian IR and furthering understanding of IR processes through research and education – are most effective ways in which all of the parties involved can succeed in this complex and fascinating world of strategic negotiation.

Thank you for your kind attention to my remarks today.

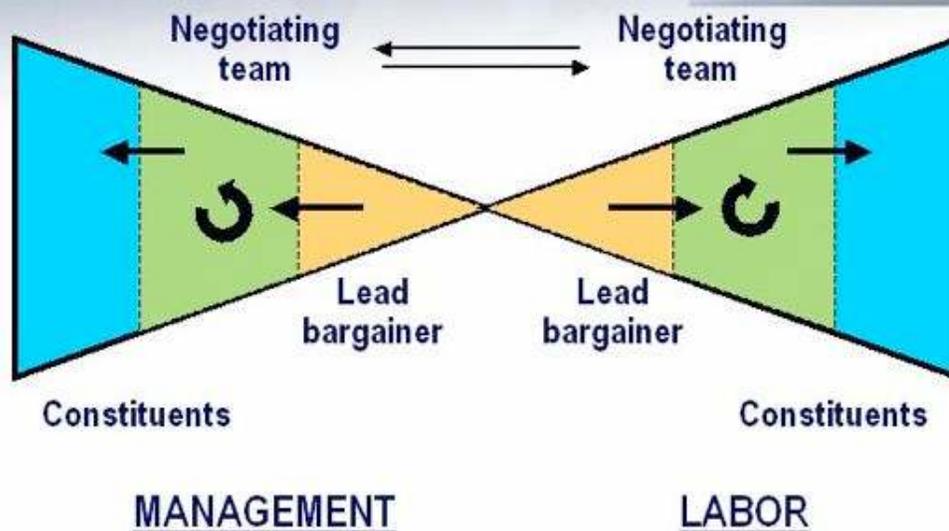
Appendix

Chart 1 - General Framework for Analyzing Industrial Relations Issues



Source: Kochan, Katz and McKersie (1986: 11)

Chart 2 - Audience Structure for Main-Table Negotiations



Source: Friedman (1994: 86)

Sources

Adams, George W. 2003. *Mediating justice: Legal dispute negotiations*. Toronto, ON: CCH Canadian Limited.

Chaykowski, Richard P. and Anil Verma (eds). 1992. *Industrial relations in Canadian industry*. Toronto, ON: Dryden.

Downie, Bryan M. 1991. 'When negotiations fail: Causes of breakdown and tactics to break the stalemate', *Negotiation Journal* 7 (2): 175-186.

Friedman, Raymond. 1994. *Front Stage, backstage: The dramatic structure of labor negotiations*. Cambridge, MA: The MIT Press.

Kochan, Thomas A., Harry C. Katz and Robert B. McKersie. 1986. *The transformation of American industrial relations*. New York, NY: Basic Books.

Lewicki, Roy J., David M. Saunders, John W. Minton, and Bruce Barry. 2004. *Essentials of negotiation*. New York, NY: McGraw-Hill /Irwin.

Rubin, Jeffrey Z. and Bert R. Brown. 1975. *The social psychology of bargaining and negotiating*. New York, NY: Academic Press.

Thompson, Leigh L. 2001. *The mind and heart of the negotiator*. Saddle River, NJ: Prentice Hall.

Walton, Richard E. and Robert B. McKersie (eds). 1965. *A behavioral theory of labor negotiations*. New York, NY: McGraw-Hill.

Walton, Richard E. and Robert B. McKersie (eds). 1991. *A behavioral theory of labor negotiations: An analysis of a social interaction system*. New York, NY: McGraw-Hill.

Walton, Richard E., Joel E. Cutcher-Gershenfeld and Richard B. McKersie. 1994. *Strategic Negotiations: A theory of change in labor-management relations*. Boston, MA: Harvard Business School Press.

Walton, Richard E., Joel E. Cutcher-Gershenfeld and Richard B. McKersie. 2000. *Strategic Negotiations: A theory of change in labor-management relations*. Ithaca, NY: ILR Press.

Weiss, David S. 1996. *Beyond the walls of conflict: Mutual gains negotiating for unions and management*. Chicago, IL: Irwin Professional Publishing.

Weiss, David S. and Steven R. Bedard. 2000. *Contextual negotiations*. Kingston, ON: IRC Press, Industrial Relations Centre, Queen's University.

Don Wood Visiting Lectureship in Industrial Relations, 1987-2006

- 1987** John Dunlop
Harvard University
Industrial relations: Old and new
- 1989** John Sexton
Université Laval
Are Quebec labour relations so different?
- 1990** John Fryer
National Union of Provincial Government Employees (NUPGE)
The Canadian labour movement in the 1990s: Challenges and opportunities
- 1991** Thomas Kochan
Massachusetts Institute of Technology
Innovations in industrial relations and human resources: Prospects for diffusion
- 1992** Nancy Adler
McGill University
Human resource management in the global economy
- 1993** Lee Dyer
Cornell University
Human resources as a source of competitive advantage
- 1995** Robert M. McKersie
Massachusetts Institute of Technology
Labour-management partnerships: Promise and challenge
- 1996** Harry Arthurs
York University
The new economy: The demise of industrial citizenship
- 1998** Paula Voos
Rutgers University
Changing labour markets: Implications for industrial relations
- 1999** John Crispo
University of Toronto
Looking backward and forward: Can industrial relations stand the test of time?
- 2001** Francine Blau
Cornell University
The gender gap: Going, going ... but not gone
- 2003** Leo W. Gerard
United Steelworkers of America
Globalization and North American integration: Implications for the union movement

2004 Linda Duxbury
Carleton University
Dealing with work-life issues in the workplace: Standing still is not an option

2006 Spring

Buzz Hargrove
CAW-TCA Canada
The state of the union movement in Canada: The challenges we face and the innovations we must undertake

2006 Fall

George C.B. Smith
CBC/Radio-Canada
Strategic Negotiations: Perspectives from a road well-travelled

