

# **A Study of Labour Negotiators: Orientation and Behaviour**

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## Abstract

This exploratory study examined individual negotiator social value orientation (preferences for the distribution of negotiated outcomes) and individual negotiator behaviour (strategies and tactics) in a labour relations context. Interviews were conducted with professional labour-management negotiators and collective bargaining negotiations were observed. The findings reveal that the majority of negotiators are competitively oriented and that a number of negotiators have a mixed orientation (both competitive and collaborative). Furthermore, the study reveals that distributive strategies and tactics dominate in real-world negotiations. Most of the negotiators were found to adopt a distributive strategy exclusively. However, the study also revealed that a number of negotiators utilise both distributive and integrative behaviours (albeit within a predominantly distributive strategy). Furthermore, the study examined the rigour with which behaviours are implemented. Since distributive strategies and tactics were found to be dominant it was not possible to analyse the rigour of integrative behaviours. Notwithstanding, the strength of distributive strategies and tactics were analysed. The findings show that negotiators implement distributive tactics from along a continuum that ranges from “hard” to “soft”. In fact, the majority of negotiators were found to be operating at some mid-point along that continuum, adopting a “moderate” approach to distributive bargaining that was neither hard nor soft but fell somewhere in-between. Finally, this study considered whether orientation predicts negotiation behaviour. The findings show that competitively oriented negotiators adopt distributive strategies and tactics almost exclusively, whereas the negotiators with a mixed orientation were found to be far more likely to adopt *some* integrative behaviour (even though their overall approach is predominantly distributive). As mentioned, the findings reveal that distributive behaviours are implemented with different degrees of rigour. Competitively oriented negotiators were found to engage in hard, moderate and soft distributive bargaining. The majority of cases were categorised as moderate, but hard and soft approaches exist. In contrast, negotiators with a mixed orientation were found to implement a moderate distributive approach only. The implications for this research and avenues for future research are discussed.

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## INTRODUCTION

This study is an exploratory examination of social value orientation (orientation from herein) or the individual negotiator's motive for the distribution of outcomes and individual negotiator behaviour (strategies and tactics). There are two primary orientations in popular usage: a competitive orientation and a collaborative orientation – *proself* and *prosocial* respectively (De Dreu and Van Lange, 1995; Thompson, 2004). With regard to behaviour, there are two principal bargaining strategies; distributive bargaining and integrative bargaining. This study engaged a sample of professional labour-management negotiators (employment lawyers, union organisers, HR managers and employment consultants), who routinely lead collective bargaining negotiations to examine both orientation and behaviour.

Over the past four decades there has been an obvious shift in thinking in the field of negotiation at the normative level. Specifically, there has been a shift from a competitive orientation to a collaborative orientation (or from a win-lose to a win-win mentality). The popular normative message is that negotiators ought to develop a *genuine* collaborative orientation which favours mutually beneficial outcomes, rather than have a competitive orientation which favours individual outcomes. Yet, at present, research on negotiator orientation is primarily conducted in laboratory settings with university students as participants (Gillespie, Brett, & Weingart, 2000; Macintosh & Stevens, 2013; Van Kleef & De Dreu, 2002). Most of these studies measure the participants' *actual* orientation (although some studies prime participants to have a particular orientation; see Beersma & De Dreu, 2002), however the laboratory situation is obviously contrived. The parties don't have ongoing relationships as they would in collective bargaining situations nor do they have to live with the negotiated outcomes. Moreover, the students often have limited bargaining experience and are therefore naïve negotiators. Given the emphasis placed on negotiator orientations at this present time, it is argued that research is needed to determine the *actual* orientations of professional negotiators.

Furthermore, the normative literature widely promotes integrative bargaining behaviours (stereotypically associated with a collaborative orientation) and cautions negotiators about the risks of adopting distributive bargaining behaviours (stereotypically associated with a competitive orientation) (Fisher & Ury, 1981; Menkel-Meadow, 2006; Schneider, 2002). However, research on negotiator behaviour is also primarily conducted in laboratory settings with university students as participants (Beersma & De Dreu, 2002; Van Kleef, Steinel, Van Knippenberg, Hogg, & Svensson, 2007; Weingart, Thompson, Bazerman, & Carroll, 1990). Research that examines the behaviour of real-world negotiators is scarce by comparison. Presumably, this is largely due to the difficulty of gaining access to real-world negotiations (Buelens, Van De Woestyne, Mestdagh, & Bouckennooghe, 2008). Given the widespread promotion of integrative bargaining at this present time, it is argued that there is a need for empirical research that examines how professional negotiators *actually* behave in real-world negotiations.

Furthermore, the negotiation literature makes it clear that distributive tactics can be adopted with different degrees of rigour. Specifically, the literature points to hard and soft approaches. Interestingly, there is no conceptualisation of hard and soft when it comes to integrative bargaining. In addition, the stereotypes in the negotiation literature characterise distributive negotiators as hard bargainers and integrative negotiators as more temperate or gentle in their approach (Condlin, 2008; Korobkin, 2008). However, we lack empirical research to support these common assertions. It is argued that we need empirical research to examine the rigour with which professional negotiators implement negotiation behaviours so that we might understand whether the stereotypes in the literature represent *actual* behaviour or merely represent caricatures of behaviour.

Finally, as mentioned, it is widely asserted in the negotiation literature that particular orientations predict the adoption of certain negotiation behaviours. Specifically, a collaborative orientation is said to predict the adoption of integrative behaviours and a competitive orientation is said to predict the adoption of distributive strategies and tactics (Allen, Donohue, & Stewart, 1990; Hindriks, Jonker, & Tykhonor, 2007). Given

the deficiencies highlighted above, we lack the empirical evidence needed to draw this conclusion with regard to professional negotiators. In addition, some authors challenge the association between orientation and behaviour (Craver, 2009; Elgstrom & Jonsson, 2000; Walton & McKersie, 1965). Since orientation and behaviour are intimately linked in the modern normative literature, it is important to ask if orientation predicts behaviour in a real-world setting.

The enormous drive to influence the way that negotiators think and behave in bargaining has naturally put orientation and behaviour in the spotlight. Yet at present, inferences are still being drawn from experimental studies about how professional negotiators are likely to feel about the distribution of negotiated outcomes, and how they are likely to behave in real-life bargaining situations. This study gathers empirical data from professional negotiators to ascertain how they *actually* think, feel, and behave in collective negotiations. In so doing, this study provides some much needed empirical data about negotiator orientation and behaviour.

Chapter one begins with a comprehensive review of negotiation theory. Following this evidence is presented to show that there is a lack of empirical data available about orientations and negotiator behaviour in the context of real-world negotiations. Subsequently, research questions are presented to address these gaps. Chapter two discusses the methods used to collect data for this study. Chapter three presents the findings and chapter four concludes the study with a discussion and conclusion.

## CHAPTER ONE – Negotiation Theory

Chapter one begins by introducing the topic of negotiation. The remainder of the chapter is presented in four sections (Parts A–D). Part A presents the theory of orientation. Part B illustrates the evolution in thinking about negotiation over the decades. Part C presents the mechanics of both distributive bargaining and integrative bargaining in detail, and includes a discussion about the different conceptualisations of integrative bargaining by leading theorists. Part D presents the claims made about integrative bargaining, the critics' responses and examples of experimentation with integrative bargaining from the labour relations arena. Finally, the research problem is presented along with the subsequent research questions.

### Introduction to negotiation

Negotiation is an essential form of communication and a decision-making process, it is also an interesting and complex form of human interaction. It is, accordingly, much studied across a range of disciplines including: psychology, law, economics, industrial relations, sociology, and organisational behaviour. It is important to have a working definition of negotiation. Walton and McKersie (1965, p. 3) defined negotiation as: "The deliberate interaction of two or more complex social units which are trying to define or redefine the terms of their interdependence."

Movius and Susskind (2009) argued that negotiation must be a core strategic competency for CEOs, senior-level managers, HR managers, sales and purchasing managers and business leaders. Movius and Susskind (2009, p. 1) stated: "there are few things more important to running a business than being able to reach wise, stable and advantageous agreements." That negotiation skills are critical in business is not surprising. The surprise only comes when we recognize the importance of negotiation skills for *every* person.

We are frequently engaged in informal negotiations with our children, spouse, friends,

family and colleagues but we're often oblivious to this fact. Less frequently, but more consciously, we are involved in formal negotiations with our bank manager, house vendors, salespeople, employers and so on. Whether we like it or not we *all* negotiate. "Like Moliere's Monsieur Jourdain, who was delighted he had been speaking prose all his life, people negotiate even when they don't think of themselves as doing so" (Fisher & Ury, 1981, p. xv). Why do we negotiate? Quite simply, if everybody had everything they wanted, there would be no need to negotiate. Life presents us with many situations in which we have to work with someone else in order to get what we want or need in our personal, social, and business lives. Therefore, effective negotiation skills are important for everybody who has to work with and through other people to get what they want (Lewicki & Litterer, 1985).

Of course, negotiation as it is conventionally understood is not the only way to resolve differences and to get what we want. War, terrorist acts, and domestic violence are all examples of people attempting to resolve differences by imposing their will. Struggle is one way to resolve conflict or attempt to (Carnevale & Pruitt, 1992), however struggle (e.g., war) is costly in terms of the resources required to implement and maintain the struggle, and in terms of the enormous social costs (i.e., human misery). Moreover, the resulting outcomes are likely to be highly unsatisfactory to one or more of the parties when one side is trying to dominate the other(s). This increases the likelihood of ongoing unrest, dispute and ultimately carnage.

In the Western world *struggle* is not the most common course of action. As the West has become more civilized, stable and democratic over the centuries, the apparent inclination for struggle has seemingly dissipated. It is far more likely that people will choose to engage in negotiation, mediation, arbitration/litigation in order to reconcile their opposing preferences (Carnevale & Pruitt, 1992). According to Lewicki and Litterer (1985) parties choose to negotiate when there is a conflict of interest between them. Pruitt and Rubin (1986, p .4) define conflict as: "the perceived divergence of interest, or a belief that the parties' current aspirations cannot be achieved simultaneously." Opposing preferences, whether real or perceived are an inescapable part of reality and they occur in all areas of society. Parties chose to negotiate when

they would rather work together (at least for the moment) to reconcile opposing preferences on a voluntary basis, rather than fight openly and have one side capitulate or permanently break off the relationship. A certain degree of perceived interdependence or a belief that the parties will be better off acting together than they would be acting alone, brings the parties together to negotiate (Goodpaster, 1996; Korobkin, 2008; Lax & Sebenius, 1986).

Now that we have a definition of negotiation and an understanding about when and why people choose to negotiate, we can examine the fact that individuals differ in the way that they evaluate negotiated outcomes for themselves and others (De Dreu and Van Lange, 1995; De Dreu, Weingart, Kwon, 2000). The difference in that evaluation is linked to the individual negotiator's social value orientation.

#### **Part A: Social value orientations**

A negotiator's social value orientation (orientation from herein) is said to affect "individuals' cognition, motivation and behaviour in negotiation situations" (De Dreu and Van Lange, 1995, p. 1185). The negotiation literature (Griesinger & Livingston, 1973; Messick & McClintock, 1968) identifies four primary orientations, including:

1. Competitive orientation – seeks to maximise his/her own outcomes and do better than the other party(s),
2. Individualistic orientation – seeks to maximise his/her own outcomes,
3. Collaborative orientation – seeks to maximise joint outcomes, and
4. Altruistic orientation – seeks to maximise the other party(s) outcomes.

Altruistic behaviour is uncommon in negotiation (and arguably is not characteristic of negotiation), therefore it is typically excluded from studies that examine negotiator orientation (Carnevale & Probst, 1998). Furthermore, the competitive and individualistic orientations are often collapsed into one category called "proself" orientation while the collaborative orientation is termed "prosocial" (De Dreu & Van Lange, 1995). In this study, the terms competitive orientation and collaborative

orientation are utilised, as defined below.

### **A competitive orientation**

A competitive orientation puts the concern for self (or one's client) at the centre of one's universe. A competitively oriented negotiator is focused on maximising his/her own returns, and either seeks to do considerably better than the other party(s) or has little to no regard for how the other party(s) fares in the negotiation (Griesinger & Livingston, 1973; Messick & McClintock, 1968). A focus on the "self" is the quintessential definition of the competitive orientation (De Dreu & Van Lange, 1995; Lewicki, 1981; Pruitt, 1983). Any actions that the competitively oriented negotiator does take to help the other side are taken to advance his/her interests (Putnam, 1994; Thompson, 2004). The competitively oriented negotiator selfishly seeks to maximise individual gains. Goodpaster (1996) stated:

The competitive negotiator tends to define success in negotiation rather narrowly. It is simply getting as much as possible for himself: the cheapest price, the most profit, the least cost, the best terms and so on. In its simplest form, this strategy focuses on immediate gain and is not much concerned with the relationship between the negotiating parties. (p. 326)

### **A collaborative orientation**

Unlike the competitively oriented negotiator, the collaboratively oriented negotiator is *genuinely* concerned for both parties and will help the other party(s) to achieve their goals without expecting "returns" for doing so. A collaboratively oriented negotiator has a genuine interest in how the other party(ies) fares in the negotiation and subsequently a focus on maximizing mutual gains as opposed to individual gains (Craver, 2009; Goodpaster, 1996; Van Kleef, 2010). The collaborative negotiator defines success as the satisfaction of both parties' interests (without compromise if and when possible). The collaborative negotiator is not trying to gain the lion's share or outdo the other side but is simply trying to further or realize her aims (Goodpaster, 1996). In effect, the collaboratively oriented negotiator feels a greater sense of social

responsibility than the competitively oriented negotiator (De Dreu & Van Lange, 1995).

### **Orientation and behaviour**

The literature commonly asserts that negotiators with a competitive orientation will adopt distributive strategies and tactics, and that negotiators with a collaborative orientation will adopt integrative behaviours (Allen et al., 1990; Hindriks et al., 2007; Menkel-Meadow, 1983). Menkel-Meadow (1983) demonstrated the association commonly made between orientation and behaviours when she stated:

The orientation (adversarial or problem solving) leads to a mindset about what can be achieved (maximizing individual gain or solving the parties' problem by satisfying their underlying needs) which in turn affects the behaviour chosen (competitive or solution searching) which in turn affects the solutions arrived at (narrow compromises or creative solutions). (p. 760)

The Dual Concerns Model (Blake & Mouton, 1960; Pruitt & Rubin, 1986) and the theory of Cooperation and Competition (Deutsch, 1973) are two prominent theories that use a negotiator's orientation to explain motivation and strategic choice in negotiation. Theorists predict that negotiators with a proself orientation (high concern for self and low concern for other) will engage in distributive bargaining to maximise individual gain. In contrast, negotiators with a prosocial orientation (high concern for self and high concern for the other) will engage in integrative bargaining to maximise outcomes for both parties. These theories have received empirical support in a number of studies (Beersma & De Dreu, 1999; De Dreu and Van Lange, 1995; Gillespie et al., 2000).

The following section illustrates how the thinking and theory of negotiation has changed over time. At the outset, despite the fact that there were early theorists who promulgated a collaborative orientation, competitive thinking represented the prevailing attitude for many decades. The watershed came in the 1980s with the publication of Fisher and Ury's (1981) book: *Getting to Yes: Negotiating Agreement*

*without Giving In*. This little book popularised the collaborative orientation and explicitly set out a particular set of behaviours (integrative bargaining behaviours) which remain popular today (at least at the normative level).

## **Part B: The evolution of thinking in negotiation**

### **Follett: The origins of the collaborative orientation**

Mary Parker Follett was a political scientist, management consultant and writer. Follett (1940) introduced the idea of integration and, in doing so, foreshadowed much of the popular normative thinking about the collaborative orientation and integrative bargaining. Follett believed that people ought to integrate their interests because they ought to have concern for the other side. Follett saw three primary means for dealing with conflict: 1) domination; 2) compromise; and 3) integration. Domination leaves one side dissatisfied with the outcome. Compromise involves each side making some sacrifice to reach agreement (therefore the joint gain is lower). Integration, Follett's preferred process for dealing with conflict, involves parties looking for a third alternative, a creative solution in which each side can have its interests met without losing anything in the process. The emphasis is on working from the interests of each side and working to integrate those interests (Graham, 1995; Kolb, Jensen, & Shannon, 1996).

Follett's (1940) ideas rested on the premise that we have to make room for others in the world, thus she stressed the importance of relationships in conflict situations. The emphasis was on concern for the self, as well as *genuine* concern for the other (Graham, 1995; Kolb et al., 1996). Rather than focusing on autonomous individuals coming together to serve their self-interests, as popular models allegedly did (Putnam, 1994), Follett saw the interaction between individuals as an opportunity for connectedness, an opportunity for parties to be affected and changed in light of the other parties' interests (Graham, 1995; Kolb et al., 1996). Kolb et al. (1996, p. 157) stated: "Believing that there is some sense of shared fate, negotiators who emphasize connectedness and interdependence believe the ability to deal with conflict is

inextricably tied to relationships.”

Follett (1940) rejected individualism and argued that people should seek relation to one another in order to deal with conflict. Rather than perceive themselves to be on opposite sides, they should perceive themselves as being on the same side (Schilling, 2000). According to Schilling (2000, p. 233), “Avoiding the idea of sides is a significant point and lies at the heart of the debate between collaborative versus competitive paradigms in social, political and business arenas.” Follett believed in the best of human nature, she wanted people to rise above typical human behaviour and she offered prescriptive advice for how they could achieve this by integrating their interests. Follett’s ideas about integration were greeted with a great deal of skepticism (Northup, 1966). This is not surprising, given that the vast majority of negotiation scholars were entrenched in competitive thinking at that time, the foundation of which is game theory.

### **Game theory: Competitive orientations**

Game theory (or the study of strategic decision-making) lies at the root of the scholarly study of competitive bargaining. Game theory uses mathematical models of competitive behaviour to predict how fully rational and intelligent (all knowing) actors ought to behave in conflict situations, when their separate choices interact to produce payoffs to each player (Deutsch, 1973, 2002; Raiffa, Richardson, & Metcalfe, 2003). Towards the end of the second World War an attempt was made by economists (Von Neumann & Morgenstern, 1944) to use game theory to predict human behaviour in strategic situations, in which an individual’s success in making choices depended on the unknown choices of others (Sander, 2009).

Game theory rests on a number of assumptions, including: 1) that games are fixed-sum (or win-lose); 2) that human beings are selfish and suspicious of one another (Margolis, 1984); and 3) that human beings are fully rational and ultra-smart, an idea that was later discredited (Bazerman & Neale, 1992; Raiffa, 1982). Nash (1950) invented a number of games to test these assumptions - the most well-known of them all is the prisoner’s dilemma (PD).

A decision maker is considered “fully rational” if he/she consistently pursues his/her own objectives. In game theory it is anticipated that the objective is to maximize the value of one’s own payoff (Myerson, 1991). In one-off PD games the parties are interdependent, their fates are woven together. A common scenario involves two people being picked up together for suspicion of a crime. The prisoners are then isolated in separate cells and the police offer each of them a deal. The one who offers evidence against the other one will be freed. If none of them accepts the offer, they are in fact cooperating against the police and will both be punished (although the sentence will be light due to lack of evidence). However, if one of them betrays the other one by confessing to the crime and implicating the other (defecting) he/she is freed for working with the police while the one who remained silent is punished with a heavy sentence.

Each person must then decide individually whether to cooperate or compete (which is to defect). The parties cannot engage in conversation (a key characteristic of negotiation) so they have incomplete information and must work alone to try and work out what he/she thinks the other will do – confess to the crime and implicate the other or remain silent? And what he/she thinks the other thinks he/she will do, and so on in an effort to maximize individual expected utility (Margolis, 1984). Parties calculate the payoffs for each choice alternative (known to each party) to identify the strategy most likely to be used by the other (Bell, Raiffa, & Tversky, 1988). The potential payoff for mutual cooperation is smaller than the potential gain for defection or competing, which means the temptation to compete is strong.

In a series of equations for which he would later win a Noble Prize, Nash (1950) used game theory to show that a system driven by self-interest did not have to lead to chaos (Myerson, 1991). Nash showed that there could always be a point of equilibrium in which everyone’s self-interest was perfectly balanced against each other. If each player operated selfishly it resulted in a pay-off for all players. Take for example, the USA and the USSR Cuban missile crisis in the 1960s. Two nations narrowly averted a dangerous nuclear war – chiefly because a nuclear war worked against the self-

interest of each side. That is the equilibrium, but the stability of the equilibrium only works if each player behaves selfishly, if one chooses to cooperate while the other defects the results become unpredictable and dangerous (Myerson, 1991).

Game theory seeks to show how intelligent, all knowing players *ought* to choose in order to pursue their self-interests most effectively. It uses mathematical modeling to predict decision-making and outcomes but it makes no predictions about how the lay person will actually behave in the real-world (Colman, 1982). Game theory is interested in how they should behave (normative advice) to maximize their individual utility. Game theory provided the foundation for thinking about zero-sum negotiations and the interactions of pay-offs between players. One of game theory's significant contributions to negotiation is that it focuses the negotiator's mind on the likely thoughts and actions of the other side, and in doing so, assists strategic thinking (Raiffa et al., 2003).

Notwithstanding the popularity of game theory at the time, it was later criticized for the oversimplification of a very complex and dynamic process (Schelling, 1960; Walton & McKersie, 1965). Walton and McKersie (1965) developed a model that takes into account the complexity of human behaviour (e.g., mixed motives) to predict *how* negotiators will *actually* behave in real life, and *why*.

### **Walton and McKersie – Mixed motives in bargaining**

Early thinking in the field of negotiation was normative, theorists gave advice on how negotiators *ought* to think and behave. Walton and McKersie's (1965) theory of negotiation was developed from extensive empirical research in the labour relations arena and it was descriptive. It laid the intellectual foundation for much popular thinking about negotiation theory and practice (Kochan & Lipsky, 2003). The theory built on the earlier work of numerous others, including: Boulding (1962), Chamberlain (1951), Douglas (1962), Dunlop (1958), Edwards (1955), Follett (1940), Luce and Raiffa (1957), Nash (1950), Pen (1959), Schelling (1960), Siegel and Fouraker (1960), Slitcher, Healy, and Livernash (1960), and Stevens (1963). Thus, Walton and McKersie's model incorporates and amalgamates the early thinking of negotiation, much of which

reflects a competitive orientation that appears to have been born out of World War I and World War II.

Walton and McKersie (1965) developed a four sub-process model: 1) distributive bargaining (negotiators are competing over conflicting interests); 2) integrative bargaining (negotiators are collaborating over non-conflicting interests); 3) attitudinal structuring (negotiators are shaping relationships, e.g., feelings of trust, friendliness – hostility); and 4) intra-organisational bargaining (negotiators are managing internal bargaining with cognisance of the potential for divergent internal views/interests within bargaining teams). Walton and McKersie's theory argues that negotiation is multi-faceted and that all four sub-processes continuously interact.

Rather than focus on how negotiators ought to be oriented, a normative argument, the author's work focused on what negotiators *actually* do. The theory argues that when the parties' interests are in conflict, negotiators will adopt distributive tactics and when their interests are not, they will adopt integrative behaviours (Walton & McKersie, 1965). In other words, negotiators can be motivated to adopt distributive tactics and integrative behaviours within the same negotiation depending on the nature of the issues. If the issues are mixed (conflict and non-conflict) then the parties have *mixed motives or mixed orientations*.

Schelling (1960) first introduced the mixed motive theory to negotiation. Walton and McKersie (1965) extended it to the labour relations context. Schelling argued that in fact *most* negotiations are mixed motive in nature. Naturally, this creates a significant dilemma for negotiators, if not the most significant dilemma a negotiator can face (Lax & Sebenius, 1986). How does the negotiator balance the tensions inherent in competing over conflicting interests and working together over non-conflict issues? (Bazerman & Neale, 1992; Lax & Sebenius, 1986; Raiffa, 1982). Walton and McKersie acknowledged that balancing these tensions is a significant dilemma for negotiators. Consequently, the authors argue that negotiators tend to adopt a dominant bargaining strategy that is either distributive or integrative.

Notwithstanding the complexities involved in mixing distributive and integrative behaviours, Walton and McKersie (1965) argued that the adoption of each set of behaviours was a perfectly rational response to a particular situation (conflict or non-conflict). Although the authors re-introduced Follett's (1940) earlier concept of integration, they did not attach a collaborative orientation with integrative bargaining as Follett did. In fact, it would be fair to say that from Walton and McKersie's perspective, even a competitively oriented negotiator might adopt integrative behaviours if the parties' interests are not in conflict, not out of *genuine* concern for the other party's interests but because, from a purely pragmatic perspective, it would be the best way forward for themselves in a mixed motive situation.

### **The watershed: *Getting to Yes***

From as early as the 1970s a number of scholars were advocating an alternative to competitive thinking (Deutsch, 1973; Eiseman, 1978; Filley, 1975). For example, Deutsch (1973), a leading social psychologist who sought to understand how people react in conflict situations, promoted cooperative thinking (and behaviour) to prevent the destructive aspects of competition. In a similar vein, Filley (1975) presented a six step problem-solving process which placed emphasis on integrative behaviours, such as considering underlying interests rather than positions (as did the early work of Eiseman, 1978).

In spite of this, competitive thinking represented the dominant attitude in the field of negotiation for many years. However, it is widely accepted that the significant shift in thinking (at the normative level) came when Fisher and Ury (1981) published the book: *Getting to Yes: Negotiating Agreement without Giving In*. *Getting to Yes* advocated the adoption of a collaborative orientation, as well as the adoption of a set of integrative behaviours. Fisher and Ury referred to their overall approach (orientation + behaviour) as *principled negotiation* and argued that it ought to replace existing theories of negotiation. Specifically, Fisher and Ury argued against the use of distributive bargaining, which they maintained had significant downside risks for negotiators. Fisher and Ury's promotion of an amicable approach to negotiation seemed to resonate with people like never before. Born out of Fisher and Ury's study

of the US-Soviet arms limitations talks (SALT) of the 1970's its enthusiastic reception could have reflected public weariness with decades of conflict on international and domestic fronts world-wide.

Until the 1980s researchers had a bias towards competitive thinking or concern for oneself. Theorists and commentators were focused on self-maximisation, and they gave prescriptive advice on how negotiators could beat and outwit their opponents. The focus was on how negotiators could *claim value* and win their negotiations. Popular authors of this time reflect this bias (Cohen, 1980; Henley & Welsinger, 1971; Ringer, 1973; Schatzki & Coffey 1981; Warschaw, 1980). *Getting to Yes* provided the catalyst for a paradigm shift in the field of negotiation (Hopmann, 1995; Menkel-Meadow, 2006; Wheeler & Waters, 2006). Thompson and Leonardelli (2004) likened the book's impact on the field to the Big Bang theory's impact on hard science, implying that it has changed the way that we think about negotiation forever. *Getting to Yes* interrupted the status quo (at the normative level) challenging the existing focus on competitive thinking. Fisher and Ury (1981) argued against negotiations that produced winners and losers. Their message mirrored the earlier message of Follett (1940) that negotiators ought to think beyond themselves. Follett had argued that individual maximization was not ideal in a society where we people are connected. Fisher and Ury sought to change the way that negotiators think about negotiated outcomes by promoting a collaborative orientation and a set of integrative bargaining behaviours to assist the parties in achieving mutual gains.

Since the publication of *Getting to Yes*, dozens of books have come out of Harvard (specifically the Programme on Negotiation (PON)) to expand on the original principles offered by Fisher and Ury (1981), for example: Fisher, Kopelman, and Kupfer Schneider (1994), Fisher and Shapiro (2005), Ury, Brett, and Goldberg (1988). Principled negotiation (collaborative orientation and integrative bargaining) is widely promoted as the "better way" to think and behave in bargaining. Subsequently, educators across the Western world refer to, and advocate, principled negotiation, especially in courses on business and law. According to Menkel-Meadow (2006):

*Getting to Yes* has revolutionized how negotiation is taught in law schools, business, public policy and planning, and in international relations and government departments. (Many of these places, in fact, had never taught negotiation before the book's publication). In addition, thousands of lawyers, diplomats, business people, labor negotiators, managers, and educators around the world have been trained in the book's concepts. (p. 485)

Training people to develop a collaborative orientation and to adopt integrative bargaining behaviours has become big business. A large number of organisations across the Western world now offer training and support in integrative bargaining. See the PON; the Federal Mediation and Conciliation Service (FMCS); and the National Mediation Board in the U.S for three prominent examples and New Zealand is no exception. The prominent Australasian organisation, LEADR (lawyers educated in alternative dispute resolution) champions collaborative thinking and integrative bargaining behaviours (LEADR, 2013). In addition, the collaborative concept has made its way into legislation in New Zealand, as reflected by the obligations of the Employment Relations Act (2000) for parties to negotiate with one another in "good faith." It is also evident in other jurisdictions, for example the essence of "restorative justice" in New Zealand is to get the parties working together, resulting in problem solving solutions that will benefit both parties. The contemporary normative message is that negotiators are *better off* both substantively and psychologically if they choose to adopt integrative bargaining and seek mutually beneficial outcomes – a principled approach. Deviations from this are largely considered as inadequate strategic choices.

The following section explains the mechanics of distributive bargaining and integrative bargaining in detail, and includes a discussion about the fact that different theorists conceptualise integrative bargaining in different ways. This section begins with an examination of distributive bargaining.

## **PART C: Negotiation behaviours**

Of Walton and McKersie's (1965) four sub-processes, the two sub-processes that have received the most scholarly attention are distributive bargaining and integrative bargaining. Fundamentally, they are the two strategic approaches open to negotiators (however there are other dimensions of negotiations that still require a strategic approach, e.g., intra-organisational bargaining). The strategies are conceptually distinct because each approach has its own set of behaviours. This section outlines the strategies and tactics of distributive and integrative bargaining.

### **Distributive bargaining: Strategies and tactics**

Distributive bargaining is an activity in which the gains of one side result in losses to the other because each side is attempting to maximise his or her individual gains (Walton & McKersie, 1965). Distributive bargaining is frequently referred to by a number of labels, including but not limited to: contending, adversarial bargaining, competitive bargaining, positional bargaining, value claiming, zero-sum, hard bargaining, forcing and win-lose bargaining (Carnevale & Pruitt, 1992; Fisher & Ury, 1981; Shapiro, 2000). In this research the term "distributive bargaining" will be used.

Distributive bargaining was defined by Walton and McKersie (1965, p. 4) as: "The complex system of activities instrumental to the attainment of one party's goals when they are in basic conflict with those of the other party." Distributive bargaining involves an overall strategy and a complementary set of tactics. Lewicki, Barry, and Saunders (2006) defined strategy and tactics:

Strategy is the overall plan to accomplish one's goals in a negotiation and the action sequences that will lead to the accomplishment of those goals. Tactics are the short term, adaptive moves designed to enact or pursue broad (or higher level) strategies, which in turn provide stability, continuity, and direction for tactical behaviours. (p. 105)

The distributive bargaining process is characterised by several key strategic and tactical tasks for the negotiator, including: 1) determining the area of mutual interdependence, 2) estimating the other party's target and resistance points, 3) gathering and concealing information, 4) altering perceptions, 5) inducing and making concessions, 6) managing commitments, and finally 7) closing the deal. Each of these key tasks is now discussed.

### **Determining the area of mutual interdependence**

One of the first tasks for a negotiator (which is also an ongoing task) is to determine the area of mutual interdependence between the parties to help determine the possible bargaining range (Lewicki & Litterer, 1985; Pruitt, 1981; Walton & McKersie, 1965). In determining the area of mutual interdependence the parties will try, in the first instance, to estimate the other party's target (the best they hope to achieve) and resistance points (the point at which they believe that they would be better off without the deal). At the upper and lower limits of this range the parties are better off working alone rather than together. Therefore, assuming that the negotiators believe that they are better off working together, they will try to avoid the upper and lower limits of the bargaining range to avoid the potential costs associated with moving too close to these areas (Lewicki & Litterer, 1985; Pruitt, 1981; Walton & McKersie, 1965).

Once this is determined (to the best of the negotiator's ability given the information available to him/her) the negotiator will settle on their opening offers or demands. When formal negotiations commence, initial offers are exchanged and the first tactical assignment for the negotiator is to get as much information from the other side as possible to determine the other side's target and resistance points with more accuracy. The other side's opening offers or demands will provide a lot of information but, in addition, Walton and McKersie (1965) advised that negotiators use direct and/or indirect means of gathering information to determine how strongly the party feels about a given issue. The most common tactic used is pushing and probing for information and paying attention to all cues from the other side both verbal and non-verbal.

### **Gathering and concealing information**

Obviously this will be the tactical assignment of the other side too, so the negotiator must simultaneously conceal his or her information. Walton and McKersie (1965) explained several tactics negotiators use to do this, including:

- Letting the other side do most of the talking,
- Saying very little to give away only the bare minimum of information,
- Having one lead speaker to control the flow of information,
- Planned incompetence (or the naïve inquirer),
- Submitting a large number of issues to disguise the issues of real importance,
- Presenting only the information that supports one's own position, and
- Engaging in emotional behaviour for tactical reasons.

One of the ways to conceal one's own information is to alter the other party's perceptions about what is valued by the negotiator. For example, a negotiator might convince the other side that he/she values an issue greatly, even when he/she actually does not. This puts the negotiator in the position of being able to justify being well compensated by the other side in the event that he/she makes concessions on this issue (Lewicki & Litterer, 1985; Pruitt, 1981; Walton & McKersie, 1965).

### **Altering perceptions**

The tactical task of altering the other side's perceptions can also be used to shape expectations or to lower the other side's expectations about what they can possibly achieve in the negotiation. For example, a management negotiator faced with a demand from the union for a significant pay increase, might argue that such an increase would lead to fewer jobs in the organisation and might even ask the union negotiator if he/she wants to be responsible for job losses. By successfully convincing the union negotiator that his/her claim would have widespread negative repercussions (or altering his/her perceptions) the management negotiator has effectively increased the cost to the union for their demand (Lewicki & Litterer, 1985; Pruitt, 1981; Walton & McKersie, 1965).

The ability to alter perceptions often relates to the parties' perceived power in the situation. Power plays a significant role in negotiations (Carnevale & Pruitt, 1992; Fisher, 1983; McCarthy, 1991), especially in distributive bargaining where tactics often centre around developing relative power (Cutcher-Gershenfeld, McKersie, & Walton 1989). There are two kinds of power – real and perceived. Goodpaster (1996) stated:

Generally in the world of human relationships a person has power if others perceive that the person has power. The perception is more important, than actual, measurable advantage. Having real advantage, in the sense that the other party truly needs you to get what it wants confers power. Lacking that however, getting the other side to think that he needs you or that you do not need him may also confer bargaining power. (p. 336)

If a negotiator is convinced that the other side is in the more powerful position (whether they actually are or not), then he/she will be more vulnerable to having their perceptions altered, and subsequently more likely to buckle under the pressure from the more powerful party to shift their target and resistance points so that they are more favourable to the powerful party. In other words, the more power that a party has (or is perceived to have) the better able they are to alter the other side's perceptions, lower their expectations and ultimately induce concessions.

### **Inducing and making concessions**

Concession-making is a central feature of distributive bargaining. Without concessions parties would fail to negotiate at all. Concessions generally involve both parties giving something up in order to move the negotiations forwards. Concessions must be well managed with tactical considerations including: timing, size, and presentation of the concessions all carefully considered (Lewicki & Litterer, 1985; Lewicki et al., 2006; Pruitt, 1981). The negotiator works to induce concessions from the other party and simultaneously tries to limit the concessions coming from his/her own side. Specifically, the negotiator tries not to make concessions unless he/she has to, and even then the negotiator looks to limit the size and value of any concessions that must

be made (Lewicki et al., 2006; Pruitt, 1981; Walton & McKersie, 1965). Concessions are one of the key ways that the negotiators communicate with each other. For example, in the final stages of bargaining the negotiators use the timing and the size of their concessions to signal that they are approaching their respective resistance points or bottom lines (Lewicki & Litterer, 1985; Walton & McKersie, 1965).

### **Managing commitments**

The balance between firmness and flexibility is an important one in distributive bargaining. Very firm commitments are known to be risky (Walton & McKersie, 1965). For example, if a negotiator made the statement that he/she was unwilling to make any concessions then the negotiator would be committed to that comment, which would make it very difficult for him/her to shift from that position over the course of the negotiations without losing face. A more prudent course of action would be to indicate a degree of flexibility but to make this flexibility contingent upon a concession from the other party (Lewicki & Litterer, 1985; Lewicki et al., 2006; Pruitt, 1981). Not only do negotiators have to be careful not to make firm commitments themselves but they have to manage the commitments made by the other side. Walton and McKersie (1965) advised several ways that the negotiator can keep the other side from making firm commitments, including: ignoring the statement of firm commitment, ending the negotiation session immediately after the firm commitment has been made so as to allow the commitment to fade away between negotiating sessions, preventing public audiences to reduce the pressure on negotiators and using humour.

The aim is to make it as easy as possible for the other side to back away from a commitment that would be unfavourable to oneself. Of course, on occasion, the negotiator may well wish to commit the other side to something that he/she has said. In this instance, the tactics are used in reverse. For example, rather than ignore the statement of commitment the negotiator would draw attention to the statement.

### **Closing the deal**

Closing the deal is not specific to distributive negotiation. However, it is worth

mentioning because every negotiator must find a way to eventually close the deal, and distributive negotiators will do this using different tactics to those using an integrative approach. For example, as mentioned, the distributive negotiator could use the timing and size of concessions to signal to the other side that they have reached their limits and that they have no more room to move. In another example, a distributive negotiator might promise to make an additional concession (a sweetener) to seal the deal if the other side agrees to the current terms.

### **A range of behaviours**

It is important to note that the negotiation literature makes it clear that distributive bargaining can be implemented with more or less rigour (Allen et al., 1990; Dur & Mateo, 2010; Fisher & Ury, 1981). Essentially, the literature establishes the idea that distributive behaviours sit along a continuum that ranges from hard to soft. In a classic illustration, Fisher and Ury (1981) argue that before *Getting to Yes* negotiators had just two strategic choices: 1) they could adopt a hard distributive strategy, or 2) they could adopt a soft distributive strategy. The authors cautioned that neither was ideal, they argued that a hard strategy had significant downside risks and that a soft strategy would be dominated by a hard one. The authors insisted that their own approach “principled negotiation” was a *better* alternative. Fisher and Ury stated:

The soft negotiator wants to avoid personal conflict and so makes concessions readily in order to reach agreement. He wants an amicable resolution; yet he often ends up exploited and feeling bitter. The hard negotiator sees any situation as a contest of wills in which the side that takes the more extreme positions and holds out longer fares better. He wants to win; yet he often ends up producing an equally hard response which exhausts him and his resources and harms his relationship with the other side. (p. 6)

Below Table 1.0 demonstrates the distinctions made by the authors.

**Table 1.0 Hard, soft and principled negotiation**

<b>Hard distributive bargaining</b>	<b>Soft distributive bargaining</b>	<b>Principled negotiation</b>
Participants are adversaries	Participants are friends	Participants are problem-solvers
The goal is victory	The goal is agreement	The goal is a wise outcome
Demand concessions as a condition of the relationship	Make concessions to maintain the relationship	<i>Separate the people from the problem</i>
Distrust others	Trust others	Realistic appraisal and attempt to develop trust
Dig into your position	Change your position easily	<i>Focus on interests not positions</i>
Make threats	Make offers	State and explore interests
Demand one-sided gains	Accept one-sided losses	<i>Look for mutual gains</i>
Insist on your way	Insist on agreement	<i>Insist on using objective criteria</i>

Source: adapted from Fisher, Ury, and Patton (1991)

It is important to note that whilst some authors like Fisher et al. (1991) have clearly articulated that distributive bargaining can be hard or soft and that principled negotiation is an alternative, other authors view the distributive–integrative dichotomy as a continuum of behaviours from hard to soft with hard representing distributive behaviours and soft representing integrative behaviours (for example Allen et al., 1990). This thesis uses Fisher et al.’s model, arguing that there is both hard and soft distributive bargaining, and that integrative bargaining can be distinguished from soft distributive bargaining. Interestingly, it appears that there is no conceptualisation of hard and soft when it comes to integrative bargaining. Therefore, hard and soft are simply terms that are applicable to distributive bargaining. Herein, these terms are used (with the help of some proxy behaviours) in the sense that they have traditionally been understood in such bargaining arenas as labour relations and international relations.

### Hard bargaining

Hard distributive bargaining is well defined in the negotiation literature. A review of the literature revealed that eight key traits are commonly associated with hard bargaining.

**Table 1.1 Characteristics of hard bargaining**

Extreme opening offers/demands (high aspirations)
Inflexibility
No concessions or small and infrequent concessions made reluctantly
Threats made to harm the other party
Aggressive/conflictual behaviours
Concealing information
Attempts to manipulate the OP's perceptions e.g., bluffs
An explicit lack of belief in the legitimacy of the other party's claims

Sources: Allen et al., 1990; Hopmann, 1995; Kahn and Kohls, 1972; Kirgis, 2012; Lawler and MacMurray, 1980; Mnoonkin, Peppet, and Tulumello, 2000; Odell, 2000; Schneider, 2002; Schurr and Ozanne, 1985; Shapiro, 2000; Susskind, 2006.

According to Hopmann, (1995, p. 33) the hard bargainer wants to “win the negotiation at the expense of the other party, by remaining firm while they are flexible and offer compromises.” Hopmann continued:

Once the opponent has begun to slide down the slippery slope of compromise, the hard bargainer may sit fast and achieve an optimal agreement that also represents high relative gains. Even if the opponent remains inflexible, the hard bargainer would prefer to remain firmly committed to self-interested positions and risk sub-optimal agreements or even no agreement at all rather than be led into an agreement in which the opponent made greater gains. Of course if the opponent is not gullible, or if the opponent is similarly motivated, then both parties are likely to engage in a contest of wills. (p. 33)

### Soft bargaining

While descriptions of “hard bargaining” are common in the literature, “soft bargaining” receives far less attention. Notwithstanding, a review of the literature did reveal six key traits commonly associated with soft bargaining.

**Table 1.2 Characteristics of soft bargaining**

Reasonable opening offers/demands (moderate aspirations)
Flexibility
Frequent concessions (relatively generous in size and rate) sometimes on a unilateral basis
Promises
Conciliatory/non-conflictive behaviours
Cooperative information exchange

Sources: Allen et al., 1990; Hopmann, 1995; Huffmeier, Freund, Zerres, Backhaus, and Hertel, 2011; Lawler and MacMurray, 1980; Mnoonkin et al., 2000; Schneider 2002; Schurr and Ozanne, 1985; Shapiro, 2000; Susskind, 2006.

According to Huffmeier et al. (2011) soft bargaining or “soft line bargaining” as the authors referred to it, is defined as:

employing one’s own concessions to induce more concessions from the other party in a negotiation. Soft line strategies are aimed at creating a cooperative context by using one’s own concessions as a means of demonstrating responsiveness to the other party’s interests. At the extreme, soft line bargaining may involve even initial unilateral concessions to reduce tension and establish norms of cooperation and reciprocity. (p. 3)

This section has outlined the key strategic and tactical tasks of the distributive sub-process, and provided the characteristics of hard and soft distributive bargaining. The following section introduces the integrative sub-process as it was introduced by Walton and McKersie (1965) and then discusses the different conceptualisations of integrative bargaining.

### **Integrative bargaining**

Integrative bargaining is the system of activities used to integrate the parties' interests when their objectives are not in conflict (Walton & McKersie, 1965). In its pure form it is an activity in which the parties work together to solve problems by finding creative solutions that satisfy both parties' interests. Integrative bargaining is referred to by a number of labels, including but not limited to: principled negotiation, problem-solving, mutual gains bargaining, interest-based bargaining, win-win negotiations, collaborative bargaining, fostering, positive sum bargaining, and value creation (Goodpaster, 1996; Fisher & Ury, 1981; Hoppman, 1995; McKersie et al., 2008). In this research the term "integrative bargaining" will be used. Integrative bargaining is defined by Walton and McKersie (1965, p. 4) as: "The system of activities which is instrumental to the attainment of objectives which are not in fundamental conflict with those of the other party and which therefore can be integrated to some degree."

### **Principled negotiation: Fisher and Ury**

Fisher and Ury (1981) popularized integrative bargaining when they re-introduced the concept in *Getting to Yes*. As mentioned, the authors referred to integrative bargaining as "principled negotiation." Principled negotiation revolves around four key steps:

- 1) focus on interests not positions,
- 2) separate the people from the problem,
- 3) invent options for mutual gain, and
- 4) use objective criteria.

The first principle, *focus on interests not positions*, is based on the rationale that if positions are what you want, interests are why you want them. If negotiators can uncover the interests underlying the position, they might discover mutual or complementary interests. At the very least the negotiator will have a better understanding of the problem which might lead the parties to develop and consider different ways to resolve the issue(s). The second principle, *separate the people from*

*the problem*, essentially means don't attack the people, attack the problem. The rationale for this principle is based on the premise that every negotiator has two key interests: 1) the substantive outcome, and 2) the relationship. If negotiators make disputes personal, they are likely to harm the relationship and make it harder to resolve the issue. The third principle, *invent options for mutual gain*, lies at the heart of the integrative model. Negotiators are asked to invent options that might satisfy the interests of *both* parties. The fourth principle, *use objective criteria*, encourages negotiators to use independent criteria (for example, an independent valuation) so that the decision-making process is based on fairness, rather than something arbitrary.

Finally, principled negotiation asks negotiators to consider their BATNA (or their best alternative to a negotiated agreement). In other words, the negotiator is asked to consider the best alternative he/she has in the event that they are unable to work with the other party. The rationale is that once a negotiator is aware of his/her alternatives he/she can make a better decision about whether the present deal is a good deal or not to them (Fisher & Ury, 1981; Fisher et al., 1991).

### **Focus on interests not positions**

Fisher and Ury (1981) recommended that negotiators refrain from opening negotiations with positions or by making statements about what they want, and begin instead with statements about the problem as they see it. By focusing on the underlying critical interests of the parties (their real needs and objectives) rather than the proposed solutions, negotiators are likely to discover that they have mutual or complementary interests and/or that they have differing values and preferences which they can exploit to produce a wider range of solutions to integrate the parties' needs (Carnevale & Pruitt, 1992; Fisher & Ury, 1981; Lewicki et al., 2006; Shapiro, 2000).

### **Separate the people from the problem**

Fisher and Ury (1981) cautioned negotiators to "separate the people from the problem" so as not to entangle the substantive issues with the personalities at the bargaining table. The authors encouraged negotiators to be firm on the issues and soft

on the people. Inherent in this advice was the assumption that negotiators desire ongoing relationships with the other side(s) or at least that they ought to. The process of integrative bargaining was considered to be one way to bring the parties closer together both substantively and attitudinally. The principled negotiator is obligated to invest in, develop and maintain positive and trusting relationships. These are goals in and of themselves.

However, in more recent times authors have come to realize that this is not always possible and that negotiators don't always want to maintain a relationship with the other side(s). These days proponents of integrative bargaining advise negotiators to distinguish one-off negotiations from ongoing long term relationships (Menkel-Meadow, 2009).

### **Invent options for mutual gain**

Inventing options for *mutual gain* lies at the heart of integrative bargaining. It is assumed that the potential solutions are not apparent and that the parties must work to discover them or invent them together. Furthermore, it is assumed that the consequences of these solutions are unknown and that the parties will be required to conduct careful analysis once they have the information required to do so (Fisher & Ury, 1981). This step requires the parties to work with open minds to generate multiple solutions in an exploratory manner, to be imaginative and creative, to think outside the square for new feasible solutions and to accurately discuss the consequences of various alternate solutions. The process of integrative bargaining requires the use of problem-solving techniques for expanding the metaphorical pie including: active listening, joint brainstorming, joint data collection, re-framing of the issues, joint task forces and facilitation (Fonstad, McKersie, & Eaton, 2004). The purpose of expanding the pie is to increase the amount of gains that can be made by *both* parties.

**Objective criteria**

When interests are directly opposed, Fisher and Ury (1981) advised the parties to select independent objective criteria (e.g., market value, expert opinion, law) to help them resolve their differences. Usually there is more than one “objective criterion” available, so in the first instance the parties have to agree on which criteria to use. Once this has been accomplished, the parties have agreed to be bound by those standards. Fisher and Ury argued that the use of objective criteria allows negotiators to avoid engaging in competitive power based bargaining. Rather than trying to persuade one another about the merits of their own case, the parties can seek independent objective criteria which will help them reach “fair” and “just” solutions (Fisher & Ury, 1981; Fisher et al., 1991). Of course this solution may not be as good as the solution that they could have arrived at using a distributive approach to bargaining, in terms of how much they could have gained individually, but they will have preserved the relationship with the other side and satisfied a need to conduct themselves in a utilitarian manner (Menkel-Meadow, 1983). Furthermore, no detrimental effect from their solution will be experienced by the other party, a third party or the wider community (Menkel-Meadow, 1983).

**BATNA – Best alternative to a negotiated agreement**

Originally, Fisher and Ury (1981) paid little attention to the role that power plays in negotiation. They were seeking an alternative means of bargaining that took power out of the equation as much as possible. However, the authors conceded in their second edition (Fisher et al., 1991) that power had been insufficiently addressed in the original book. Fisher et al. (1991) stated:

Of what use is talking about interests, options, and standards if the other side has a stronger bargaining position? What do you do if the other side is richer or better connected, or if they have a larger staff or more powerful weapons? (p. 50)

Fisher et al. (p. 50) conceded “in any negotiation there are realities that are hard to change.” The authors stressed that the BATNA could protect the negotiator from

agreeing to something that they ought to reject and help them make the most of the assets that they do have to maximize their interests in the deal (Fisher et al., 1991); although Fisher et al. had to concede that power plays a significant role in negotiations and that power could even thwart the negotiator's efforts to collaborate. However, the authors still insisted on playing the game differently and persevered with their advice on ways to deal with power.

### **Integrative bargaining: Different conceptualisations**

Although Fisher and Ury's (1981) model of integrative bargaining is very similar to the model developed by Walton and McKersie (1965), the two models are based on very different assumptions. This is not surprising given that Walton and McKersie's model is a descriptive model born out of empirical research, while Fisher and Ury's model is a normative model offering prescriptive advice. This section explores the different assumptions that underpin integrative bargaining.

Fisher and Ury's (1981) model of principled negotiation is based on several assumptions: 1) negotiators ought to care about relationships and work to maintain them; 2) negotiators ought to look for the solution that will best meet the interests of both parties; 3) compromise solutions are unnecessary, wasteful and unsatisfying for the parties; 4) negotiators can and ought to rise above so-called normal human behaviour; and 5) people gain utility (increased self-esteem and satisfaction) from engaging in ethical behaviours that benefit the other side and the wider community.

Walton and McKersie (1965) saw relationships as important too. In fact, arguably, they put even more emphasis on the structuring and management of relationships than Fisher and Ury did. However, for Walton and McKersie the orientation to relationships is a strategic one. In other words, a negotiator works to develop a relationship that is functional for his purposes. There are three possible scenarios; 1) a relationship that allows domination if the parties are perceived to be in conflict over all issues, 2) a relationship that is open and trusting if the parties are perceived to have only mutual or complementary interests, and 3) a relationship that maximises success on issues over which the parties are in conflict but in a manner that still allows for recognition

and cooperation on other issues where the parties are in conflict over some issues but not all issues.

Another key distinction lies in the fact that Walton and McKersie (1965) remained ethically neutral in the presentation of their bargaining model. They accepted both distributive bargaining and integrative bargaining as rational strategic choices under different circumstances. A cornerstone of Fisher and Ury's (1981) model is the philosophy that negotiators ought to consider the welfare of others, which includes not only those present at the bargaining table but all of the people who might be impacted by an agreement, including those in the wider community. The key tension here is whether it is acceptable to pursue one's own interests (selfishly) in a negotiation or whether in fact that is unacceptable or at least undesirable and if so, to who are we accountable? An early critic of Fisher and Ury's model argued that the model had gone too far by controversially imposing a moral obligation on negotiators to seek mutually beneficial outcomes (White, 1984). White's criticisms are discussed in more detail below.

Having now looked at the two principal approaches to negotiation in-depth, it is useful to present the key characteristics of each approach as they are presented in the literature (see Table 1.3 below).

**Table 1.3 Distributive and integrative bargaining**

<b>Distributive bargaining – Walton and McKersie</b>	<b>Integrative bargaining – Walton and McKersie</b>	<b>Integrative bargaining – Fisher and Ury</b>
Negotiators interests in conflict	Negotiators interests are not in conflict	Some interests are in conflict & some are not
Maximise Individual gains	Maximise joint gains on non-conflict issues	Maximise joint gains on all issues
Identify the underlying problems	Identify the underlying problems	Identify the underlying problems
Push for information from the OP, simultaneously conceal own information	Open exchange of information on non-conflict issues	Open exchange of information on all issues
Alter perceptions, manipulate costs, increase power to achieve stated positions	Use problem solving techniques to search for and invent solutions on non-conflict issues	Use problem solving techniques to search for and invent solutions on all issues
Make minimal concessions, demand reciprocation	Look for low value/high value trades	Look for low-value/high value trades
Make final offers	Openly and accurately share the consequences to you of suggested alternatives	Use objective criteria to make final decisions to avoid competitive bargaining and ensure just outcomes
Ensure outcome is best for you	Ensure outcome is agreeable to both parties	Ensure outcome is fair to both parties and the wider community

Sources: Fisher et al., 1991; Pruitt, 1983; Lewicki and Litterer, 1985; Walton and McKersie, 1965.

This section has explained the mechanics of distributive bargaining and integrative bargaining in some depth, including an analysis of the different ways in which integrative bargaining is conceptualised by leading theorists. The following section presents the claims of integrative bargaining proponents, the critics, and the results of experimentation from the labour relations arena.

#### **Part D: The claims, the critics and experimentation of integrative bargaining**

##### **The claims of integrative bargaining**

Proponents of principled negotiation stress that the adoption of distributive tactics has significant drawbacks for the negotiator, such as: failing to reach agreement, leaving gains on the table and damaging relationships (Menkel-Meadow, 1983, 2006, 2009; Schneider, 2002; Thompson & Hastie, 1990). By way of example Shapiro (2000) stated:

Despite its popularity, bargaining often produces disappointing results. In international relations for example, parties often entrench themselves in inflexible policy statements that leave little room for dialogue or compromise. In disputes involving labour and management, negotiations often break down due to the tough bargaining stances of the lead negotiators. (p. 409)

A persuasive body of research supports the claim that integrative bargaining behaviour results in superior outcomes (Bazerman, Curhan, Moore, & Valley, 2000; Ben-Yoav & Pruitt, 1984; Thompson, 1990). In addition, it is argued that the deals reached are more durable and that the process itself enhances relationships (Shapiro & Bies, 1994; Susskind, 2006; Thompson, Wang, & Gunia, 2010). Furthermore, proponents of integrative bargaining argue that it is a more ethical process than distributive bargaining because it revolves around openness and honesty, and objective criteria are used to measure the fairness of outcomes (Fisher & Ury, 1981; Fisher et al., 1991; Menkel-Meadow, 1983, 2006). As a result, the negotiator is said to benefit, not only substantively, but also psychologically through improved self-esteem and satisfaction with the process (Fisher & Ury, 1981; Fisher et al., 1991; Menkel-

Meadow, 1983, 2006).

### **The critics of integrative bargaining**

From the outset, Fisher and Ury (1981) made the assertion that *principled negotiation*, offered a brand new and universally applicable theory and process of negotiation to *replace* existing theories. A few outspoken critics rose above the crowd to challenge the integrative bargaining/collaborative paradigm. In fact, just three years after the publication of *Getting to Yes*, White (1984) criticised the idea that Fisher and Ury's theory could replace existing theories of negotiation. White stated:

My principal criticism of the book is that it seems to overlook the ultimate hard bargaining. Had the authors stated that they were dividing the negotiation process in two and were dealing with only part of it, that omission would be excusable. That is not what they have done. Rather they seem to assume that a clever negotiator can make any negotiation into problem solving and thus completely avoid the difficult distribution of which Karass and Schelling speak. To my mind this is naive. By so distorting reality, they detract from their powerful central thesis. (p. 116)

Walton and McKersie (1965) argued that the adoption of distributive tactics is a rational response to situations in which the parties' interests are in conflict, and that the adoption of integrative behaviours is a rational response to situations in which the parties' interests are not in conflict. In contrast, proponents of integrative bargaining argue that negotiators ought to be driven by collaborative thinking rather than their perception of the issues. In other words, they argue that a collaborative orientation (and the associated integrative behaviours) can be adopted when the parties' interests are in conflict (with the exception of single issue buyer-seller exchanges) and when they are not in conflict (Fisher & Ury, 1981; Fisher et al., 1991).

In a similar vein to White (1984), Lax and Sebenius (1986) argued that due to the mixed motives present in most negotiations, negotiators cannot rely on one process or the other but must evaluate each individual situation to determine whether integrative bargaining, distributive bargaining, or a combination of the two, is the best strategy for the given situation. Lewicki (1981, p. 38) argued that the negotiation field needed “contingency models” that took account of the fact that most “actual negotiations” are a mix of the two bargaining strategies.

In more recent times, critics of principled negotiation have argued that such an approach is impractical, idealistic and naïve (Camp, 2002, 2007; Condlin, 2008; Korobkin, 2008). Furthermore, it is argued that a purely principled approach leaves negotiators vulnerable to power plays and deception by clever competitive negotiators (Camp, 2002, 2007; Craver, 2009; McCarthy, 1991). Camp (2002) went as far as describing the willing collaborative negotiator as a “sitting duck”, vulnerable to exploitation. Even Walton and McKersie (1992, p. 280) acknowledged the potential vulnerability in pursuing a purely integrative approach. The authors stated “if the negotiator pursues integrative bargaining in a single-minded manner, being totally candid and completely forthcoming with information, he/she can be taken advantage of by the other party.”

Fells (2010, p. 5) argued that negotiation is “messy” and that negotiators engage in both distributive bargaining behaviours and integrative bargaining behaviours, albeit with a dominant strategy that is either distributive or integrative. The authors who argued that integrative bargaining could not replace existing theories are really just expressing the same thinking as early theorists Schelling (1960) and Walton and McKersie (1965), who argued that negotiations involved a complex interplay between the integrative and distributive sub-processes of negotiation. As powerful as the normative message about integrative bargaining has been, there have always been authors who argued that its potential was being oversold; and that it is more appropriate to view integrative bargaining as *one* of the theories of bargaining as opposed to *the* theory for bargaining (for two prominent examples see Condlin, 2008; and Lax and Sebenius, 1986). Numerous scholars agree that negotiators will use both

approaches at different times (Adair & Brett, 2005; Carnevale & Pruitt, 1992; Olekalns Brett, & Weingart, 2003).

Moreover, some authors have argued that the emphasis on integrative bargaining has resulted in the notion of *integrative potential* being oversold and that, on balance, there are likely to be more opportunities for distributive bargaining than integrative bargaining in most situations (Korobkin, 2008; Wetlaufer, 1996). In other words, there is often less common ground between the parties than we are led to believe. Importantly, even where integrative potential exists, we know that there are certain *minimum pre-conditions* which must be met before negotiators can undertake an integrative strategy: 1) the negotiators must be motivated to work together (Carnevale & Pruitt, 1992; Fonstad et al., 2004; Paquet, Gaetan, & Bergeron, 2000), 2) there has to be a certain degree of trust between the parties which allows for accurate information exchange about the problem and the safe exploration of alternative solutions (Cutcher-Gershenfeld et al., 1989; Pruitt, 1983; McKersie et al., 2008), and 3) the climate has to be a supportive one in which ideas can be explored without judgment (Fisher & Ury, 1981; Walton & McKersie, 1965, 1992). The absence of these conditions creates barriers to the adoption of integrative bargaining.

### **Experimentation of integrative bargaining: The labour relations arena**

There have been numerous experiments with the adoption of integrative bargaining in the labour relations context. Some have been successful and others have highlighted the difficulties of introducing and adopting integrative bargaining (Bacon & Blyton, 2007; Brainerd, 1998; McKersie et al., 2008). These examples all come from the labour relations arena where complex issues and environmental difficulties have heightened the parties' perceptions of their mutual interdependence, thus providing the impetus to try something new (Paquet et al., 2000). Another factor linked to the adoption of integrative bargaining has been the desire to improve previously damaged relationships (Fonstad et al., 2004).

Since 1988, the American Federal Mediation and Conciliation Service (FMCS) have been training labour-management practitioners in integrative bargaining. The agency

appears to hold most of the known data about the use of integrative bargaining in the labour-management arena in the USA. According to Cutcher-Gershenfeld and Kochan's (2004) study (based on FMCS data), by the late 1990s more than 75 percent of labour negotiators and more than 65 percent of management negotiators were aware of integrative bargaining and approximately 55 percent indicated that they had experimented with the approach or at least tried to use some of the behaviours associated with integrative bargaining.

The results of the experimentation with integrative bargaining have been mixed. In one example that came from two integrated steel mills in the UK (Bacon & Blyton, 2007), the researchers concluded that integrative bargaining does not always result in win-win solutions, they stated: "unions had to adopt conflict strategies in bargaining to achieve mutual gains" (Bacon & Blyton, 2007, p. 831). The authors concluded that these results "demonstrate the rationality of conflict" and argued that unions often have to "compel" firms to share gains with employees (Bacon & Blyton, 2007, p. 831). Furthermore, the authors reported that in this case the "employers took advantage of union cooperation in order to force agreements that minimized the extent to which employees gained from workplace change" (Bacon & Blyton, 2007, p. 831). In another example, a study conducted by Paquet et al. (2000) concluded that the use of integrative bargaining behaviours did lead to some mutual gains. However, it also resulted in unions making greater concessions (monetary) and receiving fewer gains than they achieved using distributive bargaining behaviours. Subsequently, union leaders were reportedly less satisfied with integrative bargaining than were their management counterparts.

In contrast, Brainerd (1998) reported on the successful implementation of integrative bargaining in Ramsey County. Several of the key benefits reported in Brainerd include: improved communications between management and the bargaining team and subsequently an improved understanding of one another's issues, a far more amicable process, greater opportunities for participation to express ideas and generate alternative options, and a shorter process (the agreement was negotiated before contract expiration, which saved time and money). One of the best known cases of the

successful implementation of integrative bargaining is the Kaiser Permanente case. Kaiser Permanente (the largest private integrated health insurance and health care delivery organisation in the United States) and a coalition of Kaiser Permanente unions successfully undertook integrative bargaining in 2005.

McKersie et al. (2008, p. 66) stated “given the scale and complexity of these negotiations, their successful completion provides an exemplar for collective bargaining in this country.” Furthermore, McKersie et al. (2008, p. 34) stated “they are likely to be recorded by future historians as one of the most significant breakthrough negotiations in U.S. labour relations of our time.” The KP negotiations were unique, not only for the scale and complexity but because the negotiations were embedded in an ongoing labour management partnership (the ideal situation for the adoption of integrative bargaining) and the parties were very committed to trying to apply an integrative approach to negotiations (Fonstad et al. 2004; McKersie et al., 2008).

Negotiators who have experimented with integrative bargaining have reported successes (e.g., improved relationships, reaching agreement more quickly, improved understanding of the issues, and greater participation), and challenges (e.g., vulnerability to power plays, frustration with the length of time it took to find and cost out alternative options, difficulty with grasping and applying the concepts of integrative bargaining, and difficulty with constituents who believed union leaders were too close with management). Empirical research on integrative bargaining shows that successful implementation takes significant levels of commitment to the process (from all of the constituents and principals involved) (Loewenstein, Thompson, & Bazerman, 1989; Goodpaster, 1996), significant levels of trust (McKersie et al., 2008), considerable investments of time and money for training negotiators on the integrative process, and the provision of ongoing facilitation during its implementation (Fonstad et al., 2004; Friedman, 1992; McKersie et al., 2008).

Yet, even with all of these things in place, the negotiators in the KP case study faced significant challenges applying integrative bargaining to issues of a distributive nature

(i.e., economic issues over which the parties interests are in conflict). McKersie et al. (2008) stated:

IBN worked best and was used most extensively on issues where the parties shared common concerns...distributive bargaining, complete with positional tactics worked best for dealing with issues where the parties' basic interests were in deepest conflict and, importantly, where chief negotiators were faced with deep and difficult-to-resolve conflicts within their organisations. (p. 94)

These findings supported the numerous scholars who have argued that negotiators ought to be competent in both distributive bargaining and integrative bargaining (Condlin, 2008; Cutcher-Gershenfeld, 1994; Lax & Sebenius, 1986, 2006). Therefore, we might realistically expect to see negotiators engaging in both distributive and integrative behaviours throughout the course of any given negotiation.

### **The research problem and research questions**

This section illustrates the research problems (or gaps in the literature) and presents the research questions designed to address these.

The first research problem relates to the individual negotiator's orientation or preference for the distribution of negotiated outcomes. It is clear in the preponderance of recent normative literature that negotiators *ought* to have genuine concern for both parties' outcomes – a collaborative orientation. What is not clear, is how professional negotiators operating in the real world, *actually* feel about negotiated outcomes.

As mentioned, research on negotiator orientation is typically conducted in laboratories under controlled experiments (Gillespie et al., 2000; Macintosh & Stevens, 2013; Van Kleef & De Dreu, 2002). Participants in these studies are typically university students (studying business or psychology). In most of these studies the

participants' *actual* orientation is measured using the Kuhlman and Marshello (1975) decomposed games measure (discussed in more detail in the methods chapter). However, some studies "prime" the participants to have a particular orientation (Beersma & De Dreu, 2002).

In the experimental studies where the participants' *actual* orientation has been measured the results are mixed. Some of the studies have reported that the vast majority of participants have a competitive or individualistic orientation (Aaldering, Greer, Van Kleef, & De Dreu, 2013; De Dreu & Boles, 1998; Karagonlar & Kuhlman, 2013). Yet others conclude that just over half of the participants have a competitive orientation while the remainder have a collaborative orientation (McClintock & Allison, 1989; Olekalns & Smith, 1999; Van Kleef & De Dreu, 2002).

The problem with this research, aside from the fact that it offers no clear conclusions with respect to negotiator orientation, is the fact that it has been conducted using simplified simulated exercises in laboratories (with university students as participants). Therefore, the results (even if they were clear) could not be generalised out to real-world professional negotiators who engage in far more complex negotiations. Only a few studies have examined negotiator orientation using alternative (non-experimental) research methods. For example, Nauta, De Dreu and Van Der Vaart (2002) conducted interviews, and McClintock and Allison, (1989) utilised questionnaires. However, neither of these studies engaged professional negotiators as participants.

It is widely assumed that most real-world professional negotiators are competitively oriented. This is indicated by the significant push (at both the normative and practitioner levels) for negotiators to adopt a collaborative orientation. However, we actually lack the empirical evidence to support this assumption. Therefore, this study seeks to discover the orientation of professional negotiators who have to live with the distribution of the outcomes generated from their negotiations (and are impacted by the context in which they are operating). Thus this research questions asks:

*R.Q. 1. Do real-world negotiators (as represented by NZ labour negotiators) display competitive or collaborative orientations or mixed orientations?*

The second research problem relates to the individual negotiator's behaviour or the strategies and tactics that he/she uses. Once again, it is clear from the normative literature that negotiators *ought* to adopt integrative bargaining behaviours and avoid distributive behaviours. However, it is not clear, how professional negotiators *actually* behave in real-world negotiations.

As mentioned, research on negotiator behaviour is typically conducted in laboratories with university students as participants (Beersma & De Dreu, 2002; Van Kleef et al., 2007; Weingart et al., 1990). The laboratory setting is favoured for negotiation research because it provides the researcher with a high degree of precision and control (Adair & Lowenstein, 2013) over what is essentially a dynamic, fast-paced and messy human process. For example, researchers can drastically simplify real life by selecting a set number of distributive and integrative tactics that they wish to examine thereby controlling the scope of the study (Beersma & De Dreu, 2002; Weingart et al., 1996). Furthermore, it is common for simulated negotiations to be audio-recorded or videotaped so that full transcripts can be made for subsequent coding and analysis (Harnick & De Dreu, 2004; Olekalns, Smith, & Walsh, 1996; Weingart, Hyder, & Prietula, 1996). In addition, computer mediated negotiations (which are ever more popular) utilise software that can be programmed to present participants with pre-determined integrative and distributive behaviours to choose from (Van Kleef et al., 2007) making it easier for the researcher to analyse behaviours.

Notwithstanding the fact that the vast majority of studies are experimental, a number of studies have been conducted using real-world negotiations, typically collective bargaining and hostage negotiations (Donohue & Roberto, 1996; Cutcher-Gershenfeld & Kochan, 2004; Giebels and Taylor, 2009). Hostage negotiations tend to be recorded and transcribed. However, labour-management negotiations are not. Therefore, it is particularly difficult to capture negotiator behaviour in this context. In addition,

collective negotiations often involve economic issues, therefore highly sensitive financial information is disclosed and negotiations take place (often for protracted periods of time) 'behind closed doors.' In such situations, participants are unlikely to give permission for the negotiations to be recorded which poses methodological challenges for the researcher (discussed further in the methods section).

Recent studies that have examined behaviour in the real-world context of labour-relations have had a particular emphasis on integrative bargaining. These studies have either examined experimentation with integrative bargaining (as presented in the earlier section *experimentation and uptake of integrative bargaining*), or they have utilized questionnaires to determine the familiarity with integrative bargaining (Cutcher-Gershenfeld & Kochan, 2004) and/or the impetus to try a different approach to bargaining (Paquet et al., 2000). As mentioned, according to Cutcher-Gershenfeld and Kochan's (2004) study (based on Federal Mediation and Conciliation Service (FMCS) data), by the late 1990s more than 75 percent of labour negotiators and more than 65 percent of management negotiators were aware of integrative bargaining and approximately 55 percent indicated that they had experimented with the approach or at least tried to use some of the behaviours associated with integrative bargaining.

Arguments in the literature suggest that distributive bargaining might remain dominant in real-world negotiations. For example, Susskind (2006) argued that the classical negotiating techniques (making threats, bluffing and demanding concessions) are still very much in vogue even though integrative bargaining has emerged as a highly desirable alternative. Furthermore, Menkel-Meadow (2006) shared Roger Fisher's lamentation about the status quo, when she stated:

...as Roger Fisher asked, if all of this *is* such a good idea, why have these ideas not had a greater cultural impact or more of an effect on international relations, in the media, in the schoolyard, our universities, workplaces, or in Congress? Is there something in human nature that prevents us from seeing those opposite us at a negotiation table as a partner with whom we might create a joint venture, or, at the very least, an agreement to stop disagreeing?

Are we socialized in a competitive society to consider “the other” as an antagonist? (p. 498)

Finally, those who teach negotiation have argued that a renewed scholarly focus on distributive bargaining is crucial (notwithstanding the merits of integrative bargaining) because of the reality that students will face distributive bargaining in real life (Brown, 2012; Kirgis, 2012; Wheeler, 2012). These arguments further suggest that distributive bargaining might be dominant in real-world bargaining interactions.

The research problem stems from the fact that we don’t know how negotiators *actually* behave in practice. It is argued here that we cannot simply extrapolate the results from experimental studies to real-world situations. Nor can we rely on suggestions made in the literature that lack substantive evidence. While there is some evidence about behaviour available from the FMCS data mentioned, there is no information available about how labour negotiators behave in New Zealand. Given the significant push at the normative (and practitioner levels) for negotiators to adopt integrative behaviours, this research asks:

*R.Q. 2. Do real-world negotiators (as represented by NZ Labour negotiators) practice integrative or distributive bargaining behaviours or a mix of integrative and distributive?*

The third research problem relates to the individual negotiator’s behaviour, specifically whether the distributive tactics or integrative behaviours are implemented with rigour or not? As mentioned, the literature makes it clear that distributive tactics can be adopted with different rigour, specifically the literature points to hard and soft approaches. At present the stereotypes in much of the literature suggest that all distributive strategies and tactics are hard and that hard bargaining is negative; and that integrative negotiators are more temperate/gentle which is viewed positively. However, we do not know how distributive tactics and integrative behaviours are actually implemented in the real world.

As mentioned, at the normative level there has been an enormous push to educate negotiators about the perils of adopting distributive strategies and tactics. As a consequence, in much of the literature stereotypes of distributive negotiators as “rude and belligerent” have emerged (Condlin, 2008, p. 56), as have negative evaluations of the behaviours adopted by distributive negotiators. In a classic caricature of a distributive negotiator, Tinsley, Cambria, and Kupfer Schneider (2006, p. 203) stated that the negotiator has “a formica plaque... [On their desk] s.... [That says]....’Yea, when I walk through the Valley of the Shadow of Death I shall fear no evil, for I am the meanest son of a bitch in the valley.” Condlin (2008) and Korobkin (2008) argued that many authors present overdrawn accounts of a distributive approach in their efforts to promote integrative bargaining. Korobkin (p. 21) argued: “Distributive bargaining is itself a complex activity that deserves its own nuanced analysis. Proponents of integrative bargaining supremacy sometimes caricature distributive tactics as being limited to making unreasonable demands and then refusing to make concessions.”

Arguably, distributive bargaining has come to be defined by its maddest edges or at the extreme. In fact, many authors have focused almost exclusively on “hard bargaining” (Korobkin, 2008; Peppet, 2002; Schneider, 2002; In an example, Peppet (2002, p. 3) used the terms “adversarial bargaining” and “positional bargaining” and makes reference to hard bargaining. Furthermore, the stereotypes of the integrative negotiator are positive and suggest a more temperate approach to negotiations. Korobkin (2008) stated:

In their search for ‘win-win’ outcomes they (integrative negotiators – *my insert*) display subtlety, creativity, intelligence, and sophistication whereas in contrast, the negotiators who employ distributive tactics are surly Neanderthals who try to use brute force and other boorish, knuckle dragging behaviour to subjugate their opponents. (p. 2)

The real problem stems from the fact that very little empirical research has been done to determine whether negotiators are engaging in hard or soft tactics and behaviours.

While a few studies have examined the rigour of a distributive approach, similar studies on integrative behaviours seem to be non-existent. Therefore, it is argued that the views expressed in the literature are largely based on assumptions. An additional problem stems from the fact that the research that has been done on distributive strategies and tactics has relied on different typologies to measure hard and soft bargaining. By way of example, Dur and Mateo (2010, p. 561) stated: “Hard bargaining is characterized by conflictual or aggressive tactics; soft bargaining by co-operative or friendly ones.” Yet Huffmeier et al. (2011) offered the following definitions:

We define a hard-line bargaining strategy as making extreme first offers and/or minimizing one’s own concessions (c.f., Druckman, 1994; Yukl, 1974a). Soft line bargaining, on the other hand, is defined as employing one’s own concessions to induce more concessions from the other party in a negotiation. (p. 3)

Given the differences in the existing typologies, this research used an amalgamation of the existing typologies to generate widely accepted characteristics of hard and soft distributive bargaining (as seen in chapter one). These characteristics then became the measure for hard and soft distributive tactics in this research. Since there is no existing typology for hard and soft integrative behaviours and this research is exploratory, one aim of this research is to utilise the findings to develop a typology so that the rigour of an integrative approach might be assessed.

This research seeks to discover if the stereotypes of distributive and integrative negotiators are representative of actual negotiator behaviour, or if they represent how a minority of negotiators behave, or if they are merely caricatures of behaviour as some authors argue (Condlin, 2008; Korobkin, 2008). At this present time we do not know. Thus, this research asks the question:

*R.Q.3. Do real-world negotiators (as represented by NZ labour negotiators) practice hard or soft bargaining behaviours?*

The fourth research problem relates to both orientation and behaviour. As mentioned, it is common in the negotiation literature for a particular orientation to be associated with particular bargaining strategies. Specifically, it is widely held that negotiators with a competitive orientation will adopt distributive strategies and tactics, and that negotiators with a collaborative orientation will adopt integrative behaviours (Allen et al., 1990; Hindriks et al., 2007; Menkel-Meadow, 1983; Odell, 2000). However, given the deficiencies highlighted above (refer to the first two research problems) we do not have the information needed to draw this conclusion with regard to professional negotiators.

Furthermore, some authors have challenged the association between orientation and behaviour. For example, Elgstrom and Jonsson (2000, p. 686) argued “the correlation between egoistic concerns and a conflictual approach and between a common interest attitude and a problem-solving approach is less than perfect.” More recently, Craver (2009) identified a hybrid negotiator a “competitive/problem-solver,” a negotiator with a competitive orientation who adopts integrative behaviours deceptively to lull the other side into a false sense of security like a wolf in sheep’s clothing. Furthermore, as mentioned, early theorists Walton and McKersie (1965) argued that strategy choice is largely driven by the nature of the issues (conflict or non-conflict), rather than the negotiators’ orientation towards outcomes.

Given that a particular orientation (collaborative) and a particular set of behaviours (integrative) are championed together, it is important to ascertain whether orientation is a predictor of behaviour as many state, or whether the relationship between orientation and behaviours is more complex as argued by others. Thus, this research asks the following questions:

*R.Q. 4. Are negotiation orientations predictive of bargaining behaviours?*

And, sub-questions:

*4.1 Do negotiators with a collaborative orientation exhibit exclusively or predominantly integrative bargaining behaviours, as would be suggested by theory?*

*4.2 Do negotiators with a competitive orientation exhibit exclusively or predominantly distributive bargaining behaviours, as would be suggested by theory?*

*4.3 Are negotiation orientations predictive of negotiators adopting hard or soft bargaining behaviours?*

## CHAPTER TWO - Research Methodology

This research utilised two qualitative methods, involving a number of focused in-depth interviews and two observations of real-world negotiations. The data from these two sources were intended to complement one another, each method having strengths to contribute to the research, and each having some limitations that would have made it a less adequate method alone. The following chapter re-introduces the research questions and then discusses the methodological issues relevant to this research.

### Research questions

This research asked the following research questions:

- R.Q. 1. Do real-world negotiators (as represented by NZ Labour negotiators) display competitive or collaborative orientations or a mixed orientation?*
- R.Q. 2. Do real-world negotiators (as represented by NZ Labour negotiators) practice integrative or distributive behaviours or a mix of integrative and distributive behaviours?*
- R.Q.3. Do real-world negotiators (as represented by NZ Labour negotiators) practice hard or soft bargaining behaviours?*
- R.Q.4. Are negotiation orientations predictive of bargaining behaviours?*
  - 4.1 Do negotiators with a collaborative orientation exhibit exclusively or predominantly integrative bargaining behaviours, as would be suggested by theory?*

*4.2 Do negotiators with a competitive orientation exhibit exclusively or predominantly distributive bargaining behaviours, as would be suggested by theory?*

*4.3 Are negotiation orientations predictive of negotiators adopting hard or soft bargaining behaviours?*

### **Research in the field of negotiation**

The following section reviews the current methodological state of the field of negotiation, including the dominant research paradigm and the current methodological issues of concern. The section concludes by explaining why the approach to this research addresses some of the methodological concerns in the negotiation field at present.

Conflict touches every corner of society. Such phenomena as globalization, the movement to a knowledge-based economy, and the ascendance of culture as a consideration in nearly every endeavour make our field increasingly relevant. As a result, we must be even more accountable for our observations, even more aware of the need to provide accurate, reliable, tested information, and even more concerned with the relevance of our questions. (Donohue, 2007, pp. 490-491)

Following a thorough review of the literature in this field and the content analysis of 941 peer reviewed negotiation articles (published between 1965 and 2004), Buelens et al. (2008) identified the methodological trends in the field over time. This is an important article because, as the authors argued, the number of review studies on research methods used in the field of negotiation is negligible. One other significant study in recent times was conducted by De Dreu and Carnevale (2005) who examined 345 articles on negotiation published between 1997 and 2001. Their study found that quantitative research methods (laboratory experiments, mathematical modeling, surveys/questionnaires) were dominant in the field. The review conducted by Buelens

et al. is a large scale review that covers a longer time period than the study conducted by De Dreu and Carnevale it is therefore more helpful in terms of providing an overview of the research paradigms in the field.

In support of De Dreu and Carnevale's (2005) findings, Buelens et al. (2008) concluded that the positivist approach has dominated in the field of negotiation over the past decades. In this study, the authors compared research methods used from 1995-2004 (as shown in Table 2.0) with the research methods used over past decades. For much of the 20<sup>th</sup> Century the laboratory experiment dominated as a research method; however, in recent times there is evidence of a decrease in the use of laboratory experiments (from 72.9% to 59.7%) and a slight increase in qualitative, theoretical and conceptual articles. Notwithstanding, the dominance of the laboratory experiment is still clear with 63 percent of all studies on negotiation from 1994-2005 still choosing to adopt this approach (Buelens et al., 2008).

**Table 2.0 Research methods in negotiation**

Research context	International and peace	Buyer/Seller	Salary and Job	Labour
Theoretical/conceptual articles	35	26	2	10
Laboratory experiments	6	292	51	54
Experimental simulations	9	51	16	7
Case studies, interviews, observations and field studies	15	15	5	18
Sample surveys	4	8	2	11
<i>Total</i>	69	392	76	100

Adapted from Buelens, Van De Woestyne, Mestdagh, and Bouckenooghe (2008, p. 329).

The preference for quantitative research no doubt reflects the widespread popularity that quantitative research enjoyed across disciplines for much of the 20th century. In

addition, there are practical reasons why quantitative approaches have been favoured in the negotiation field, namely the difficulty in gaining access to real-world negotiations because of the sensitive nature of negotiations (Dur & Mateo, 2010). As Table 2.1 demonstrates, experiments have been the most common research method utilized to research negotiation behaviour because the researcher maintains a high degree of control over the variables, therefore the study can be easily replicated and cause and effect can be established (Druckman, 2005). However, the use of experiments has some drawbacks – a key drawback is the reduction of context realism. For example, the stakes are very low for participants because they do not have to live with the outcomes, whereas in reality the stakes on negotiated outcomes can be very high for those impacted by the outcomes (Dur & Mateo, 2010).

It is evident that scholars in the field of negotiation and conflict resolution – (Carnevale & De Dreu, 2006; Druckman, 2005) are not wedded to the quantitative school of thought and are in fact open-minded regarding methodology, endorsing *quality research*, *creativity* and *new thinking* rather than endorsing preferred methodologies. Buelens et al. (2008, p. 323) argued that there is a need to integrate more qualitative work in negotiation research for theory development, and that because *all* research methods have inherent flaws “corroborating evidence from the use of a variety of methods affords different views of the phenomenon under investigation.”

Not surprisingly, there are calls for qualitative research to overcome the drawbacks inherent in a quantitative research design. There are also calls for more real-life studies that draw from samples of professional negotiators rather than students (Buelens et al., 2008) and for more studies on negotiation to research team and multiparty negotiations rather than dyadic negotiations where the emphasis has been to increase external validity (Carnevale & Pruitt, 1992). Many journals in this field now expect multi study articles that use different research methods so that the results are triangulated or replicated to bring greater confidence to the findings (De Dreu & Carnevale, 2005; Druckman, 2005; Hopmann, 2002). Accordingly, a research design (utilising interviews and observations) with a sample of professional negotiators from

the real-world who are engaged in multiparty negotiations provides the greatest potential to address some of the key methodological concerns in the field at present and the greatest potential to answer the research questions in this study.

### **Qualitative research strategy: Semi-structured interviews**

A qualitative approach was chosen for this study because it is exploratory in nature. A qualitative approach allowed the researcher to engage with participant negotiators directly and to develop an understanding of how the world looks through their eyes. The following section is presented in five distinct parts: 1) The use of semi-structured interviews, 2) the sample population, 3) the pilot study, 4) the development of the interview questions, and 5) the data analysis.

#### **Semi-structured interviews**

This research began with in-depth semi-structured interviews. Interviews were conducted face-to-face with 25 labour-management negotiators working in New Zealand. The number of interviews that could be conducted was restricted due to the high cost of travelling the country to meet with interviewees. Interviews were conducted with 12 management representatives and 13 union representatives – 24 of these interviews were usable, one interview (with a union representative) was precluded because the interviewee spoke with an accent and could not be well understood (either in person during the interview or after the fact when attempts were made to transcribe the audio recording).

Interviews were between one hour and two and a half hours in duration with the average interview lasting 1 hour and 11 minutes. The interviews began with an outline of the research project, assurance of the confidential nature of the process, confirmation that the participant was a willing participant, and the signing of consent forms. Due to the exploratory nature of the research, the interview was not highly structured (nor was it unstructured), specific themes with subsequent open ended questions were developed in advance of the interview (see Appendix A for interview

schedule) to prompt discussion. Maykut and Morehouse (1994, p. 81) stated: “for the purposes of qualitative research, the shape that the interview may take has been described in various ways. Common to most descriptions is a continuum of interview formats ranging from a structured format to a relatively unstructured format.” The key distinguishing feature as noted by Maykut and Morehouse is the degree to which the interview schedule is prepared in advance, with highly prepared questionnaires at one end of the continuum and unprepared (emergent) conversational interviews residing at the opposite end. The semi-structured format utilized in this research would be positioned mid-way along such a continuum. There was some preparation of general topic areas prepared in advance (i.e., context, orientation and behaviour) to allow clear differences and similarities to emerge between participants but the structure was also flexible enough to allow opportunities for new themes or ideas to emerge during the process (Gall, Gall, & Borg, 2003).

### **Sample population**

If the goal of research is to understand negotiator behaviour, then experienced negotiators should be the proper participants for research. Because much of the research and theory of negotiation claims relevance to managerial processes, our finding that only 3% of studies use practicing managers as participants is not a very positive one. (Buelens et al., 2008, p. 336)

Professional labour-management negotiators were selected for this study, the people who lead the negotiations for collective employment agreements in New Zealand (employment lawyers, union organisers, HR managers and employment consultants). It's worth noting that, (with the exception of lawyers) there is no evidence available about the training that each of these groups undertake to learn negotiation. However, a commonly accepted characteristic of lawyers, is that they are competitively trained, hence the wide-spread call for change.

As previously mentioned, the majority of studies on negotiation have relied on

student participants to the detriment of external validity. However, the number of researchers using student populations has begun to decline as more researchers seek to improve external validity (Buelens et al., 2008).

The method used for sampling of participants is defined by Hussey and Hussey (1997) as *natural sampling*. Labour-management negotiators were invited to take part in the interviews and all of the negotiators who accepted the invitation were interviewed. The sampling process was essentially one of self-selection. Negotiators were sent an invitation to participate via email. There was no inducement offered, other than the opportunity to contribute to what we know about collective negotiations in New Zealand, and to receive a summary of the research findings at the end of the research process.

Participants came from both the private and public sectors in two major centres of New Zealand, Auckland in the North Island and Dunedin in the South Island. Participants worked in a wide range of industries including: education, transport, finance and insurance services, health care and social assistance, agriculture, accommodation and food services, and electricity, gas and water waste services. Union density is higher in the public sector (Charlwood and Haynes, 2008) but it was not possible to secure interviews with a sample population that accurately reflected this distribution across sectors because participants had a choice about whether to participate or not. However, because qualitative research is not designed to inform generalizations this is not considered a limitation of this sampling method.

### **Pilot study**

Prior to the interview being implemented formally, a pilot study was conducted. Five professional negotiators were interviewed. Turner (2010, p. 757) stated “a pilot test should be conducted with participants that have similar interests as those that will participate in the implemented study.” The audio recordings from those interviews were then fully transcribed and analysed using thematic analysis (discussed in detail later in this chapter). The pilot study revealed only minor flaws with the interview schedule and provided the opportunity to make the necessary changes and

refinements prior to conducting the formal interviews. Due to the fact that only very minor changes were needed (i.e., subtle changes to language) the pilot interviews are included in the total number of participants in this study.

### **Development of interview questions**

The interview was designed so that it would elicit information about how individual negotiators felt about negotiated outcomes (their orientation), and how they behaved in negotiations (distributive bargaining, integrative bargaining or both).

### **Measurement of negotiator orientation**

As mentioned, in most studies that examine negotiator orientation the participants' *actual* orientation is measured using the Kuhlman and Marshello (1975) decomposed games measure (DGM). The DGM asks participants to make nine decisions that reflect their intentions with respect to the distribution of outcomes. Participants are presented with a pay-off matrix and told that their choice influences the amount of points that they receive, and crucially the amount of points that the *other side* will receive. Each of the options available represents a particular orientation – competitive or collaborative. The DGM is particularly well suited to laboratory experiments where pay-offs can be manipulated. However, the focus of this research was to determine how real-world negotiators felt about the distribution of outcomes for themselves and the other side in a negotiation that they had recently taken part in. A real-life negotiation where the outcomes had consequences for the parties involved and the negotiators, in most cases, had ongoing relationships with the other side. Therefore, it was determined that the DGM was not the most appropriate way to measure negotiator orientation in this study.

The following questions were all designed to elicit a response about the distribution of outcomes or the negotiator's orientation. These questions were developed with a prior knowledge about the theory of negotiator orientations. The questions are as follows:

- Whose needs had to be met for the negotiations to be considered successful?
- In general terms, what to you, is a good outcome?
- On a scale of 0-10 (with 0 being no concern and 10 being high concern) how much did you care about achieving your own goals in this negotiation?
- Do you ever go in to negotiations wanting to WIN?
- On a scale of 0-10 (with 0 being no concern and 10 being high concern) how much did you care about assisting the other party to achieve their goals in this negotiation?
- In general, do you care what the other party ends up with?
- Can everyone win in negotiations as the win-win philosophy states?

### **Measurement of negotiator behaviour**

As mentioned, negotiator behaviour is often measured using pre-determined coding schemes that specify particular behaviours and classify them as integrative or distributive (Weingart et al., 1990; Weingart, Olekalns, & Smith, 2005). Since this study was exploratory in nature, it was decided that a pre-determined coding scheme might preclude unexpected behaviours. Therefore, the participants were simply asked to explain what they did in the negotiations, and to do so using their own words as opposed to being asked pointed questions such as: “did you make concessions?” (A distributive tactic) or “did you openly share information with the other side?” (An integrative behaviour). Although the theory of negotiation behaviours was well understood, it did not shape the interview questions. Participants were asked open ended questions that allowed them to describe how they behaved in the negotiation. The following provides a sample of the types of questions asked (full interview schedule see Appendix A). Sample of questions:

- Given that you said you wanted to achieve X ....what was your broad plan or strategy to achieve that? (Did you stick to this plan?)
- What was your approach to information sharing?
- How did you build your proposals? (Separately or did you work jointly?)

- Did you plan any particular behaviours or tactics in advance or during the negotiation? (What were they and why did you plan to use them?)
- Did your approach place any restrictions on your behaviour?
- Can you please describe for me some of the behaviours that you used in this negotiation that you consider to be typical?
- Did you do anything out of the ordinary? If so, please explain.
- Were there any really memorable behaviours or tactics?
- Did any of the behaviours backfire?
- What behaviours really helped to move the parties forwards?

The interview schedule contains additional questions designed to elicit information about the context within which the negotiations took place (see Appendix A). The questions about the natural setting in which the negotiations took place provided the interviewee with the opportunity to tell the whole “story” about their negotiation.

### **Data analysis**

The interviews were transcribed in full generating 814 pages of text which were coded for analysis. Analysis began during the interview phase because it was impossible not to start thinking about what was being heard and discussed during the interviews. The analysis was therefore continuous and concurrent with data collection – data was collected, reflected upon and more data was collected and reflected upon and so on. The concurrent analysis and data collection method provided the researcher with the opportunity to go back and refine questions if need be, to pursue new avenues of interest, and to probe further during interviews when the responses were unique and/or particularly interesting.

According to Braun and Clarke (2008) the data analysis process is not conceptualized as a distinct phase of the research process, rather it is ongoing because the researcher is engaged in the process and their insights feed into the process and contribute to

data analysis throughout the research. As a further illustration of this continuous process, at the conclusion of each interview the researcher took additional informal notes about anything significant regarding the topics talked about during the interview or any other relevant ideas that came to mind. Field and Morse (1985) refer to notes taken after the interview as memos (see Appendix B for an example of a memo). Once transcribed, the transcripts were read thoroughly in conjunction with memos. Notes were made on general themes in the margin of the interview transcript using thematic analysis.

### **Thematic analysis**

Thematic analysis is the analytic method used to analyse the interview data in this research. Thematic analysis was defined by Braun and Clarke (2008, p. 79) as: “a method for identifying, analyzing and reporting patterns (themes) within data.” A theme was defined by Boyatzis (1998) as:

A theme is a pattern found in the information that at the minimum describes and organizes possible observations or at the maximum interprets aspects of the phenomenon. A theme may be identified at the manifest level (directly observable in the information) or at the latent level (underlying the phenomenon). The themes may be initially generated inductively from the raw information or generated deductively from theory and prior research. (p. vii)

The analysis of this research involved both deductive and inductive inquiry. Table 2.1 presented below provides a clear picture of how the process unfolded.

To increase the validity of the findings, two academic experts on negotiation were invited to code two transcripts to independently review the codes and to determine if they related to the themes that had been generated. Burnard (1991) advised that this practice guards the researcher against researcher bias, therefore increasing the validity. Adjustments would have been made to the researcher’s codes if it had been deemed necessary, however this was not the case in this instance as the original

coding was deemed to be reasonable.

**Table 2.1 The research process**

Research questions	Literature	Data	Analysis
R.Q.1. Are negotiators competitively or collaboratively oriented?	Existing knowledge of theory about orientations shapes interview questions	Raw data emerges – participants answer questions about orientation (deductive)	Responses analysed to see which pre-existing theoretical category they fit into competitive or collaborative? (deductive)
R.Q.2. What strategies and tactics do negotiators adopt?	Existing knowledge of distributive bargaining and integrative bargaining does not shape interview questions. Questions are open, i.e., what did you do?	Raw data emerges – participants tell the researcher how they behaved (inductive)	Responses analysed to see if behaviours fit with bargaining theory of distributive or integrative bargaining for classification (deductive)
R.Q.3. Is orientation a predictor of behaviour?	Existing knowledge about the association of orientation and behaviour does not shape any interview questions, per se, it stems the research question to be investigated	Raw data emerges about orientations (deductive) and behaviours (inductive)	Responses analysed to see if there appears to be a relationship between two variables – orientation and behaviour (deductive)

### **Negotiator orientation**

Seven questions (as presented above) were explicitly designed to elicit information about the participant negotiators' orientation. To analyse the negotiators' orientation, the responses to these seven questions (the quotes) were copied out of the main transcript or cut out and placed together in a separate document (an excel

spreadsheet) titled “orientation.” It is important to note that when the quotes were copied and pasted into another document, some of the context from around the quote went with it to ensure that the quote would continue to be understood in the context in which it was made. The researcher was careful not to alter the meaning of what had been said. Furthermore, once the interviews were “cut up” the researcher continued reading through whole interview transcripts to appreciate the context of a particular quote. Tesch (1990, p. 116) referred to “segments of text” to explain textual segments that have been moved from their original source. Textual segments are defined by Tesch (p. 116) as “a segment of text that is comprehensible by itself and contains one idea, episode, or piece of information.” Jones (2007) stated:

The goal of qualitative analysis is to deconstruct blocks of data through fragmentation and then have them coalesce into collections of categories which relate conceptually and theoretically, and which make assumptions about the phenomenon being studied. (p. 2)

The excel spreadsheet was set up so that the participants’ codes (e.g., m1, u7 discussed in the results section) were visible on the horizontal line; and the questions pertaining to orientation were listed vertically on the left-hand side (e.g., Q.10, Q.22). For each question the participant’s response or quote was pasted into the document. In addition, the full interview transcript was re-read so that any other remarks that the participant made that related to the distribution of outcomes were also included in the document. Once all of the participants’ comments about orientation were in one place it was not only possible to establish the individual’s views (and to check for consistencies and inconsistencies) but it was also possible to assess the orientations of the whole sample population and to determine how many of the participants held collaborative orientations and how many held competitive orientations, as per the theoretical definitions of each in the literature (De Dreu & Van Lange, 1995; Griesinger & Livingston, 1973; Messick & McClintock, 1968).

### **Negotiator behaviour**

The majority of the remaining questions were designed to elicit information about how the participant behaved in negotiations. To analyse the negotiator's behaviour, responses to relevant questions (quotes) were taken and placed in a separate document (excel spreadsheet) titled "negotiator behaviour," using the same process as described above. Once all of the participants' quotes about behaviours were grouped together in one document, the behaviours were then read with the purpose of determining whether that participant was using distributive tactics or integrative behaviours as per the theoretical definitions of each in the literature (Fisher & Ury, 1981; Lewicki et al., 2006; Walton & McKersie, 1965). The first step in this analysis was to examine the behaviours of the individual participant – did he or she utilise distributive tactics? Did he or she use integrative behaviours? Or did the negotiator use a mixture of behaviours? The second step in the analysis was to set up another document to analyse the behaviours more closely. For example, the behaviours that were identified as distributive were then grouped into key distributive strategies and tactics as described in the literature review in chapter one (i.e., gathering information, altering perceptions). The same process occurred with integrative behaviours. The two documents made it possible to analyse the individual participant's behaviours in terms of distributive or integrative behaviours, and also to ascertain patterns or themes of behaviours across the whole sample population.

Furthermore, in the initial stage of data analysis it became apparent that negotiators adopt a wide range of behaviours in bargaining from hard to soft bargaining. The second stage of data analysis involved a purposeful examination of each interview with a view to categorising the participants' behaviours somewhere along the continuum, using the known characteristics of hard and soft bargaining (as per the literature presented in chapter one) to make this determination about where along that continuum the participant sat. For example, inflexibility was characterised as hard and flexibility was characterised as soft.

### Orientation and behaviour

Once the participant negotiators' orientations were established and the behaviours that they reported using were clearly identified as distributive or integrative, it was then possible to examine the relationship between orientations and behaviours to determine if, in fact, orientation is a predictor of behaviour. Specifically, if negotiators with a collaborative orientation adopted integrative behaviours and negotiators with a competitive orientation adopted distributive tactics.

Table 2.2 illustrates clearly the steps that were taken. Although presented here in a linear fashion the process that took place was not linear. It involved going backwards and forwards to each stage of the process on numerous occasions. Even towards the end of the analysis process the researcher was re-playing the original audio tapes to check for accuracy (see Table 2.2).

**Table 2.2 Steps in the process of analysis**

Phase of analysis	Description of the process
1. Familiarizing oneself with the data	Conducting interviews, transcribing data, reading, re-reading data, noting down original ideas.
2. Create initial codes	Manual coding of transcripts with initial ideas – orientations and behaviours.
3. Search for themes	Collate codes into excel spreadsheets, gathering all relevant data.
4. Define and name themes	Ongoing analysis to define the specifics of each theme.
5. Write up results	The final analysis.

Adapted from Braun and Clarke, (2008, p. 87).

## Qualitative research strategy: Non-participant observations

Asking someone how they think and behave in negotiation is less satisfying (or less interesting) than observing them negotiate. However, as mentioned, observation of real-world negotiations poses significant challenges from a methodological perspective. Notwithstanding, the qualitative method of non-participant observation was chosen for this study because it is exploratory in nature. The following section is presented in four distinct parts: 1) The use of non-participant observations, 2) the sample population, 3) data collection, and 4) data analysis.

### Non-participant observations

Non-participant observations were chosen to complement the interviews (Hussey & Hussey, 1997; Myers, 2009). Non-participant observations involved observing negotiators in their *natural* setting at the negotiation table for the full duration of their collective negotiations. Observation of real-world negotiations is rare (Buelens et al., 2008) as previously mentioned. Fortunately, full access to two separate collective negotiations was granted for the purposes of this research – (from herein they will be referred to as observation one and observation two).

As a non-participant observer, the researcher was present to watch negotiations but took no part in the actual negotiations. The researcher was essentially a spectator who observed negotiations and later spoke with the participants. Non-participant observation is often referred to as *observation* and *fieldwork*. Hughes (2005) defined fieldwork:

Observation of people in *situ*; finding them where they are, staying with them in some role which, while acceptable to them, will allow both intimate observation of certain parts of their behaviour, and reporting it in ways useful to social science but not harmful to those observed. (p. 3)

The key themes and related patterns that had developed during the thematic analysis of the interview data were in the researcher's mind when entering negotiations as an

observer. One of the rationales for observations was to see whether the ideas that were identified from the interview data would make sense (or hold up) in real-world observations. By observing behaviour the researcher was able to see what negotiators really do, as opposed to what they say they do. The rationale behind the observations was to increase the credibility (or internal validity) of the findings from the interview phase.

It is important to note that one of the primary criticisms of qualitative research is the small sample size (Creswell & Plano Clark, 2007; Siggelkow, 2007). However, due to the difficulty of gaining access to real-world negotiations and the logistical complications (namely time and cost) of being a non-participant observer in real negotiations, gaining access to two full negotiations ought to be viewed positively. Furthermore, the mixed approach of this study strengthens the credibility and confirmability of the results. In support of the validity of small sample sizes Siggelkow, (2007) asked the reader to imagine the following scenario:

You cart a pig into my living room and tell me that it can talk. I say “Oh really? Show me.” You snap with your fingers and the pig starts talking. I say “Wow, you should write a paper about this.” You write up your case report and send it to a journal. What will the reviewers say? Will the reviewers respond with “Interesting, but that’s just one pig. Show me a few more and then I might believe you”? I think we would agree that that would be a silly response. A single case can be a very powerful example. (p. 20)

### **Sample population**

Requests for the researcher to observe collective negotiations were sent to all of the professional negotiators who had taken part in the interview phase of this research (and who were also from Dunedin in the South Island of New Zealand). Potential participants were asked if they would allow an observer to sit in on their next round of bargaining or if they could put the researcher in contact with someone who might be

able to facilitate this. There were practical reasons for restricting data collection to the local region: 1) there were significant cost advantages, and 2) given the stop-start nature of negotiations and the potential for them to become stalled/protracted it seemed unrealistic to plan to observe negotiations in another city in New Zealand even if cost were not a factor, it would simply be impractical. The sampling technique was purposive because random sampling was not practical in this instance.

Observation one involved the researcher attending negotiations with a management bargaining unit. It was determined that due to the complex issue of trust, it would be difficult (if not impossible) to study both sides to the negotiation simultaneously or to move between the parties. However, as luck would have it, all of the parties to this negotiation (management and six unions) granted permission for the researcher to move between sides to observe behaviour (both at the bargaining table and in private conversation with both sides), indicating a high level of trust in the researcher, and a high level of respect and understanding of the research process. Observation two involved the researcher attending negotiations with a union bargaining unit. This experience was a more conventional one with there being no opportunity to observe the management team in private conversations.

Although it can be stated that observation one took place in the public sector and observation two took place in the private sector, due to the aforementioned revelation that these observations took place in Dunedin, New Zealand, the industries are not mentioned so as to preserve the anonymity of the participants.

### **Data collection**

During this phase of the research direct observations were used to collect data. The researcher was focused on one key area during the observation phase of research - what the negotiators were doing because actions or behaviours are observable (for the most part). In phase one of this research semi-structured interviews were used to ask negotiators how they behaved during negotiations. Participant negotiators were

free to name their own behaviours as they were asked open-ended interview questions. The result of this was that a large number of behaviours were identified (inductively) by the researcher. The list of behaviours became the basis for a document referred to as a checklist (see Appendix C for list of behaviours).

The researcher was able to take this checklist into negotiations and simply put a check mark beside behaviours when/if they were observed. Weingart et al. (2005, p. 446) caution that human behaviour is complex which makes it difficult for researchers to fully anticipate potential behaviours in advance. The authors recommended that the coding scheme should be treated as a “living document open to revision and clarification during the development process, but locked in when coding begins.”

The checklist had sufficient structure so that time used in the observations was used purposefully, and yet it was flexible enough that newly observed behaviours could be added to the list during observations as well. In addition, handwritten notes were taken both during and immediately after negotiating sessions so that behaviours could be recorded or expanded upon while the information was fresh in the mind.

Patton (1990) made it clear that it is impossible to “observe” everything. Patton stated:

We cannot observe everything. We cannot observe feelings, thoughts and intentions...we cannot observe how people have organized the world and the meanings they attach to what goes on in the world. We have to ask people questions about those things. (p. 278)

Negotiator orientation could not be witnessed or observed as behaviours could. Therefore, in order to understand how the negotiators felt about the distribution of outcomes, it was important to listen carefully for possible insights during the actual negotiations, and the private caucus meetings. It was also important to ask participant negotiators directly during post-bargaining conversations how they felt about the distribution of outcomes and whether or not they were satisfied with the outcomes

from this negotiation. Specifically, lead negotiators were asked to rate their level of concern for their own outcomes and their level of concern for the other parties outcomes on a scale of 0-10 (with 0 representing no concern at all, and 10 representing the highest degree of concern). These ratings along with all other relevant comments were taken into consideration to determine the participant's orientation.

As a general rule it was determined that the researcher would refrain from asking any substantive questions during the negotiations to reduce the likelihood that the researcher was having an impact on the negotiator's decision-making. All questions were held until the negotiations had concluded between the parties.

Observation one, involved six full days or 48 hours of negotiations. Observation two, involved four full days or 32 hours of negotiations. Of course, the actual time spent observing the parties negotiating across the table would be significantly less as the parties spent a considerable amount of time, before, during, and after negotiations, in private caucus meetings (all of which were attended by the researcher). Handwritten notes were used to capture the events at the time. All of the notes from the two observations were then transcribed in full, generating 187 pages of text, including short verbatim quotes (hand recorded) and the researcher's observations, questions and ideas throughout.

## **Data analysis**

The process for analysis, thematic analysis (as discussed above and outlined in Table 2.2) was utilized to analyse the transcripts generated from the observations.

### **Negotiator behaviour**

At the conclusion of the negotiations all of the paper work (handwritten notes) generated during the observation phase was collated into one document called the "observation transcript." All of the handwritten notes were typed up in chronological

order of events to produce a transcript of the observations (one transcript was produced for each observation). Naturally, this differs to the transcript generated from interviews which contains quotes from the participants. The transcript from the observation was a recording of observations, and a few short verbatim quotes that were captured in the moment. It was useful to organise the observations in this way because it meant that the same process followed to analyse the interview transcripts could be applied.

Notes on behaviours from the transcripts (and/or behaviour checklists) were taken out or “cut out” of the transcript or checklist and placed in a separate document, an excel spreadsheet titled “observation behaviours.” Once all of the behaviours had been identified (after numerous readings of the transcript) these were then analysed as either being distributive tactics or integrative behaviours as per the theoretical definitions in the literature (Fisher & Ury, 1981; Lewicki et al., 2006; Walton & McKersie, 1965).

### **Negotiator orientation**

Likewise, all of the notes made in relation to negotiator orientation were taken from the transcript and placed in a separate document, an excel spreadsheet titled “negotiator orientation.” All relevant insights, observations and comments from participants were considered in determining whether the participants held a competitive or collaborative orientation as per the theoretical definition in the literature (De Dreu & Van Lange, 1995; Griesinger & Livingston, 1973; Messick & McClintock, 1968).

### **Orientation and behaviour**

Once the participant negotiators’ orientations were established and the behaviours that they were observed using were identified as distributive or integrative, it was then possible to examine the relationship between orientation and behaviours to determine if orientation is a predictor of behaviour.

This section has discussed the two qualitative research methods utilized: 1) semi-structured interviews, and 2) non-participant observations. In total 25 formal interviews were conducted (24 usable); and a total of 10 full days were spent in the role of non-participant observer in real-world negotiations. These two methods combined, resulted in 1001 pages of raw textual data for analysis. In both instances, thematic analysis was utilized to develop codes, themes, patterns and relationships. In the final stage of analysis results from the interviews and observations were compared. The following section presents the key findings from this research.

## CHAPTER THREE - Findings

The purpose of this research was to answer the following research questions:

*R.Q. 1. Do real-world negotiators (as represented by NZ Labour negotiators) display competitive or collaborative orientations or a mixed orientation?*

*R.Q. 2. Do real-world negotiators (as represented by NZ Labour negotiators) practice integrative or distributive behaviours or a mix of integrative and distributive behaviours?*

*R.Q.3. Do real-world negotiators (as represented by NZ Labour negotiators) practice hard or soft bargaining behaviours?*

*R.Q.4. Are negotiation orientations predictive of bargaining behaviours?*

*4.1 Do negotiators with a collaborative orientation exhibit exclusively or predominantly integrative bargaining behaviours, as would be suggested by theory?*

*4.2 Do negotiators with a competitive orientation exhibit exclusively or predominantly distributive bargaining behaviours, as would be suggested by theory?*

*4.3 Are negotiation orientations predictive of negotiators adopting hard or soft bargaining behaviours?*

This section is divided into four sections with each section dedicated to presenting the findings to one of the research questions. Participants can be recognized by the following codes. Interview participants have either M (for management) or U (for union) in front of a number from 1-25, which represents the chronology of when they were interviewed (e.g., M21 is a management representative and he was also the 21<sup>st</sup> person to be interviewed). The same principle is applied to observations with O for observation appearing before the code (e.g., OU2).

**R.Q. 1. Do real-world negotiators (as represented by NZ labour negotiators) display competitive or collaborative orientations or a mixed orientation?**

Participants were asked a series of questions related to orientation in the interview, including being asked to rate their level of concern for their own outcomes and the level of concern for the other party's outcomes on a scale between 0 and 10 (with 0 representing no concern and 10 representing the highest degree of concern). Similarly, participants from observations were asked to provide ratings to these dual concerns. Hence the number of participants in the results sections is 24 (interview participants) and 3 (observation participants) a total of 27 participants.

Taken together the scores and all relevant comments (see Appendix C) led to the conclusion that there were three distinct orientations within this group of participants:

1. High concern for self and no concern for the other party = highly competitive
2. High concern for self and low concern for the other party = competitive
3. High concern for self and moderate genuine concern for the other party = mixed orientation

Specifically, this round of data collection found that 18/27 (or 67%) of participant negotiators had a competitive orientation and that 9/27 (or 33%) had a mixed orientation that included a collaborative orientation. The competitive orientation was either characterised by no concern for the other party's outcomes whatsoever (in the minority of cases), or by *some* degree of concern for the other party's outcomes, albeit driven by self-interest (the majority of cases). The mixed orientation was characterised by high concern for self and moderate levels of *genuine* concern for the party's outcomes. This section presents the findings by giving illustrative examples from participants.

### **The competitively oriented negotiator**

The results show that 67% of participant negotiators are competitively oriented. In other words, achievement of their own goals was their primary focus. The competitive negotiators were further separated into two groups: 1) highly competitive negotiators (the minority) who had no concern for the other party's outcomes whatsoever, and 2) competitive negotiators (the vast majority) who had *some* concern for the other party's outcomes, albeit driven by self-interest. The following stories breathe life into these orientations.

### **The highly competitive negotiator**

I've been offered a lot of money by clients in the past who have basically said how much are you going to charge me for you to get rid of the union? I don't mean locking them out, I mean crush the union, get rid of them, how much is it going to cost me? (M21)

The highly competitive negotiator was solely focused on achieving his/her own goals, even if that came at the other party's expense. In other words, their negotiations resulted in winners and losers and their own objective was very clearly to be the winner. The win-lose scenario is not the typical experience for negotiators in New Zealand, however it does occur in a minority of cases as illustrated by the following stories which show negotiators with *high self-concern* and *no concern for the other party*.

In the first example, the negotiator's lack of concern for the other side is clearly expressed. After what can only be described as an incredibly acrimonious negotiation over whether the parties would enter collective negotiations with the union, the female CEO of a large multinational company let her guard down and spoke openly with the union negotiator about her highly competitive orientation:

she said we smashed the (previous union's name removed). We tried everything with you and I said yeah it was illegal and she goes yes I know but

we didn't think you'd be able to afford to overturn it and take us to the employment court and so we thought we'd do it. (U23)

In this case the overseas parent company is notoriously anti-union, the company has HR policies especially designed to keep unions out of their organisation, so when attempts were made to unionise their NZ workforce the company responded according to policy. The union negotiator described what happened when the company put those policies into practice – “they're particularly rabid (location removed), they took almost our entire membership and every time someone joined they'd bring them in and say why do you want to join the union? Don't you like us? Don't you like working here?” As a result of the employer's practices the union had over 300 members from one city resign from the union considerably weakening their industrial strength. The union, predictably, responded in kind by leveraging the power they did have to hurt the employer so that eventually the company were coerced into engaging with the union. The fact that each of the parties engaged in actions to harm the other party, demonstrates a highly competitive orientation.

In another example of a highly competitive orientation, a negotiation turned into a particularly acrimonious dispute when the owner/operator refused to agree to a collective agreement with the union on an ideological basis. The employer is described as someone who “hates unions” (M13), therefore he had no intention of going along with the union's efforts to unionise a percentage of his workforce. The employer's lawyer explains the employer's determined approach towards pursuing his own goals with no regard for the union, and the union's equally insular approach when he stated:

His approach was - I don't want the union on this site, I'm never agreeing to a collective agreement. The employees were stupid they read it the wrong way and they said they wanted a collective agreement and he said well I will agree to increased wages and give you even more than you're asking for but I'm not agreeing to a collective because they're too rigid, so the union adopted a philosophical view and they threatened him. They said if you don't we're going

to stop your business and ruin it and that was like a declaration of war so he said to them ...if any of you cunts walk out the door to ruin me you will never set foot back into this factory and the union laughed. (M13)

True to his word after the strike, the employer would not allow the employees back on site, the striking workers were locked out by the employer in what amounted to an unlawful lockout – eventually he paid the 40+ striking workers a nominal amount to leave permanently, and in doing so he kept his organisation union free. In this case, the lawyer's instructions were to act solely for the benefit of his client (the employer), the employer had no regard for the other party's outcomes – a highly competitive orientation.

In both of the cases discussed, there was no existing relationship between the parties because they were both "greenfield sites;" which are notorious for difficult negotiations as employers often resist the relationship with the union (at least in the first instance). However, as the next case illustrates even a long term relationship between the parties doesn't guarantee smooth negotiations. Sometimes the relationship has been contentious and the negotiations difficult for many years. This is certainly the case in the next story where the union's presence has long been resented by management and collective negotiations are seemingly viewed as an opportunity to put the union in their place. The union negotiator explained:

they're really quite open about letting us know that they will take us on. Quite frankly their objective is to try and minimize the outcomes we achieve at the very least if not break the union...they will gloat about what they have got as far as resources, how they can teach us a lesson because they have destroyed some major unions and I know that they'll never give in no matter what. They'll say that it will cost you dearly, they'll threaten the closure of the site even though it's just been built and in response to strikes they will spare no money to ensure that they are successful in defeating those strikes. From time to time they can be very determined on what they're trying to achieve and will engage in *any* tactics necessary. (U15).

In the union negotiator's opinion the company has no regard for the union's outcomes because "they want to maximise the profits and unions get in the road of that" (U15), further he argued that the company strongly believes in management's right to manage *their* organisation without interference from unions or the Government.

In these cases the parties were solely concerned with achieving their own objectives with no regard for the other party's well-being or the relationship. As previously stated, the results show that the highly competitive orientation and the subsequent win-lose (or lose-lose) outcome distribution was preferred by only a minority of the participants in this sample population. However, it is important to recognise that it exists, that there are labour negotiators working in the field with a highly competitive orientation.

### **The competitive negotiator**

The negotiator with a competitive orientation is focused on achieving his/her goals also. However, he/she has *some* concern for the other party's outcomes, albeit driven by self-interest. It is reasonable to argue that the competitive negotiator's ideal outcome distribution is WIN-win, in their own favour. The following examples, illustrate these findings.

I couldn't care less about the other party's outcomes, like you know you've got to give them a little bit of something so that they're happy and you can keep that relationship going at the end of the day which might put a slightly higher figure on it but at the end of the day couldn't really care less... all I want to know is that I've done the best possible job for my guys and if that means the other side had totally missed out on something I can sleep at night because that's my role. (M1)

A young employment lawyer was particularly candid when he spoke about his lack of concern for the other side. The only reason he has any concern whatsoever is because "you can keep that relationship going." The relationship is valued enough (because there are perceived benefits in maintaining a relationship) that the negotiator is

willing to pay “a little something” to maintain it. In a similarly frank response a union negotiator echoed this sentiment when he stated:

We do go in wanting to win - that's what it's all about. I don't want to see them have a good outcome I'm not there to worry about their outcomes so if it happens that they get a good outcome maybe at the same time then that's good for the organisation but no our concern is for our outcomes... The reason (you have some concern for the other side – *my insert*) is because you get better outcomes, you have a greater chance of achieving your own goals if there is some sort of relationship. (U18)

The idea that negotiations (both the formal collective negotiations and the informal day-to-day negotiations that take place between management and the unions) run more smoothly when the parties have a reasonable working relationship was found to be widespread. Maintaining a working relationship or at least not damaging the relationship, becomes a valued outcome of the negotiation in itself, and often the way to manage the relationship is to make some compromise that attends to the other party's interests. The findings show that the competitively oriented negotiator strikes a delicate balance between serving his/her own interests and showing just enough concern to the other side to maintain an ongoing relationship. A union negotiator who has been involved in some incredibly acrimonious, large scale negotiations illustrated this point when he said:

our model is very much that there is a conflict at the heart of bargaining. Our view is that you should be constructive and all that but there is actually a question about the slice of the pie, so yip, there is winning and there is losing and we're often somewhere in the middle...perfectly reasonable to expect that you reach a point that both parties can live with and sometimes it will be more of a win for the other. There is such a thing as overreaching and damaging the relationship that you have because collective negotiations...it's not like you're haggling over a car with someone you don't know, the next day you have to

come back and deal with another issue and it's that much harder if you sour the relationship. (U24)

A veteran employment lawyer with over 30 years bargaining experience argued the importance of having some "other concern" in order to reach agreement when he stated:

people have got outcomes that they want to get and win-win is often talked about but it is nice to get something that someone can get some tangible benefit out of it. They can feel they've had *some* (my emphasis) success and that means you might compromise one or two of the things on your list in the interests of getting an agreed settlement. (M5)

The negotiator's self-interested competitive orientation behind letting the other side "feel they've had some success" becomes very clear when he went on to explain that:

sometimes you've got to manufacture, you've got to show the people that they've had a win. Sometimes their perceptions need to be changed you know, *what is a win?* You know it's the way you package it up and sometimes you've got to spend a bit of time persuading the other party that this is a win and that takes a bit of skill. (M5)

In sum, both highly competitive and competitive negotiators had high concern for their outcomes but competitive negotiators paid *some* attention to the other party's interests (often by making small concessions) for the following reasons:

- To maintain a relationship with the other party because it is easier to achieve one's own goals when the parties have a decent working relationship,
- To maintain a relationship with the other party because it makes the everyday interactions between them more comfortable (less social anxiety),
- To progress the negotiations or move things forwards,
- To protect one's own reputation as a negotiator and

- To avoid the possible negative consequences that can come when the other party is left wanting, i.e., the other party seeks to gain revenge in future bargaining rounds, and/or causes trouble/unrest during the implementation of the agreement.

### **The mixed orientation negotiator**

As mentioned, the findings show that (33%) of participant negotiators have been classified as having both a competitive and a collaborative orientation. The findings show that the mixed orientation negotiator cares no less for his/her own outcomes than the competitively oriented negotiator but he/she is also focussed on helping the other side to meet *some* of their interests, on particular issues. It is inaccurate to say that the mixed orientation negotiator seeks win-win outcomes but he/she does genuinely try to meet some of the other party's needs as the following examples illustrate. An HR manager who had a mandate not to offer any increase for wages due to the economic climate at the time explained that although the organisation is his priority, he has genuine empathy for low paid workers in this situation; he stated:

Principally it's about the organisation's needs but the staff's needs have to be met as well and the person who's the cleaner on minimum wage still has to put food on the table, still has to have job security and still needs to have enough pride in what they're doing to be satisfied that they're working for the right employer. (M16)

In this case the negotiator's concern for the other was genuine and not solely motivated by self-interest. Of course self-interest cannot be removed from the equation because the same negotiator remained highly concerned about his own outcomes both tangible (e.g., economic outcomes) and intangible (e.g., reputations) but there was also a sense that the other side's needs were legitimate and, therefore, had to be met where possible. It is interesting to note that in contrast to those with no concern for the other and those with functional concern for the other, negotiators with a mixed oriented seem to view the respective parties' interests and needs as being relatively similar.

In the following case the genuine “other-concern” seemed to emerge after industrial action had taken place and management were ready to share their own constraints with the union in an off-the-record meeting. The union negotiator reported that management revealed that it had “an impossibly difficult mandate and almost no flexibility to move and reach agreement and that they actually agreed with the union that there was an injustice that needed to be righted” (U8). Once the parties had reached this level of openness they were able to work together to mount a business case to senior management to change the mandate.

The union’s lead negotiator made it clear that the other party’s outcomes are important because “if things are tough for them they will be tough for your members” (u8). She stated:

I don’t like win-win. I just don’t call them that. I prefer to say, my own terminology is we’ve worked through something we can both benefit from really well, benefits on both sides. I just don’t like winning and losing that’s all, but yeah it’s just the same thing by a different name. (U8)

In this example, both the union and management were firm around their own goals, but on some issues they had genuine empathy for one another and were able to work together to achieve mutually satisfactory results.

In another example, an experienced HR manager who heads the collective negotiations in his organisation expressed a high degree of concern for his own outcomes and also a genuine concern for the welfare of the organisations staff; he stated:

It’s not a family business. I don’t actually care about them on an emotional level. I care about it to the extent that we need to get the job done and we need it done as well as we can for as little as we can. That sounds pretty mercenary but in the end that’s what it comes down to... It’s an economic

question, yes I'm concerned (about their outcomes – *my insert*) but I can't be completely concerned about it because in the end the organisation's survival is my priority. (M16)

In a final example, an HR manager echoed these thoughts when he stated "if there's a genuine need on either side or both sides it has to be met and at the end of the day you've got to walk out from the negotiations with an engaged workforce" (M19). The HR manager has high concern for his needs as he stated "we need to remain viable" and genuine concern for the other side as he stated "we need our people to be paid fairly for what they do, the union needs their people valued so actually our needs are similar" (M19).

The negotiator with mixed orientations was found to be highly concerned with his/her own outcomes but had some genuine interest in helping the other side to achieve some of their goals, for the following reasons:

- The claim from the other party is not in conflict with their own goals,
- The negotiator is genuinely concerned with the other party's welfare,
- The negotiator is genuinely happy to work with the other party,
- The negotiator has a genuine concern in maintaining a good working relationship because they value the relationship as an end in itself, and
- The negotiator believes in the legitimacy of the other party's interests, and considers meeting those interests as the right thing to do.

In conclusion,

*Do real-world negotiators (as represented by NZ Labour negotiators) display competitive or collaborative orientations or mixed orientations?*

The findings show that real-world negotiators (as represented by NZ labour negotiators) display both competitive and mixed orientations. In fact, three distinct orientations were found to exist: 1) highly competitive negotiators with no concern for the other party's outcomes (the minority), 2) competitive negotiators with some

concern for the other party's outcomes, driven by self-interest (the majority), and 3) negotiators with mixed orientations who have some *genuine* concern for the other party's outcomes (minority), on some issues. The most common orientation is the competitive orientation with some concern for the other party driven by self-interest. Table 3.0 (below) shows that a mixed orientation was *slightly* more common in men than women; *significantly* more common in management negotiators than union negotiators; and *significantly* more common in the public sector compared to the private sector.

<b>Table 3.0 Individual attributes and contextual factors</b>						
<b>Codes</b>	<b>Orientation</b>	<b>Gender</b>	<b>Experience in years</b>	<b>Representation</b>	<b>Industry</b>	<b>Sector</b>
M1	Competitive	Male	5	Management	Health Care	Private
M2	Competitive	Male	12	Management	Ports	Private
M3	Mixed	Female	20+	Management	Health Care	Private
M4	Mixed	Male	10	Management	Education	Public
M5	Competitive	Male	30+	Management	Health Care	Private
U6	<i>Unusable</i>	-	-	-	-	-
U7	Mixed	Male	30+	Union	Service	Private
U8	Mixed	Female	5	Union	Health Care	Public
U9	Competitive	Male	22	Union	Govt Dept	Public
U10	Competitive	Male	30+	Union	Transport	Private
M11	Mixed	Male	19	Management	Service	Private
M12	Competitive	Female	2-3	Management	Service	Private
M13	Competitive	Male	30+	Management	Dairy	Private
U14	Competitive	Female	22	Union	Health Care	Public
U15	Competitive	Male	30+	Union	Meat works	Private
M16	Mixed	Male	30+	Management	Local Govt	Public
U17	Competitive	Male	15	Union	Manufacturing	Private
U18	Competitive	Female	8	Union	Local Govt	Public
M19	Mixed	Male	9	Management	Education	Public
U20	Competitive	Female	8	Union	Manufacturing	Private

M21	Competitive	Male	25	Management	Transport	Public
M22	Mixed	Male	20 +	Management	Manufacturing	Private
U23	Competitive	Male	9	Union	Fast Food/Rest	Private
U24	Competitive	Male	4	Union	Banking	Private
U25	Competitive	Female	20 +	Union	Service	Private
OM1	Mixed	Male	10	Management	Education	Public
OU1	Competitive	Male	2	Union	Education	Public
OU2	Competitive	Female	8	Union	Service	Private

\*\* OM1, OU1 and OU2 represent the lead participants from the observations.

**R.Q. 2. Do real-world negotiators (as represented by NZ labour negotiators) practice integrative or distributive bargaining behaviours or a mix of integrative and distributive?**

Participant negotiators were asked to recall a recent collective bargaining experience, and to use that particular experience to answer questions about behaviour (see chapter two methodology for details). Reported behaviours were then classified as either distributive or integrative according to theory. The findings show that negotiators were identified as either engaging in a distributive strategy exclusively (the majority) or a mixed strategy that utilized both integrative and distributive behaviours (the minority). The following section presents a sample of stories to illustrate the behaviours identified. At the conclusion of this section, Table 3.1 provides a visual overview of the behaviours and Appendix C identifies all of the behaviours captured during the data collection phase.

**Distributive bargaining strategy: An exclusive strategy**

The vast majority of participants reported using distributive bargaining exclusively. The following stories breathe life into the strategies that were reported.

**Example One:** In the first example, the union and employer have a long standing and acrimonious relationship. A very experienced union negotiator has negotiated with this company since he was a young man (approximately 18 years old), and he said if anything the relationship between the union and the employer “keeps getting worse” (U15); he stated:

firstly they don't want us to be there; that's the first thing because we're the only union that's actually got all their (industry details removed) sites heavily unionised in the very high percentages. The second reason would be they want to maximise the profits and unions get in the road of that. Another most important aspect which you could probably put as number two, they want complete control of the business in any nature of how they desire to run it, irrespective of how that impacts on their employees. (U15)

In this particular round of collective bargaining the union negotiator reported that the union were at logger-heads with management over proposed changes to work practices. The

union wished to work jointly with management on this issue but from the union's perspective, management's anti-union attitude meant that they did not value or desire any input from the union. The issue of work practices clearly has integrative potential but it was viewed as a distributive issue as demonstrated by the following quote from the union's negotiator; he stated:

they're very poor in terms of what they're required to do when they are declining to accept maybe accept an improved position that we're trying to represent on behalf of the workers, where we've built some good debates around it, good logic around it and good sensibility around it... their response basically is this is our position, this is where we see it best this is where we're going. (U15)

According to the union negotiator, this employer will stop at nothing to achieve their goals, as he explained "they will gloat about what they have got as far as resources, how they can teach us a lesson because they have destroyed some major unions" (U15). Furthermore, the union alleged that the employer communicated (unlawfully) during bargaining with union members; he stated:

By saying really to the workers direct through the backdoor tactics of communicating with them that they'll never give in no matter what, that it will cost you dearly, you'll threaten the closure of the site even though it's just been built, your length of season would reduce if your conditions built up to such a stage that the plant can't compete against the other competitors and be rest assured if this plant stops as a result of any union action, (details removed) will be carted through to our other sites that will be operating at the time. (U15)

Interestingly, the union negotiator said that the union had "20 odd legal proceedings against the company" at the time of the interview for breaches of the legislation made during collective bargaining (i.e., communicating directly with employees) and for multiple breaches of the legislation made outside of bargaining (i.e., breaches of health and safety legislation). The participant was asked whether the legal proceedings seemed to concern

the employer and he said “no, we know this employer will take us through the Authority, the Employment Court, the Court of Appeal and beyond” (U15).

It was clear that the participant viewed the legal avenue as the only one open to the union at the time. Any plans for industrial action against the employer had been put on hold until a later date, as the union negotiator explained:

We’ve shelved that (industrial action – *my insert*) until we can get a strategy in place to convince all members who are not immediately affected to get behind it because it will take a large industrial move to do it, it’s going to have to be a well-coordinated and assisted plan and we’re not ready.” (U15)

It is clear that the parties were locked in a power struggle. The employer was powerful and had access to seemingly unlimited resources. The union knew they were in a less powerful position and were building their industrial strength so that they could respond in kind down the track. In this case, the following distributive tactics were evident: the use of bargaining positions, attempts to alter perceptions, and increasing costs to the other side (via threats and intimidating behaviour).

**Example Two:** In another example, a young employment lawyer was representing the company in collective negotiations with the union. This participant also reported a strategy that was classified as purely distributive. By way of example, he stated:

I always try and disarm the other side at the start as quickly as possible, deflate their sense of what they think they’re going to achieve...just sort of setting out at the start, the global picture of the organisation, in terms of its funding so the other side has a clear understanding of the full picture behind your situation. You’re continuously trying to sell them short and saying look you’re not going to be getting very far because we’ve only got so much money. (M1)

When asked to describe his overall strategy for the negotiations he explained “we just went in with a facilitative approach, always just sort of firmly saying no when we needed to

making clear management is management, we are going to be the ones making the calls on things at the end of the day” (M1).

This negotiation revolved, primarily, around the union seeking a pay increase. As the employment lawyer stated:

the union was after a relatively small increase they were really just wanting to try and show that their members were getting a wee bit better deal than people on individual agreements...they didn't really want much really which was good. (M1)

The negotiator reported “there were compromises on both sides things went into the document that we didn't really want but were able to live with and I'm sure they missed on some things that they really wanted” (M1). Finally, it was clear from the participant's perspective that management perceived themselves to be in a superior power position (by virtue of their position as management of the organisation). The participant stated:

It's just simply starting off with what one of my colleagues once told me was the golden rule, you've got the gold, you get to set the rules when you're working for management, so it's just sort of simply saying, 'hey look this is where we're coming from, we're management and this is it, we're happy to hear of any additions you want to this document', but you're sort of maintaining that level of control really. (M1)

In this case, the union were not seeking much from the employer so there was not a lot for the employer to resist against. Nevertheless, it appears as if it were important for the company to present themselves as the decision-makers. The following distributive tactics were evident: use of positions (i.e., the union were seeking a wage increase), strong attempts to alter perceptions, and concession-making – all of which are integral to a distributive strategy.

**Example Three:** In the final example, a veteran union negotiator with over 30 years' experience reported behaviours that (when analysed together) represented an exclusive

distributive strategy. In this instance, the parties shared a long history of disputes between them. In the union negotiator's own words: "There have been major disputes every time (thumps table – *my insert*), the relationship is poor" (U10). The union negotiator explained that from his perspective the company had behaved combatively from the outset; he stated:

The company we're dealing with are putting every obstacle in the world in front of us to get their financial information, including a really clumsy attempt to say, yes we'll give you the financial information but the only people we're prepared to give it to for review is (name removed) or one of the big accounting firms that cost a fortune...so they're deliberately making it hard, making it challenging. (U10)

The dispute centred around low wages and broken shifts. The union were arguing that the workers' existing wage rates saw them struggling to meet their basic needs in life; he stated:

members were struggling to feed their families and pay a mortgage or pay rent...in fact most (job title removed) wouldn't have a mortgage most of them could never afford to get the deposit together, so they rent and the rents in (location name removed) are terribly high probably \$400-500 per week for a family house, so one wage would be gone on rent, so that's when you've got families with mum and dad working and then you've got all the social problems of kids not having parents at home and so on. (U10)

These were workers, he argued, who had "nothing left for kid's clothes, the dentist, the doctor and couldn't contribute to superannuation because there is nothing left" (U10). Needless to say the union members were "very emotive" (U10). The union had threatened to "work-to-rule" (U10) and the company responded by locking the workers out. When asked directly why he thought the employer locked the workers out; he said:

I think they feel they're on the front foot because they've got what they call their team in government, the whole environment, you know the recession, the National Government, the restrictive labour laws so you put all of those variables together they feel they're on the front foot, and so they feel oh we'll just take it to these guys

and we'll lock them out...the employer thinks I'm going to teach these bastards a lesson I'll lock them out. (U10)

On this occasion the negotiation turned into a media war; he stated:

Yeah we won the media war there because people were pissed off that low paid workers are being locked out by these monsters from (overseas country name removed) and we played that up – these bullies from (name removed) come over here and lock out our people. (U10)

In this case the parties were in dispute from the very beginning. It was a classic power struggle with each side pitting strength against strength. The following distributive tactics were evident: concealing information, use of positions (i.e., the union were seeking a wage increase), strong attempts to alter perceptions, threats and actions taken to harm the other party.

### **Integrative and distributive bargaining: A mixed strategy**

**Example One:** The following section will show that some negotiators (the minority) were found to adopt both distributive and integrative tactics, a mixed strategy, albeit that distributive strategies remained dominant in their overall approach. The first example comes from a senior HR manager who explained that ultimately these negotiations were about money. Management wanted to convey that:

things were tight and we didn't think we should be giving people pay increases but at the same time we didn't want for anyone to get the sense that we were going to get the razor out and start taking chunks out of the organisation. We didn't want to destabilise our workforce. (M16)

Although his mandate was for a "zero increase" he explains that he was genuinely concerned for the welfare of his staff; he stated:

one of the arguments that you tend to hear every year really but you do tend to listen to it, is we're talking about a population who are at the lower end of the employment scale and wage scale in the organisation and a zero increase on a low wage is a lot more significant than a zero increase on a reasonably good one. (M16)

In order to achieve the difficult goal of genuinely considering the staff's welfare and operating effectively during "tight" times, the employer set up joint working committees with the union on issues that required greater levels of understanding and cooperation between the two parties; he explained:

We sat down with the union organiser before the negotiations and worked through the document and said 'well ok here are some things to us which seem to be sensible. We don't have the ability here to make any decisions in this working party process but we could bring this to the bargaining table and we don't think we'd have too much trouble ticking this off', so that preparatory work was done and it meant that that part of the negotiation process was quite orderly and cooperative...they're not dogmatically or philosophically opposed to us on every front and even though they might not agree with us I think there is a reasonable level of understanding about where we're coming from. (M16)

Notwithstanding the ability to cooperate, the participant also reported behaviours that were classified as distributive, for example, he stated: "sometimes we played it so that the person who had been moderate and considerate became the hard-arse, it's all part of the game I guess" (M16). In a further example, he explained that he concealed some information from the union, he stated:

We buy remuneration surveys and we factor them into our models but we don't tend to disclose those. We'll illustrate them sometimes by showing graphs and talking about percentages and that kind of stuff but have resisted giving data across. (M16)

Furthermore, in this negotiation, management were looking to achieve an agreement that would be in place for two years. The HR manager explained that he understood that achieving that would take compromise, he stated: “really the thing to take into account is that yeah sure if you want a two year document, then you have got to give people some reason to want to engage in that” (M16).

In conclusion, in this case the employer was ultimately concerned with the running of the organisation and its survival during tough economic times, but there was also a willingness to engage with the union. The distributive behaviours that were evident in this case are: use of positions (e.g., two year deal), a twist on the good/cop bad cop routine (designed to alter perceptions), concealing information, and concession-making. The integrative behaviours that were evident in this case were: exchanging open information on some issues and working together in joint working parties.

**Example Two:** In another example of a mixed strategy, a union negotiator explained that his organisation had engaged in training for integrative bargaining; he stated:

The staff get trained or oriented to the bargaining strategy, they get training on interest based bargaining. We tend to get the employer’s and the union’s teams together and give them joint training... we have a partnership agreement with them.  
(U9)

In this particular negotiation there was also a joint opening speech from the heads of the union and the organisation. The message to the bargaining teams was that these negotiations were going to be challenging but the parties were encouraged to try some integrative techniques; he stated:

We said show some imagination and willingness to explore different ideas and, you know, not to say, ‘oh we can’t even think about that’. I think it’s really important to have the confidence to say ‘let’s try an idea, let’s get up on the white board and just try it.’ (U9)

The participant reported that from the union's perspective they were trying to look for opportunities to achieve mutually beneficial outcomes; he stated:

you work out what's important to the employer and what's not important to you. You think about it that way and my advice, you'll weigh up those things you think to yourself, 'well that's a small compromise that will mean a hell of a lot to them but we can get this which means a lot to us', so the idea of mutual gains is really important. (U9)

However, it was not long into these negotiations before the integrative wheels fell off. As the participant stated, "the partnership agreement, well it just dissolved from our point of view. At one point they said to us 'we're having second thoughts about our partnership agreement', and I thought 'are you joking? Hell that's long gone'" (U9). Subsequently, the willingness to work together dissipated, bringing the use of integrative behaviours to a conclusion. As the negotiator stated: "within a very short space of time, they were absolutely at logger-heads with the employer, saying no pay adjustment, and we're saying we want to change the pay system" (u9). As it turned out, the situation escalated into a big dispute "it was the biggest ongoing dispute we've had for a few years and it ran for several months. We had members taking action of varying degrees over that period...it was quite a dramatic period, disputes are always quite dramatic" (U9).

Prior to undertaking industrial action, the union cautioned the employer about its intentions. The participant described the response he received from management when he stated:

The employer was saying to me like this (indicates fists punching together – *my insert*) literally that's quite common, come on you want to have a strike then be our guests, not threatening to hit me but saying, and I actually said 'I can see what you're doing with your hands, is that what you're thinking in your head?' and they said 'You'll never win this strike we're going to deal to you.' (U9)

In conclusion, this case is of course different to the previous example where the distributive and integrative behaviours were used concurrently. In this example the parties undertook joint training in integrative bargaining and attempted an integrative approach in the first instance but subsequently reverted back to distributive strategies and tactics or an exclusive distributive strategy.

**Example Three:** In a final example of a mixed strategy, management and labour began their negotiations using a purely distributive strategy and then shifted to a mixed strategy after industrial action. The parties shared a “terrible history” (U8) between them and the negotiations reported were no different in the first instance. The union were seeking a wage increase for their members and the company were offering nothing, “a nil wage offer” (U8). As the participant explained the initial discussions were very difficult, she stated:

I don't know what you call it but it's when people are scared to put their cards, scared to actually have a conversation...this idea of making statements at one another rather than actually talking always frustrates me. One of the most frustrating things I find with bargaining is getting past all that. (U8)

Specifically, with regard to statements, she explained that the employer began by giving a long speech designed to alter the union's expectations:

We began this process, we had to sit and listen to a half hour speech by the lead advocate about the (company details removed) bargaining expectations and expectations for fiscal responsibility. I know all the political speak but we had to sit for 35 minutes and listen to that and finally finished, so we're like 'We want this, this and this', and we have a two hour break while they contemplate and he comes back and says 'Perhaps you didn't hear me because it would appear from the claims you have on the table you have no understanding, so I'll tell you again...', so we had another 35 minutes of listening to the (details removed) expectations about fiscal responsibility. (U8)

The parties reached a stalemate at the bargaining table and the union undertook industrial action, specifically “rolling stoppages” (U8). Eventually the parties negotiated a temporary cessation on the industrial action and managed to get back around the table to negotiate. The participant explained what happened next, she stated:

It finally came out in a short line out...they had an impossibly difficult mandate and almost no flexibility to move and reach agreement. The problem is they want to pay the money they’ve been unable to because the (details removed) has issued instructions saying that there will be no pay increase for (job details removed). They’ve had to mount a business case to the (details removed) to say why that particular bargaining parameter needs to be put aside in this case due to the injustice of it. (U8)

After such a revelation the parties began working together to resolve the issues between them. As the negotiator explained: “in the last 2 years we’ve gone from complete no engagement whatsoever, other than firing shitty letters at each other, to now at last some joint committees and regular meetings and we’re starting to chip away at the distrust” (U8). In this situation, the parties used distributive tactics exclusively in the first instance and then shifted to adopt some integrative behaviours later in the process, resulting in a mixed strategy.

In conclusion,

*Do real-world negotiators (as represented by NZ labour negotiators) practice integrative or distributive bargaining behaviours or a mix of integrative and distributive?*

The findings show that negotiators either adopted an exclusive distributive strategy or a mixed strategy. Table 3.1 provides a visual overview of the behaviours utilised by each of the participant negotiators, using theoretical frameworks for distributive bargaining and integrative bargaining (Fisher & Ury, 1981; Fisher et al., 1991; Lewicki & Litterer, 1985; Lewicki et al., 2006; Walton and McKersie, 1965, 1992) to capture the behaviours that were reported. In this table the symbol  $\checkmark$  indicates that a participant *did* report using this behaviour (or that it was observed) and the symbol – indicates that they *did not* report using

this behaviour (or that it was not observed). The symbol \*\* indicates that some form of industrial action was taken.

**Table 3.1 Strategies and tactics**

Code	Distributive bargaining strategies and tactics						Integrative strategies and tactics				
	Opening offers/ demands	Gather information Conceal own Information	Alter perception s	Increasing costs to the OP	Induce & make concessions	Manage commitments	Begin with a problem statement	Open exchange of information – across all issues to search for underlying interests	Problem solving techniques invent options	High value/low value trades	Objective criteria
M1	√	√	√	-	√	√	-	-	-	-	-
M2	√	√	√	√	√	-	-	-	-	-	-
M3	√	√	√	-	√	√	-	-	-	-	-
M4	√	√	√	-	√	√	-	√ (some issues)	-	√	-
M5	√	√	√	**	√	√	-	-	-	-	-
U6	-	-	-	-	-	-	-	-	-	-	-
U7	√	√	√	√	√	√	-	-	-	-	-
U8	√	√	√	**	√	√	-	√ (some issues)	√	-	-
U9	√	√	√	**	√	√	-	√ (some issues)	√	√	-
U10	√	√	√	**	√	√	-	-	-	-	-
M11	√	√	√	-	√	√	-	-	-	-	-
M12	√	√	√	-	√	√	-	-	-	-	-
M13	√	√	√	**	√	√	-	-	-	-	-
U14	√	√	√	**	√	√	-	-	-	-	-
U15	√	√	√	√	√	√	-	-	-	-	-
M16	√	√	√	-	√	√	-	√ (some issues)	√	-	-

\*\*IA = industrial action

U17	√	√	√	-	√	√	-	-	-	-	-
U18	√	√	√	√	√	√	-	-	-	-	-
<b>Distributive bargaining strategies and tactics</b>						<b>Integrative strategies and tactics</b>					
<i>**IA = industrial action</i>											
	Opening offers/demands	Gather information Conceal own Information	Alter perceptions	Increasing costs the OP	Induce to make concessions	& Manage commitments	Begin with a problem statement	Open exchange information – across all issues to search for underlying interests	of Problem solving techniques invent options	High value/low value trades	Objective criteria
M19	√	√	√	-	√	√	-	√ (some issues)	√	√	-
U20	√	√	√	-	√	√	-	-	-	-	-
M21	√	√	√	**	√	√	-	-	-	-	-
M22	√	√	√	-	√	√	-	-	-	-	-
U23	√	√	√	**	√	√	-	-	-	-	-
U24	√	√	√	**	√	√	-	-	-	-	-
U25	√	√	√	-	√	√	-	-	-	-	-
OM1	√	√	√	-	√	√	-	-	-	-	-
OU1	√	√	√	-	√	-	-	-	-	-	-
OU2	√	√	√	-	√	√	-	-	-	-	-

### **R.Q. 3. Do real-world negotiators (as represented by NZ labour negotiators) practice hard or soft bargaining behaviours?**

As reported above, participants' behaviours were classified as either distributive or integrative. Another step in the process of analysis involved analysing the rigour of behaviours. As presented above, distributive behaviours were found to be dominant. Therefore, it was not possible to even contemplate the rigour of an integrative approach. However, the findings showed that negotiators adopt distributive bargaining behaviours with different degrees of rigour. Specifically, there were three distinct approaches identified: 1) soft bargaining, 2) moderate bargaining (the vast majority), and 3) hard bargaining. This section presents the findings by giving illustrative examples from participants.

#### **Soft bargaining**

In a minority of cases (3/27) the negotiators were found to adopt a soft approach to distributive bargaining. This section presents some examples.

**Example One:** In this example, the negotiation was observed by the researcher. In observation one (OU1) the lead negotiator did not come across as an overly confident man and he did not come across as someone who was particularly comfortable with the bargaining process. During a conversation with the negotiator he admitted that he was fairly new to collective bargaining and therefore was not entirely comfortable bargaining.

These negotiations were fairly straightforward because there was no dispute over the issues. The unions opening demand was reasonable and the employer made a reasonable starting offer. The interesting part about this negotiation was that the employer's first offer was accepted by the union. The union had asked for a 4% increase. The employer offered 2% and essentially told the union not to bother haggling. The union accepted the offer almost immediately, without ever making a counteroffer or without "haggling." In a private management caucus after the negotiations, the researcher asked the management negotiator "if the union had counter-claimed was there more to give on wages? He responded by saying "yeah a bit more." What's more, the union negotiator was observed (in

private caucus with the union) selling management's offer and dissuading the union from making a counter-offer, essentially his attitude was that the union ought to be grateful for a 2% increase during tough economic times.

Furthermore, this negotiator withdrew proposals that the union had on the table with no prompting from management and without demanding any reciprocation from management in exchange. As a consequence, the union conceded far more than management did. The union never really challenged management in a serious way. It was a straightforward negotiation from management's perspective.

As a participant observer it was obvious from an early stage that the employer had the most power in this negotiation. Whilst both parties clearly placed value on the relationship and wished for it to remain positive and constructive, it was obvious that the union put more of a premium on this than did management. For example, on several occasions the union's lead negotiator undermined his own team members by agreeing with management by smiling, nodding his head, and/or actually telling management that he agreed. It was therefore interpreted that he was attempting to stay on side with management at times when he felt that someone from his own side had pushed an issue too hard. Maintenance of the relationship seemed to ultimately come at the expense of substantive gains.

Finally, the union membership was largely apathetic and the union was weak. As a non-participant observer, the researcher was fortunate enough to be able to attend the union's ratification meeting. At this meeting approximately 40 out of a possible 400 members turned out to hear the proposal from management. During this meeting just 3 out of the 40 people in attendance spoke up and gave an opinion on the proposal.

The distributive behaviours in this negotiation by the unions lead negotiator were classified as soft distributive bargaining, because the negotiator was reasonable, flexible, made frequent unsolicited concessions and was conciliatory throughout the negotiations.

**Example Two:** The second case was also a negotiation that was actually observed by the researcher, observation two (OU2). The union's lead negotiator revealed that some lawyers

(whom she negotiates with regularly) try to intimidate her at the bargaining table, she said “the employer’s advocate is staring me down and he’s saying I’m a lawyer and you’re not and I’m going to get your delegate shit scared that you don’t know what you’re doing.” It was after this statement that the union negotiator admitted to the researcher that she did not like negotiating and that in fact she “is uncomfortable negotiating” and it is “the least enjoyable part of my job as a union organiser.”

Once again the primary issue in this negotiation was wages. The union made most of the concessions with management making very little movement comparatively. For example, the union’s original wage demand was for an increase of 8% - the management team promptly instructed the union to revise their position which they did, coming back after a private adjournment with a reduced wage demand of 5%. Management weren’t overly impressed with this and never thanked the union for the movement, instead they stressed that they still weren’t prepared to move because there were “still too many other things on the table” that they didn’t like, a signal to the union to keep making unreciprocated concessions, which it did.

The union’s lead negotiator was observed (in private caucus with her team) engaging in intra-organisational bargaining with her union delegates (her constituents and audience members) who wanted her to adopt a tougher stance in the negotiations. The negotiator argued that making concessions was the reality of bargaining, and that, in fact, this was the only way to get a deal, and to get a deal quickly before Christmas (negotiations took place in November). Given the union’s willingness to make concessions in order to reach agreement with management there was never any dispute between the parties.

The distributive behaviours in this negotiation by the union’s lead negotiator were classified as soft distributive bargaining, because the negotiator was highly flexible, made frequent concessions (some solicited, others on a voluntary basis) and was conciliatory throughout the negotiations.

### **Moderate distributive bargaining**

In the majority of cases (15/27) the negotiators were found to adopt a moderate distributive approach that could neither be classified as hard nor soft but seemed to fall somewhere in-between each of those points along a continuum. This section presents some examples.

**Example One:** In the first example, an employment lawyer representing management explained that management were firm on their position; she stated:

I think acting for employers for the entire time you, you know, you're very clear in your own mind about what you can give away and the extent of what you can give away so you do try not to give things away in the first instance. (M3)

However, she was also clear that compromise is an integral aspect of negotiations, particularly in the context of ongoing relationships; she stated:

I tend to negotiate fairly up front and I'm not into game-playing as a general rule but some of it is game-playing... it's a little bit of tit-for-tat, you know, it's a little bit about, you give me something I'll give you something and slowly get there...Oh look I hate that win-win terminology but really it's about achieving an outcome that everybody can live with so nobody feels like they've been screwed. Invariably a good outcome at negotiation will means concessions on both sides. (M3)

In these negotiations the parties were not in dispute, in fact the negotiator explained that the parties were cooperative (m3), she stated: "the most astonishing thing about it was actually the level of cooperation...we weren't really arguing about a huge number of things...and the things that the union wanted didn't come at a cost to management" (M3). Furthermore, she added "there was no fear of action, this is not a group of staff that are not out to do anything that could cause harm (context details removed) because that's how they are philosophically" (M3).

Perhaps another reason that the staff were unwilling to take action was the fact that prior to negotiations redundancies had been made. As the lawyer explained:

I say to people if you're going to do redundancies do it before negotiations because that gives everybody a huge fright, I mean you know I suppose at the end of the day that could be a tactic but it does bring a dose of realism to the negotiations where expectations may have been too high. (M3)

The distributive behaviours in this negotiation by the management negotiator were classified as moderate distributive bargaining, because the negotiator was firm but had some flexibility, made some concessions (albeit her goal was to minimise management's concessions), and she was conciliatory throughout the negotiations.

**Example Two:** In the second case, a young HR manager explained that the union and the company had a history of disputes, in fact their previous negotiations had spiralled into a rather nasty dispute with the union undertaking "fairly aggressive industrial action" (M12). Furthermore, the parties ended up in the Employment Court to resolve a legal argument. The union negotiator explained that the company suffered losses as a result of the previous round of bargaining and that she was sure it had hurt the union too, she stated: "we have contracts with clients so if we're in the middle of a dispute we're not providing services and we risk losing our contracts" (M12).

As the HR manager explains, her most recent round of negotiations with the union were a stark contrast to the previous round; she stated:

It was a good negotiation in that there was not really any argie bargie and there was not really the need to flex your muscles and there was no threat of industrial action there was not any desire for there to not be a good outcome and there was reasonableness from both parties (M12).

In this negotiation the union were seeking a wage increase.

They wanted equivalent rates to those being paid in the public sector. We can't afford to match the public sector rates because we're operating in the private sector so they weren't going to achieve their goal but we agreed on an increase (M12).

Interestingly, the union negotiator was replaced for this round of bargaining allowing the parties to start afresh. As the HR manager stated: "he (the new union negotiator – *my insert*) was a reasonable guy, really informal, kind of had a story telling approach which is fine and he was not combative." Furthermore, she said "I think there is a general understanding that we all operate in good faith and if things turn nasty well everyone turns nasty back"(M12).

The distributive behaviours in this negotiation by the management negotiator were classified as moderate distributive bargaining, because as in the previous example, this negotiator was firm but had a degree of flexibility, she made some concessions (albeit her goal was to minimise management's concessions), and she was conciliatory throughout the negotiations.

### **Hard distributive bargaining**

Although the majority of cases were moderate, there were a number of cases (9/27) where the negotiators were found to have adopted a hard distributive approach. These were colourful disputes representative of the stereotypes presented in the literature. This section presents some examples.

**Example One:** In the first example, an employment consultant with many years' experience representing employers in collective bargaining tells the story about a big dispute that he was recently involved in. In this case, the union and the company were immediately in dispute. The employer had set up a subsidiary company and they were essentially paying their new employees at a substantially lesser rate than their existing employees who were doing the exact same job, albeit that they were working for a "different" company. The union were seeking pay parity for the workers, the company was strongly opposed. The employment consultant stated:

The company had strong legal and commercial arguments. They had not broken the law and from a cold business perspective it made financial sense. However, emotionally the union had a huge argument because, emotionally it was a very good argument – these people wear the same uniform, they (details removed about the tasks they perform) so emotionally you could very easily get the buy-in from the members and get them really worked up. (M21)

In this case the union had 100% membership and those members were passionately committed to the cause; he stated:

from day one they were very emotional, a lot of emotion and because they are a, this probably doesn't sound very PC but they are a predominantly female labour force...probably 90 percent female it was quite easy for the union to whip up emotions. As I say it's not PC but it's what the reality was, the members were incredibly emotional. (M21)

Reportedly, the union approached the negotiations "very aggressively" (M21) from day one. According to the management negotiator:

Their strategic approach was that threatening industrial action at a very early stage would get the company running scared because the last thing the company could afford... So (union name removed) thought by threatening industrial action strategically at a very early stage and giving these signals, 'if we don't get what we want we are going to go on strike and this is really going to hurt you and it's probably going to wipe out your market', that was very confrontational. (M21)

The union in this instance didn't just threaten industrial action, they followed through with:

pickets, strikes, withdrawal of labour, sticking stickers all over their (workplace details removed), wearing funny uniforms – wigs, going to work barefoot...chanting outside the head office you know really rubbishing the company and everybody else

in the public domain, in the media, on TV and people didn't think they would do that. (M21)

The participant revealed that the employer responded-in-kind; he said:

...what they didn't count on was that the company said 'you know what if they want war, they're going to get war', because that's (company details removed) they can roll out the resources if they have to and the CEO of (company details removed) is quite a competitive, very competitive individual and he just said – 'if they want war, they're going to get a war', and he locked them out. (M21)

According to the management negotiator, towards the tail end of this protracted dispute the parties were "bruised" and "battered," and "there was blood on the carpet" (M21). Eventually, the only way for the parties to do a deal was to replace the lead negotiators for both parties.

The distributive behaviours in this negotiation by the management negotiator were classified as hard distributive bargaining tactics, because the negotiator was firm, in fact inflexible in what the company wanted to achieve, they made no concessions (until the 11<sup>th</sup> hour which came 18 months after the dispute began), they responded in kind to threatening behaviours and took actions themselves to harm the other side. Finally, the behaviours reported were aggressive and combative.

**Example Two:** In the final example of hard bargaining, a union negotiator explained his approach to some recent negotiations. In this situation the union were trying to get a collective agreement at a company who did not presently have unions on-site. Furthermore, the company was proudly anti-union with HR policies explicitly designed to keep the union out of their organisation.

The union reported that the company (a large multi-national company) actively engaged in union busting tactics; he stated:

They tell our members to leave the union, they won't send them their forms when they join up, they will target our delegates and stop us from coming on site even though it's our legal right...we had 300 members pull out of the union in (location removed) lots of them are migrant workers so they tell them they won't help with their work visas right just bullying tactics. (U23)

The union negotiator explained that despite the union's lack of industrial strength he managed to get the company to cooperate with the union. The union identified that the company's brand was all important to the company; he stated: "that's how get their attention, you piss all over their brand...they're arrogant so they're going to get a smack" (U23). In order to do this, the union waited until the company held a national conference for all of their regional managers in Auckland. The union made an effigy of the company's well-known mascot and planned to "burn the effigy at the stake right outside the conference" (U23). This certainly got the company's attention, as illustrated:

I got the call from the U.S., 'You do this and the relationship is going to...,' and I said 'We don't have a relationship with you, you're a bunch of pricks, so I mean, what do you want me to do? Like you fuck us around and you're telling me there will be consequences...' 'What exactly can you do?...silence...well can you come down?' 'No I'm not coming down - they're going to burn it and the media will be there and it will be seen all around the world...' And then after the threats they phone back and start grovelling and then I've got them... 'Oh well we'll need to do this better' and I said 'REALLY?' (U23)

The union negotiator explained the union's general approach to collective negotiations when he stated:

we don't threaten, we don't posture... They know our reputation and we are mongrels, sometimes I've had to take bosses in the back room and say, 'You must understand my problem, my crew want you to say no, they want a fight...', and most of them now know that. What I like is to build a reputation up, we're straight, we don't play games but if they want a fight we're always up for it and I tell them, I'll say

‘Look our mandate is very small, we’re weak but I can assure you well I’ll get you in the end, if you want to play that game you may give us a kicking but I will make sure I’ll bite your ankles you know when you’re kicking us I will try it don’t you worry.’ (U23)

The negotiator also expressed the fact that the union’s negotiators are prepared to go to jail if need be, demonstrating the lengths they will go to in their negotiations; he stated: ‘Well there is the possibility that we’ll go to jail, you know we might have to occupy a site next week. I get arrested periodically you see, we all do.’ (U23)

The negotiations with the multi-national company were eventually concluded with a collective agreement established between the parties. The company were strongly opposed to unions but obviously saw that the union both could and would harm their organisation if they continued to resist their presence.

The distributive behaviours by the union negotiator in this negotiation were classified as hard distributive bargaining tactics, because the negotiator was very firm and went to great lengths to induce concessions from the other side, including threatening to cause significant harm to the organisation. Finally, as with the previous example, the behaviours reported were aggressive and combative.

In conclusion,

*Do real-world negotiators (as represented by NZ labour negotiators) practice hard or soft bargaining behaviours?*

The findings show distributive tactics are adopted with a range of rigour. Specifically, negotiators were found to adopt either a soft, moderate or hard approach to distributive bargaining. Table 3.2 illustrates whether the individual participant adopted a soft, moderate or hard approach.

**Table 3.2 Hard and soft bargaining**

Code	Distributive bargaining strategies and tactics						Integrative strategies and tactics					
	Opening offers/ demands	Gather information Conceal own Information	Alter perception s	Increasing costs to the OP	Induce to make concessions	& Manage commitments	Begin with a problem statement	Open exchange of information – across all issues to search for underlying interests	of Problem solving techniques invent options	High value/low value trades	Objective criteria	
M1	√	√	√	-	√	√	-	-	-	-	-	
M2	√	√	√	√	√	-	-	-	-	-	-	
M3	√	√	√	-	√	√	-	-	-	-	-	
M4	√	√	√	-	√	√	-	√ (some issues)	-	√	-	
M5	√	√	√	**	√	√	-	-	-	-	-	
U6	-	-	-	-	-	-	-	-	-	-	-	
U7	√	√	√	√	√	√	-	-	-	-	-	
U8	√	√	√	**	√	√	-	√ (some issues)	√	-	-	
U9	√	√	√	**	√	√	-	√ (some issues)	√	√	-	
U10	√	√	√	**	√	√	-	-	-	-	-	
M11	√	√	√	-	√	√	-	-	-	-	-	
M12	√	√	√	-	√	√	-	-	-	-	-	
M13	√	√	√	**	√	√	-	-	-	-	-	
U14	√	√	√	**	√	√	-	-	-	-	-	
U15	√	√	√	√	√	√	-	-	-	-	-	
M16	√	√	√	-	√	√	-	√ (some issues)	√	-	-	

\*\*IA = industrial action

U17	√	√	√	-	√	√	-	-	-	-	-
U18	√	√	√	√	√	√	-	-	-	-	-
<b>Distributive bargaining strategies and tactics</b>						<b>Integrative strategies and tactics</b>					
<i>**IA = industrial action</i>											
	Opening offers/ demands	Gather information Conceal own Information	Alter perception s	Increasing costs to the OP	Induce & make concession s	Manage commitments	Begin with a problem statement	Open exchange of information – across all issues to search for underlying interests	Problem solving techniques invent options	High value/low value trades	Objective criteria
M19	√	√	√	-	√	√	-	√ (some issues)	√	√	-
U20	√	√	√	-	√	√	-	-	-	-	-
M21	√	√	√	**	√	√	-	-	-	-	-
M22	√	√	√	-	√	√	-	-	-	-	-
U23	√	√	√	**	√	√	-	-	-	-	-
U24	√	√	√	**	√	√	-	-	-	-	-
U25	√	√	√	-	√	√	-	-	-	-	-
OM1	√	√	√	-	√	√	-	-	-	-	-
OU1	√	√	√	-	√	-	-	-	-	-	-
OU2	√	√	√	-	√	√	-	-	-	-	-

\*\* Soft moderate hard

#### R.Q. 4. Are negotiation orientations predictive of bargaining behaviours?

In order to answer this principal question, we must also answer the sub-questions 4.1, 4.2, and 4.3 (presented above).

##### R.Q. 4.1 Do negotiators with a collaborative orientation exhibit exclusively or predominantly integrative bargaining behaviours, as would be suggested by theory?

As previously stated, there were three distinct orientations found: 1) highly competitive, 2) competitive, and 3) mixed orientation. The findings show that 33% of participants were found to have a mixed orientation. As the research did not find any negotiators with a purely collaborative orientation, this section considers whether negotiators with a mixed orientation exhibit exclusively or predominantly integrative behaviours. The findings show that they do not. In fact, a few mixed orientation negotiators did not use integrative behaviours at all. Their strategy is classified as exclusively distributive. Yet the majority of mixed orientation negotiators were found to adopt a mixture of distributive and integrative behaviours (as previously outlined above), with distributive behaviours remaining dominant. Given that a mixed approach has already been well outlined in this findings chapter, the following example illustrates an exclusively distributive strategy adopted by a mixed orientation negotiator.

An experienced union negotiator expressed a genuine concern for the other party's outcomes, by way of example he stated:

I mean their outcomes are equally important... It's an agreement and you want them to be engaged in the process ...You want to achieve an outcome that's going to be beneficial to both parties for the term of the agreement. (U7)

Yet in this situation, the behaviours that he reported led to the conclusion that he adopted a purely distributive strategy. To illustrate, the negotiator explained in his own words that the relationship between the parties was deteriorating:

I told them, 'you're in financial trouble', but he sat there like a dummy so in the end I said 'I'm convinced you're the wrong person for the job, you haven't got a tongue and you're not accountable for your behaviour so in my book you're nil, you're just fucking nil so I think we better have an adjournment.' (U7)

Eventually, the situation between the parties escalated to the point where the union was threatening industrial action. As the participant recalled:

I said to them that we were getting so pissed off with them that I was going to recommend stoppage, then we'd be picketing the (organisation name removed) as well because they were telling us that we were mean spirited bastards who always caused them to be broke so I said 'well we'll go and give them a bloody serve up...'  
(U7)

The negotiator expressed why (despite his collaborative orientation) he was not engaged in integrative bargaining when he stated:

Identify the problems, problem solving and all that shit... you know two people are given an orange and if you wanted half how are you going to solve the problem? That sort of thing, but when you've got a ten million dollar deficit it doesn't matter who's got the fucken orange.... I'm at pains to work with them because they're in real trouble but the employers are reluctant to divulge economic indicators...they don't want us at that level of participation if they can avoid it so some of the behaviours around those things are designed to keep you at arm's length. (U7)

Table 3.3 (see below), illustrates the behaviours of collaboratively oriented negotiators.

**Table 3.3 Strategies and tactics – Mixed orientation negotiators**

Code	Distributive bargaining strategies and tactics						Integrative strategies and tactics					
	Opening offers/ demands	Gather information	Alter perception	Increasing costs to the OP	Induce to make concessions	& Manage commitments	Begin with a problem statement	Open exchange of information – across all issues to search for underlying interests	of	Problem solving techniques	High value/low value trades	Objective criteria
	<i>**IA = industrial action</i>											
M3	√	√	√	-	√	√	-	-	-	-	-	-
M4	√	√	√	-	√	√	-	√ (some issues)	-	√	-	-
U7	√	√	√	√	√	√	-	-	-	-	-	-
U8	√	√	√	**	√	√	-	√ (some issues)	√	-	-	-
M11	√	√	√	-	√	√	-	-	-	-	-	-
U16	√	√	√	-	√	√	-	√ (some issues)	√	-	-	-
M19	√	√	√	-	√	√	-	√ (some issues)	√	√	-	-
M22	√	√	√	-	√	√	-	√ (some issues)	-	-	-	-
OM1	√	√	√	-	√	√	-	√ (some issues)	-	-	-	-

R.Q. 4.2 Do negotiators with a competitive orientation exhibit exclusively or predominantly distributive bargaining behaviours, as would be suggested by theory?

As previously stated, 67% of participants were found to have a competitive orientation. The findings show that competitively oriented negotiators do exhibit exclusively or predominantly distributive behaviours.

By way of example, a competitively oriented negotiator did adopt *some* integrative behaviours' at least in the first instance. The parties engaged in joint training sessions but as the participant himself explained, the parties were "quickly at logger heads" (U9). As the dispute escalated the parties' behaviours reverted back to an exclusively distributive approach; he stated:

It was the biggest ongoing dispute we've had for a few years in the public sector. It ran for several months, and what we had was members taking action of varying degrees over that period of about 4-5 months, and it was kind of a dramatic period. Disputes always are, they're quite dramatic. (U9)

In reference to the early attempts at integrative bargaining; he stated:

we tried to do that kind of thing (integrative bargaining – my insert) what we got though, that they, it seemed to us that employer was taking advantage of it and saying 'let's problem solve whether you should negotiate pay', you see. So it got all, 'no you don't need to negotiate' so what I mean is that they kind of either, they didn't understand it or they took advantage of it. So we've come to a sort of post-principal bargaining.... Ok there is principled bargaining but you've got to be clear about what your interests are and be firmer about those things ... so now we're a bit clearer about having some fundamental interests so like we want pay in agreements. We don't want to problem solve that because they're fundamental rights. (U9)

In another example, a competitively oriented negotiator reported an approach that was classified as purely distributive. As an illustration of his orientation the union negotiator stated:

Our model is very much that there is a conflict at the heart of bargaining. Our view is that you should be constructive and all that, but there is actually a question about the slice of the pie, so yip there is winning and there is losing. (U24)

In these particular negotiations, the company were offering a zero percent increase. The union negotiator explained that in response the union launched an aggressive public campaign designed to shame the company; he stated:

After we'd received the nil offer from (company details removed), we put a web ad up just for a few days on stuff and NZ Herald I think, which gave some key stats for (company name removed) - number of staff cut in the past few years and a few other things. What's the pay offer? ...and a big zero comes up, so some of that public stuff we do increasingly to put pressure on (company name removed) to move their positions. (U24)

As the negotiator explained in his own words this dispute escalated; he stated:

It turned into a very bitter nasty dispute and there were rounds of rolling strike action and things and rounds of negotiation, and a big public campaign, and it basically got to a point where parties were walking out on one another in bargaining (U24).

One of the moves by the union was to picket the Chief Executive of the company during his visit to New Zealand. The union stated:

The Chief Executive for the group was in NZ for a conference so we picketed his hotel, got the radio station along and tried to get him to come down to talk to us and that kind of thing. I was tackled and dragged out of the hotel foyer by a 6 foot high

manager. (U24)

The vast majority of competitively oriented participants engaged in purely distributive strategies. Table 3.4 (see below), illustrates the behaviours of competitively oriented negotiators.

**Table 3.4 Strategies and tactics: Competitively oriented negotiators**

Code	Distributive bargaining strategies and tactics						Integrative strategies and tactics				
	Opening offers/ demands	Gather information Conceal own Information	Alter perception s	Increasing costs to the OP	Induce & make concessions	Manage commitments	Begin with a problem statement	Open exchange of information – across all issues to search for underlying interests	Problem solving techniques invent options	High value/low value trades	Objective criteria
M1	√	√	√	-	√	√	-	-	-	-	-
M2	√	√	√	√	√	-	-	-	-	-	-
M5	√	√	√	**	√	√	-	-	-	-	-
U6	-	-	-	-	-	-	-	-	-	-	-
U9	√	√	√	**	√	√	-	√ (some issues)	√	√	-
U10	√	√	√	**	√	√	-	-	-	-	-
M12	√	√	√	-	√	√	-	-	-	-	-
M13	√	√	√	**	√	√	-	-	-	-	-
U14	√	√	√	**	√	√	-	-	-	-	-
U15	√	√	√	√	√	√	-	-	-	-	-
U17	√	√	√	-	√	√	-	-	-	-	-
U18	√	√	√	√	√	√	-	-	-	-	-
U20	√	√	√	-	√	√	-	-	-	-	-
M21	√	√	√	**	√	√	-	-	-	-	-
U23	√	√	√	**	√	√	-	-	-	-	-
U24	√	√	√	**	√	√	-	-	-	-	-

\*\*IA = industrial action

U25	√	√	√	-	√	√	-	-	-	-	-
OU1	√	√	√	-	√	-	-	-	-	-	-
OU2	√	√	√	-	√	√	-	-	-	-	-

R.Q. 4.3 Are negotiation orientations predictive of negotiators adopting hard or soft bargaining behaviours?

Interestingly, the findings show that competitively oriented negotiators adopt distributive behaviours across the full range available from hard to soft, whereas, all of the negotiators with a mixed orientation were found to adopt a moderate approach. Table 3.5 presented below illustrates these findings.

In conclusion,

*Are negotiation orientations predictive of bargaining behaviours?*

In order to answer this research question, the findings to sub-questions 4.1, 4.2, and 4.3 are all considered. As the research did not find any collaboratively oriented negotiators, this section considered negotiators with a competitive orientation and a mixed orientation to see if orientation might be a predictor of behaviour. Question 4.1 – showed that having a mixed orientation (that includes some collaborative thinking) did not lead to the exclusive or predominant adoption of integrative behaviours. What it did lead to (in the majority of cases) was a mixed strategy or a willingness from negotiators to pick up *some* integrative behaviours. Research question 4.2 – showed that having a competitive orientation was linked (in the vast majority of cases) to an exclusively distributive approach. Research question 4.3 – showed that competitively oriented negotiators adopted a range of behaviours from hard to soft (albeit that ‘hard’ and ‘moderate’ approaches dominate), and that negotiators with a mixed orientation adopted a moderate distributive approach, exclusively. So, does negotiation orientation predict bargaining behaviour? The findings from this study indicate that, yes, orientation does play a role in predicting behaviour.

Code s	Distributive bargaining strategies and tactics						Integrative strategies and tactics				
	Opening offers/ demands	Gather information Conceal own Information	Alter perceptions	Increasing costs to the OP	Induce & make concessions	Manage commitments	Begin with a problem statement	Open exchange of information – across all issues to search for underlying interests	Problem solving techniques invent options	High value/low value trades	Objective criteria
M1	√	√	√	-	√	√	-	-	-	-	-
M2	√	√	√	√	√	-	-	-	-	-	-
M3	√	√	√	-	√	√	-	-	-	-	-
M4	√	√	√	-	√	√	-	√ (some issues)	-	√	-
M5	√	√	√	**	√	√	-	-	-	-	-
U6	-	-	-	-	-	-	-	-	-	-	-
U7	√	√	√	√	√	√	-	-	-	-	-
U8	√	√	√	**	√	√	-	√ (some issues)	√	-	-
U9	√	√	√	**	√	√	-	√ (some issues)	√	√	-
U10	√	√	√	**	√	√	-	-	-	-	-
M11	√	√	√	-	√	√	-	-	-	-	-
M12	√	√	√	-	√	√	-	-	-	-	-
M13	√	√	√	**	√	√	-	-	-	-	-
U14	√	√	√	**	√	√	-	-	-	-	-
U15	√	√	√	√	√	√	-	-	-	-	-
M16	√	√	√	-	√	√	-	√ (some issues)	√	-	-

U17	√	√	√	-	√	√	-	-	-	-	-
U18	√	√	√	√	√	√	-	-	-	-	-
	<b>Distributive bargaining strategies and tactics</b>						<b>Integrative strategies and tactics</b>				
	<i>**IA = industrial action</i>										
	Opening offers/demands	Gather information Conceal own Information	Alter perceptions	Increasing costs to the OP	Induce & make concessions	Manage commitments	Begin with a problem statement	Open exchange of information – across all issues to search for underlying interests	Problem solving techniques invent options	High value/low value trades	Objective criteria
<b>M19</b>	√	√	√	-	√	√	-	√ (some issues)	√	√	-
U20	√	√	√	-	√	√	-	-	-	-	-
M21	√	√	√	**	√	√	-	-	-	-	-
<b>M22</b>	√	√	√	-	√	√	-	-	-	-	-
U23	√	√	√	**	√	√	-	-	-	-	-
U24	√	√	√	**	√	√	-	-	-	-	-
U25	√	√	√	-	√	√	-	-	-	-	-
<b>OM1</b>	√	√	√	-	√	√	-	-	-	-	-
OU1	√	√	√	-	√	-	-	-	-	-	-
OU2	√	√	√	-	√	√	-	-	-	-	-

\*\* **Soft moderate hard**

\*\* Codes for mixed orientation negotiators are in bold.

## CHAPTER FOUR – Discussion/Conclusion

### Discussion

As mentioned, negotiator orientation was examined because previous studies (conducted in laboratories with student participants) did not provide evidence to show how professional negotiators are oriented in the real world. This study demonstrated that the majority of professional negotiators have a competitive orientation. This result is in line with previous studies that found a competitive orientation to be dominant (Aaldering et al., 2012; Gillespie et al., 2000; Karagonlar & Kuhlman, 2013). This study found that competitively oriented negotiators could be further separated into two groups: 1) highly competitive negotiators who had no concern for the other side (the minority), and 2) competitive negotiators who had some concern for the other side, albeit instrumental concern (the vast majority). This finding indicates that a competitive orientation might not be as simplistic as it is currently portrayed in the literature (Goodpaster, 1996).

The remaining participants were found to have a mixed orientation (high concern for their own outcomes and some concern for the other side limited to particular issues). This finding fits with the theory of mixed motives as discussed by Schelling (1960) and Walton and McKersie (1965). Overall, the findings show that while there has been a significant shift in thinking at the normative level this has not translated into a significant shift in thinking for practitioners. On the whole, negotiators are primarily concerned with their own outcomes. In the vast majority of cases, concern for the “other” stems from self-concern rather than genuine concern. If scholars wish for negotiators to develop into collaborative thinkers, more work will need to be done to influence practitioners.

Similarly, negotiator behaviour was examined because previous studies (also conducted in laboratories) did not provide evidence to show how professional negotiators actually behave in practice. This study demonstrates that distributive strategies and tactics are the

dominant behaviours in practice. This finding is in line with literature that argues the dominance of distributive bargaining (Brown, 2012; Welsh, 2012; Wheeler, 2012). Notwithstanding, this study also demonstrates that some integrative behaviours are adopted, within the context of an overarching distributive strategy. Despite the enormous efforts made at the normative level (and the practitioner level) to change the way that negotiators behave, it appears as if behaviour has changed very little.

This study also sought to examine the rigour or strength with which behaviours and tactics are applied. As mentioned, stereotypes of distributive negotiators as hard negotiators and integrative negotiators as reasonable temperate/gentle negotiators are commonplace in the negotiation literature. Since the incidence of integrative behaviours was relatively low it was not possible to assess rigour with respect to integrative behaviours. However, it was possible to assess the rigour with which a distributive approach was implemented. This study found that negotiators adopt distributive bargaining behaviours with different degrees of rigour. Specifically, there were three distinct approaches identified: 1) soft bargaining, 2) moderate bargaining (the vast majority), and 3) hard bargaining. This finding was not in line with the stereotypes presented in the literature. In fact, this finding supports arguments in the literature that the present stereotypes represent overdrawn accounts of distributive bargaining. While it was found that hard bargaining (as per the stereotypes) does exist, the vast majority of negotiators were found to adopt a moderate approach, which is much less severe than the distributive approach commonly referred to in the negotiation literature.

This study also set out to examine if negotiator orientation is a predictor of behaviour. The results demonstrate that a mixed orientation is linked to the adoption of some integrative behaviours. This is in line with mixed motive theory according to Schelling (1960) and Walton and McKersie (1965). The study also demonstrated that a competitive orientation is linked to the adoption of distributive tactics as argued in the literature (Allen et al., 1990; Hindriks, Jonker, & Tykhonor, 2007; Menkel-Meadow, 1983). Finally, this study set out to discover if the negotiator's orientation could predict the rigour (hardness or softness) with which he/she implemented behaviours. The findings showed that competitively oriented negotiators adopt behaviours across the full range from hard to soft. In other words, a

competitive orientation did not automatically lead to a hard distributive approach to bargaining as per the stereotypes in the literature (Condlin, 2008; Korobkin, 2008). However, negotiators with a mixed orientation consistently adopted a moderate approach to distributive bargaining.

### **Implications and avenues for future research**

This study has a number of implications and provides interesting avenues for future research. First, this study challenges existing typologies for negotiator orientations by suggesting that some negotiators have a mixed orientation. At present, existing typologies include: competitive, individualistic, collaborative and altruistic orientations (De Dreu & Van Lange, 1995; Griesinger & Livingston, 1973; Messick & McClintock, 1968) but do not consider the fact that a negotiator might hold more than one orientation or have mixed thinking with regard to outcomes. Therefore, future research ought to examine negotiator orientation closely to ascertain if a mixed orientation is something that ought to be included in a modern typology of negotiator orientations.

Second, this study confirms that distributive bargaining continues to dominate in practice. A number of integrative scholars appear to be scratching their heads as to why this is the case. It is suggested here that future research ought to examine the factors that motivate negotiators to adopt distributive tactics and integrative behaviours. The findings from this study suggest that the following factors might influence the decision to adopt distributive tactics: a competitive orientation (in whole or in part), existing customs and practice, a lack of training in alternatives such as integrative bargaining and/or acceptance of alternative approaches, the desire to maintain power/control over the outcomes, responding in kind, and the agency role of the negotiator. In addition, the findings from this study suggest that the following factors might influence the decision to adopt integrative behaviours: a mixed orientation, the desire to improve relationships, a belief in the legitimacy of the other party's claims, a genuine willingness to work together, and an identification of common concerns/the nature of the issues. The findings presented here are preliminary and have not been analysed in depth because it was beyond the scope of this study. However, it is

suggested that this would be a fruitful avenue for future research.

In addition, by showing that negotiators adopt a range of distributive behaviours, this study has disconfirmed the stereotypes of distributive negotiators as hard bargainers. Therefore, it is suggested that future research ought to ask who adopts hard, moderate or soft approaches to bargaining and under what conditions? Preliminary findings suggest that the following factors ought to be explored with regard to who adopts behaviours along particular points along the continuum: negotiator orientation, negotiator confidence with interpersonal conflict, experience, gender, representation – management or unions, and whether he/she works in the private or public sector. In addition, the following factors should also be considered: the nature of the issues, the relationship between the parties, and the relative power between the parties. Once again the findings presented here are preliminary because in-depth analysis was beyond the scope of this study. Therefore, the findings can only be used to guide future research. Notwithstanding, this is another fruitful avenue for future research.

Finally, this study highlights the need for a typology of hard and soft distributive behaviours to provide an instrument that can be used to measure hard and soft behaviours. The typology constructed in this study provides a good starting point for future research. Future research might also seek to determine if a conceptualization of hard and soft behaviour can be applied to integrative bargaining.

## Limitations

Selecting interviews as a research method had several benefits. However, it also had some limitations too. First, it is possible that the researcher could put ideas into the participant's mind. Ideally, what they ought to be doing is trying to find out what is in someone else's mind (Patton, 1990). In order to reduce the chances of this happening, the researcher asked all of the questions in a neutral tone giving no indication of a personal attitude or opinion. This was also beneficial in reducing social desirability bias or the participant's desire to represent oneself in the best possible light. This desire can lead to responses that are either

false or exaggerated (Druckman, 2005). This bias occurs when the respondent wishes to maintain a positive self-image and does so by offering answers that they perceive to be socially desirable and acceptable in the given context (Davidson & Tolich, 1999). Therefore, it is necessary to take steps to actively reduce this bias during the data collection phase and to consider it when analyzing the data (Druckman, 2005).

It is also possible that important topics may be inadvertently omitted during interviews (Patton, 1990). This was mitigated by asking the participant at the end of the interview if there was anything else that they wanted to discuss or anything that they felt was missed that ought to have been discussed. This gave both the interviewer and interviewee an opportunity to reflect, and reduced the likelihood that important topics were omitted from the interview. Furthermore, interviews generally took place after the negotiation had concluded, therefore it is possible that negotiators may not recall the events accurately due to memory failings (Dur & Mateo, 2010). It is clearly difficult to mitigate this potential limitation but the following attempts were made to do so: 1) participants were given plenty of time to think before responding, and 2) participants were asked to discuss a *recent* negotiation experience to increase the chances of accuracy.

In addition, there were benefits in using observations for this research but some limitations also. Although non-participant observation can yield "rich and informative data," it can be criticized for its subjectivity (Parke & Griffiths, 2008, p. 8). Flyvberg's (2006) critique of case study research would equally apply to observations. According to Flyvbjerg case studies are not objective, dependable or unbiased. Flyvbjerg notes that investigator bias is a particular limitation of this research method. Investigator bias occurs when the researcher sees what he or she desires to see, as opposed to what is actually occurring. Consequently the data generated is subjective, biased and unreliable. It was necessary to actively reduce the level of subjectivity and the likelihood of investigator bias in this research to improve the reliability of the data. One way this was done was by taking a pre-determined list of inductively generated behaviours into the negotiations to guide the observations. In addition, the researcher tried not to develop any preconceived notions about the conclusions of the study, remaining in the role of neutral investigator.

Another risk in conducting observations is the chance that data will not be captured accurately. The researcher was unable to use a dictaphone in the negotiations for confidentiality reasons. Therefore, the researcher had to hand-record notes which was a time consuming process, and one that could result in misinterpretation by the researcher after the fact. To minimize the chances of this happening the researcher wrote extensive additional notes (for the purpose of explaining short hand notes taken during the often fast paced negotiations) during breaks and immediately at the conclusion of negotiations whilst the events were still fresh in the mind.

Furthermore, the mere presence of a researcher can impact behaviour (Hussey & Hussey, 1997). Therefore, all attempts to minimize the impact of the researcher were taken. For example, no attention whatsoever was drawn to the negotiators' behaviour by the researcher until the negotiations had concluded. Furthermore, the exact nature of the study was withheld (Hussey & Hussey, 1997) and the researcher remained as unobtrusive as possible during the negotiations.

Finally an obvious limitation to this study is the fact that it is based on a small sample size and is only qualitative in nature. Future research that seeks to explore the avenues for future research identified above ought to use a larger sample size and utilize some quantitative methods so that generalizations might be made.

## **Conclusion**

This exploratory study concludes that the majority of labour-management negotiators are competitively oriented or lack any genuine concern for the other party's outcomes. However, it also shows that some negotiators have a mixed orientation or some genuine concern for the other party's outcomes, restricted to some issues. Most typically, labour-management negotiators have some concern for the other party's interests, albeit that that concern is driven by self-interest. With respect to behaviours, distributive strategies and tactics were found to be far more prevalent than integrative behaviours. In fact, most negotiators were found to adopt distributive strategies and tactics exclusively. However, a

few negotiators adopted some integrative behaviours, albeit within a predominantly distributive approach.

Furthermore, this study confirms that the stereotype of the distributive negotiator as a hard bargainer is simply that, a stereotype. While it is an accurate reflection of a minority of negotiators, it is no way representative of the majority of negotiators. The majority of negotiators operate at some mid-point along the continuum somewhere between hard and soft, deemed here to be a moderate distributive approach.

In addition, this study concludes that a competitive orientation is predictive of the adoption of distributive tactics. Competitively oriented negotiators adopted distributive strategies and tactics almost exclusively. A mixed orientation was predictive of the negotiator adopting some integrative behaviours. Finally, orientation did not predict the rigour with which a competitively oriented negotiator adopted distributive bargaining. While competitively oriented negotiators predominantly undertook a moderate approach, both hard and soft approaches were also evident, suggesting that other factors influence the rigour with which a competitively oriented negotiator adopts distributive strategies and tactics. In contrast, negotiators with a mixed orientation were found to implement a moderate distributive approach only, suggesting that a mixed orientation might be a predictive factor with regard to the rigour with which distributive bargaining is implemented.

## REFERENCES

- Aaldering, H., Greer, L. L., Van Kleef, G. A., & De Dreu, C. K. (2013). Interest (mis) alignments in representative negotiations: Do pro-social agents fuel or reduce inter-group conflict?. *Organizational Behavior and Human Decision Processes*, *120*(2), 240–250.
- Adair, W., & Brett, J. (2005). The negotiation dance: Time, culture, and behavioral sequences in negotiation. *Organization Science*, *16*(1), 33–51.
- Adair, W. L., & Loewenstein, J. (2013). Talking it through: Communication sequences in negotiation. In M. Olekalns & W. L. Adair (Eds.), *Handbook of research on negotiation* (pp. 311-331). Cheltenham, UK: Edward Elgar Publishing.
- Allen, M., Donohue, W., & Stewart, B. (1990). Comparing hardline and softline bargaining strategies in zero-sum situations using meta-analysis. In M. Afzalur Rahim (Ed.), *Theory and research in conflict management*. New York, NY: Praeger Publishers.
- Bacon, N., & Blyton, P. (2007). Conflict for mutual gains? *Journal of Management Studies*, *44*(5), 814–834.
- Bazerman, M., & Neale, M. (1992). *Negotiating rationally*. New York, NY: Free Press.
- Bazerman, M., Curhan, J. R., Moore, D., & Valley, K. (2000). Negotiation. *Annual Review Psychology*, *51*, 279–314.
- Beersma, B., & De Dreu, C. K. W. (1999). Negotiation processes and outcomes in prosocially and egoistically motivated groups. *International Journal of Conflict Management*, *10*(4), 385-402.
- Beersma, B., & De Dreu, C. K. W. (2002). Integrative and distributive negotiation in small groups: Effects of task structure, decision rule, and social motive. *Organizational Behavior and Human Decision Processes*, *87*(2), 227–252.
- Bell, D., Raiffa, H, & Tversky, A. (Eds.). (1988). *Decision making: Descriptive, normative, and prescriptive interactions*. New York, NY: Press Syndicate University of Cambridge.
- Ben-Yoav, O., & Pruitt, D. G. (1984). Resistance to yielding and the expectation of collaborative future interaction in negotiation. *Journal of Experimental Social Psychology*, *34*, 323–325.
- Blake, R., & Mouton, J. (1964). *The managerial grid*. Houston, TX: Gulf Publishing Co.
- Boulding, K. B. (1962). *Conflict and defense*. New York, NY: Harper and Row.

- Boyatzis, R. E. (1998). *Transforming qualitative information: Thematic analysis and code development*. London: Sage Publications.
- Brainerd, R. (1998). Interest-based bargaining: labor and management working together in Ramsey County, Minnesota. *Public Personnel Management*, 27(1), 51–60.
- Braun, V., & Clarke, V. (2008). Using thematic analysis in psychology. *Qualitative Research in Psychology* 3(2), 77–101.
- Brown, J. (2012). Empowering students to create and claim value through the Thomas-Kilmann Conflict Mode Instrument. *Negotiation Journal*, 28(1), 79–91.
- Buelens, M., Van De Woestyne, M., Mestdagh, S., & Bouckenoghe, D. (2008). Methodological issues in negotiation research: A state-of-the-art-review. *Group Decision Negotiation*, 17, 321–345.
- Burnard, P. (1991). A method of analysing interview transcripts in qualitative research. *Nurse Education Today*, 11, 461–466.
- Carnevale, P.J., & De Dreu, C.K.W. (2006). Motive: The negotiator's raison d'être. In L. Thompson (Ed.), *Frontiers of social psychology: Negotiation theory and research* (pp. 55-76). New York, NY: Psychology Press.
- Carnevale, P. J., & Probst, T. M. (1998). Social values and social conflict in creative problem solving and categorization. *Journal of personality and social psychology*. 74(5), 1300–1309.
- Carnevale, P. J., & Pruitt, D. G. (1992). Negotiation and mediation. *Annual Review Psychology*, 43, 531–82.
- Camp, J. (2002). *Starting with no: The negotiating tools that the pros don't want you to know*. USA: Crown Business.
- Camp, J. (2007). *No, the only negotiating system you need for work and home*. New York, NY: Random House.
- Charlwood, A., & Haynes, P. (2008). Union Membership Decline in New Zealand, 1990–2002. *Journal of Industrial Relations*, 50(1), 87-110.
- Chamberlain, N. (1951). *Collective bargaining*. New York, NY: McGraw–Hill.
- Creswell, J. W., & Plano Clark, V. L. (2007). *Designing and conducting mixed methods research*. London: SAGE Publications Inc.
- Craver, C. B. (2009). It's effective and somewhat deceptive: The competitive/problem solving style. *International Institute for Conflict Prevention and Resolution*, 27(10), 161–169.

- Cohen, H. (1980). *You can negotiate anything*. New York, NY: Bantam Books.
- Colman, A. (1982). *Cooperation and competition in humans and animals*. UK: Workingham, Berkshire.
- Condlin, R. J.(2008). Every day and in every way we are all becoming meta and meta, or how communitarian bargaining theory conquered the world of bargaining theory. *Ohio State Journal on Dispute Resolution*, 23(2), 231–299.
- Cutcher-Gershenfeld, J. (1994). Bargaining over how to bargain in labor-management negotiations. *Negotiation Journal*, 10(4), 323–335.
- Cutcher-Gershenfeld, J., & Kochan, T. (2004). Taking stock: Collective bargaining at the turn of the Century. *Industrial and Labor Relations Review*, 58(1), 3–26.
- Cutcher-Gershenfeld, J., McKersie, R. B., & Walton, R. (1989). Negotiating transformation: Negotiation lessons from current developments in industrial relations. In F. Hoy (Ed.), *Academy of Management Best Papers Proceedings*. Washington, D.C: Academy of Management.
- Davidson, C., & Tolich, M. (Eds.) (1999). *Social science research in New Zealand: Many paths to understanding*. Auckland: Longman.
- De Dreu, C. K., & Boles, T. L. (1998). Share and share alike or winner take all?: The influence of social value orientation upon choice and recall of negotiation heuristics. *Organizational Behavior and Human Decision Processes*, 76(3), 253–276.
- De Dreu, C. K., & Carnevale, P. J. (2005). Disparate methods and common findings in the study of negotiation. *International negotiation*, 10(1), 193–203.
- De Dreu, C. K., & Van Lange, P. A. (1995). The impact of social value orientations on negotiator cognition and behavior. *Personality and Social Psychology Bulletin*, 21(11), 1178-1188.
- De Dreu, C. K., Weingart, L. R., & Kwon, S. (2000). Influence of social motives on integrative negotiation: a meta-analytic review and test of two theories. *Journal of personality and social psychology*, 78(5), 889.
- Deutsch, M. (1973). *The resolution of conflict*. Newhaven, CT: Yale University Press.
- Deutsch, M. (2002). Social psychology's contributions to the study of conflict resolution. *Negotiation Journal*, 18(4), 307–320.
- Donohue, W. (2007). Methods, milestones, and models: State of the art in conflict analysis research. *Negotiation Journal*, 23(4), 487–497.

- Donohue, W. A., & Roberto, A. J. (1996). An empirical examination of three models of integrative and distributive bargaining. *International Journal of Conflict Management*, 7(3), 209–229.
- Douglas, A. (1962). *Industrial peacemaking*. New York, NY: Columbia University Press.
- Druckman, D. (2005). *Doing research: Methods of inquiry for conflict analysis*. USA: SAGE Publications.
- Dunlop, J. (1958). *Industrial relations system*. New York, NY: Holt, Rinehart, and Winston.
- Dur, A., & Mateo, G. (2010). Bargaining power and negotiation tactics: The negotiations on the EU's financial perspective, 2007–2013. *Journal of Common Market Studies*, 48(3), 557–578.
- Edwards, P. (1955). *Strategy and tactics in labor negotiations*. Connecticut: National Foremens Institute.
- Eiseman, J. W. (1978). Reconciling “incompatible” positions. *Journal of Applied Behavioral Science*, 14, 133–150.
- Elgstrom, O., & Jonsson, C. (2000). Negotiation in the European Union: Bargaining or problem-solving? *Journal of European Public Policy*, 7(5), 684–704.
- Employment Relations Act 2000
- Fells, R. E. (2010). *Effective negotiation: From research to results*. Cambridge: Cambridge University Press.
- Field, A., & Morse, J. (1985). *Nursing research: The application of qualitative approaches*. Kent: Mackays of Chatham Ltd.
- Filley, A. C. (1975). *Interpersonal conflict resolution*. Glenview, IL: Scott, Foresman.
- Fisher, R. (1983). Negotiating power: Getting and using influence. *American Behavioral Scientist*, 27(2), 149–166.
- Fisher, R., Kopelman, E., & Scheider, A. (1994). *Beyond Machiavelli: Tools for coping with conflict*. USA: Penguin Books.
- Fisher, R., & Shapiro, D. (2005). *Beyond reason: Using emotions as you negotiate*. USA: Penguin Books.
- Fisher, R., & Ury, W. (1981). *Getting to YES: Negotiating agreement without giving in*. Great Britain: Hutchinson & Co Ltd.
- Fisher, R., Ury, W., & Patton, B. (1991). *Getting to YES: Negotiating agreement without giving in* (2nd ed.). New York, NY: Penguin.

- Flyvbjerg, B. (2006). Five misunderstandings about case study research. *Qualitative Inquiry*, 12(2), 219–245.
- Follett, M. P. (1940). Constructive conflict. In H. C. Metcalf, & L. Urwick (Eds.), *Dynamic admistration: The collected papers of Mary Parker Follett* (pp. 30–49). New York: Harper.
- Fonstad, N., McKersie, R .B., & Eaton, S. (2004). Interest-based negotiations in a transformed labor-management setting. *Negotiation Journal*, 20(1), 5–11.
- Friedman, R. A. (1992). From theory to practice: Critical choices for “mutual gains” training. *Negotiation Journal*, 8(2), 91–98.
- Gall, M. D., Gall, J. P., & Borg, W. R. (2003). *Educational research: An introduction* (7<sup>th</sup> ed.). Boston, MA: A & B Publications.
- Giebels, E., & Taylor, P. J. (2009). Interaction patterns in crisis negotiations: persuasive arguments and cultural differences. *Journal of Applied Psychology*, 94(1), 5.
- Gillespie, J., Brett, J., & Weingart, L. (2000). Interdependence, social motives and outcome satisfaction in multiparty negotiation. *European Journal of Social Psychology*, 30, 779–797.
- Goodpaster, G. (1996). A primer on competitive bargaining. *Journal of Dispute Resolution*, 1996, 325–378.
- Graham, P. (Ed.). (1995). *Mary Parker Follett prophet of management*. USA: Harvard Business School Press Classics.
- Griesinger, D. W., & Livingston, J. W. (1973). Toward a model of interpersonal orientation in experimental games. *Behavioral Science*, 18, 173–188.
- Harnick, F., & De Dreu, K. W. (2008). Take a break! Or not? The impact of mindsets during breaks on negotiation processes and outcomes. *Journal of Experimental Social Psychology*, 44(2), 397–430.
- Henley, A., & Welsinger, M. (1971). *How to be a perfect liar*. Simon & Schuster Adult Publishing Group.
- Hindriks, K., Jonker, C. M., & Tykhonov, D. (2007, November). Negotiation dynamics: Analysis, concession tactics, and outcomes. In *Proceedings of the 2007 IEEE/WIC/ACM International Conference on Intelligent Agent Technology* (pp. 427–433). Silicon Valley, CA: IEEE Computer Society.

- Hopmann, T. (1995). Two paradigms of negotiation: Bargaining and problem solving. *Annals of American Academy of Political and Social Science*, 542, 24–47.
- Hopmann, T. P. (2002). Negotiating data: Reflections on the qualitative and quantitative analysis of negotiation processes. *International Negotiation*, 7, 67–85.
- Hughes, E. C. (2005). Introduction: The place of field work in social science. In C. Pole (Ed.), *Fieldwork* (Vol. 1, pp. 3–12): London: Sage.
- Huffmeier, J., Freund, P., Zerres, A., Backhaus, K., & Hertel, G. (2011). Being tough or being nice? A meta-analysis on the impact of hardline and softline strategies in distributive negotiations. *Journal of Management*, online 1–27. doi: 10.1177/0149206311423788
- Hussey, J., & Hussey, R. (1997). *Business research: A practical guide for undergraduate and postgraduate students*. Houndmills: Macmillian Press Ltd.
- Jones, M. L. (2007). Using software to analyse qualitative data. *Malyasian Journal of Qualitative Research*, 1(1), 64–76.
- Kahn, A. S., & Kohls, J. W. (1972). Determinants of toughness in dyadic bargaining. *Sociometry*, 35(2), 305–315.
- Karagonlar, G., & Kuhlman, D. M. (2013). The role of social value orientation in response to an unfair offer in the Ultimatum Game. *Organizational Behavior and Human Decision Processes*, 120(2), 228–239.
- Kirgis, P. (2012). Hard bargaining in the classroom: Realistic simulated negotiations and student values. *Negotiation Journal*, 28(1), 93–115.
- Kochan, T. A., & Lipsky, D. B. (Eds.). (2003). *Negotiations and change: From the workplace to society*. Ithaca, NY: Cornell University/ILR Press.
- Kolb, D. M., Jensen, L., & Shannon, V. L. (1996). She said it all before, or what did we miss about Ms. Follett in the library? *Organization*, 3, 153–160.
- Korobkin, R. (2008). Against integrative bargaining. *Case Western Review Law*, 58(4), 1323–1342.
- Kuhlman, D. M., & Marshello, A. F. (1975). Individual differences in game motivation as moderators of preprogrammed strategy effects in Prisoner's Dilemma. *Journal of Personality and Social Psychology*, 32(1975), 922–931.
- Lawler, E. J., & MacMurray, B. K. (1980). Bargaining toughness: A qualification of level-of-aspiration and reciprocity hypotheses. *Journal of Applied Social Psychology*, 10(5), 416–430.

- Lax, D. A., & Sebenius, J. K. (1986). *The manager as negotiator: Bargaining for cooperation and competitive gain*. New York: The Free Press.
- Lax, D. A., & Sebenius, J. K. (2006). *3D negotiation: Powerful tools to change the game in your most important deals*. Massachusetts, USA: Harvard Business School Publishing.
- LEADR – Association of Dispute Resolvers. (2013). <http://www.leadr.co.nz/> Accessed October 2013
- Lewicki, R. J. (1981). Bargaining and negotiation: A review of the literature. *Exchange: The Organizational Behavior Teaching Journal*, 6(3), 33–42.
- Lewicki, R. J., & Litterer, J. A. (1985) *Negotiation*. USA: Irwin.
- Lewicki, R. J., Barry, B., & Saunders, B. (2006). *Negotiation*. New York: McGraw-Hill.
- Loewenstein, G., Thompson, L., & Bazerman, M. (1989). Social utility and decision making in interpersonal contexts. *Journal of Personality and Social Psychology*, 57(3), 426–441.
- Luce, R. D., & Raiffa, H. (1957). *Games and decisions: Introduction and critical survey*. New York:Wiley.
- Macintosh, G., & Stevens, C. (2013). Individual differences in opportunistic claiming behavior. *Journal of Consumer Behaviour*, 12(1), 10–19.
- Margolis, H. (1984). *Selfishness, altruism, and rationality*. Chicago. USA: The University of Chicago Press.
- Maykut, P., & Morehouse, R. (1994). *Beginning qualitative research: A philosophic and practical guide*. London: The Falmer Press.
- Menkel-Meadow, C. (1983). Toward another view of legal negotiation: The structure of problem solving. *UCLA Law Review*, 31, 754–842.
- Menkel-Meadow, C. (2006). Why hasn't the world gotten to yes? An appreciation and some reflections. *Negotiation Journal*, 22,(4), 485–503.
- Menkel-Meadow, C. (2009). Chronicling the complexification of negotiation theory and practice. *Negotiation Journal*, 25(4), 415–429.
- Messick, D. M., & McClintock, C. G. (1968). Motivational bases of choice in experimental games. *Journal of Experimental Social Psychology*, 4(1), 1–25.
- McCarthy, W. (1991). The role of power and principle in getting to yes. In J. W. Breslin & J. Z. Rubin (Eds.), *Negotiation theory and practice* (pp. 115–122). Cambridge: The Program on Negotiation at Harvard Law School.

- McKersie, R. B., Sharpe, T., Kochan, T. A., Eaton, A. E., Strauss, G., & Morgenstern, M. (2008). Bargaining theory meets interest-based negotiations: A case study. *Industrial Relations, 47*(1), 66–96.
- McClintock, C. G., & Allison, S. T. (1989). Social value orientation and helping behavior. *Journal of Applied Social Psychology, 19*(4), 353–362.
- Mnoonkin, R., Peppet, S., & Tulumello, A. (2000). *Beyond winning: Negotiating to create value in deals and disputes*. Cambridge, MA: Harvard University Press.
- Movius, H., & Susskind, L. (2009). *Built to win: Creating a world class negotiating organization*. Boston, MA: Harvard Business School Press.
- Myers, M. (2009). *Qualitative research in business management*. London: Sage Publications.
- Myerson, R. B. (1991). Nash equilibrium and the history of economic theory. *Journal of Economic Literature, 36*, 1067–1082.
- Nash, J. (1950). The bargaining problem. *Econometrica, 18*, 155–162.
- Nauta, A., De Dreu, C. K. W., & Van der Vaart, T. (2002). Social value orientation, organizational goal concerns, and interdepartmental problem-solving behavior. *Journal of Organizational Behavior, 23*, 199–213.
- Northrup, H. R. (1966). Compulsory arbitration and government intervention into labor disputes. Washington, D.C.: *Labor Policy Association*.
- Odell, J. (2000). *Negotiating the world economy*. Ithaca, NY: Cornell University Press.
- Olekalns, M., Brett, J. M., & Weingart, L. (2003). Phases, transitions and interruptions: The processes that shape agreement in multi-party negotiations. *International Journal of Conflict Management: Special Issue on Processes in Negotiation, 14*, 191–211.
- Olekalns, M., & Smith, P. L. (1999). Social value orientations and strategy choices in competitive negotiations. *Personality and Social Psychology Bulletin, 25*(6), 657–668.
- Olekalns, M., Smith, P., & Walsh, T. (1996). The process of negotiating: Strategy and timing as predictors of outcomes. *Organizational Behavior and Human Decision Processes, 68*(1), 68–77.
- Parke, J., & Griffiths, M. (2008). Participant and non-participant observation in gambling environments. *Enquire, 1*(1), 1–14.
- Paquet, R., Gaetan, I., & Bergeron, J. G. (2000). Does interest-based bargaining (IBB) really make a difference in collective bargaining outcomes? *Negotiation Journal, 16*(3), 281–296.

- Patton, M. Q. (1990). *Qualitative evaluation and research methods*. Newbury Park, CA: SAGE Publications.
- Pen, J. (1959). *The wage rate under collective bargaining*. Cambridge, MA: Harvard University Press.
- Peppet, S. R. (2002). Can saints negotiate? A brief introduction to the problems of perfect ethics in bargaining. *Harvard Negotiation Law Review*, 7, 83–95.
- Pruitt, D. G. (1981). *Negotiation behavior*. New York: Academic Press.
- Pruitt, D. G. (1983). Strategic choice in negotiation. *American Behavioral Scientist*, 27, 167–194.
- Pruitt, D. G., & Rubin, J. Z. (1986). *Social conflict: Escalation, stalemate and settlement*. New York: Random House.
- Putnam, L. (1994). Challenging the assumptions of traditional approaches to negotiation. *Negotiation Journal*, 10, 337–346.
- Raiffa, H. (1982). *The art and science of negotiation*. USA: Harvard University Press.
- Raiffa, H., Richardson, J., & Metcalfe, D. (2003). *Negotiation analysis: The science and art of collaborative decision-making*. Cambridge, MA: Belkap Press of Harvard University Press.
- Ringer, R. J. (1973). *Winning through intimidation*. USA: Fawcett Publications, Inc.
- Sander, F. E. A. (2009). Ways of handling conflict: What we have learned, what problems remain. *Negotiation Journal*, 4(1), 5–14.
- Schatzki, M., & Coffey, W. R. (1981). *Negotiation, the art of getting what you want*. New York, NY: New American Library.
- Schelling, T. (1960). *The strategy of conflict*. USA: Harvard University Press
- Schilling, M. A. (2000). Decades ahead of her time: Advancing stakeholder theory through the ideas of Mary Parker Follett. *Journal of Management History*, 6(5), 224–242.
- Schneider, A. K. (2002). Shattering negotiation myths: Empirical evidence on the effectiveness of negotiation styles. *Harvard Negotiation Law Review*, 7, 143–234.
- Schurr, P., & Ozanne, J. (1985). Influences on exchange processes: Buyer's perceptions of a seller's trustworthiness and bargaining toughness. *Journal of Consumer Research*, 11(4), 939–953.
- Shapiro, D. L. (2000). Supplemental joint brainstorming: Navigating past the perils of traditional bargaining. *Negotiation Journal*, 16(4), 409–419.

- Shapiro, D. L., & Bies, R. (1994). Threats, bluffs and disclaimers in negotiation. *Organizational Behavior and Human Decision Processes*, 60(1), 14–35.
- Siegel, S., & Fouraker, L. (1960). *Bargaining and group decision making: Experiments in bilateral monopoly*. New York: McGraw-Hill.
- Siggelkow, N. (2007). Persuasion with case studies. *Academy of Management Journal*, 50(1), 20–24.
- Slitcher, H., Healy, J., & Livernash, R. (1960). *Impact of collective bargaining on management*. Washington D.C.: Brookings Institution.
- Stevens, C. (1963). *Strategy and collective bargaining negotiation*. McGraw Hill: New York.
- Susskind, L. (2006). Arguing, bargaining and getting agreement. In M. Rein, R., Goodin, & M. Moran (Eds.), *Oxford handbook of public policy*. London: Oxford University Press.
- Tesch, R. (1990). *Qualitative research: Analysis types and software tools*. New York: Falmer Press.
- Thompson, L. (2004). *The mind and heart of the negotiator*. Upper Saddle River, NJ: Prentice Hall.
- Thompson, L.,(1990). The influence of experience on negotiation performance. *Journal of Experimental Social Psychology*, 26, 528–544.
- Thompson, L., & Hastie, R. (1990) Social perception in negotiation. *Organizational Behavior and Human Decision Processes*, 47(1), 98–123.
- Thompson, L., & Leonardelli, G. (2004). The big bang: The evolution of negotiation research. *The Academy of Management Executive*, 18(3), 113–117.
- Thompson, L., Wang, J., & Gunia, B. (2010). Negotiation. *Annual Review Psychology*, 60, 491–515.
- Tinsley, H., Cambria, J., & Kupfer Schneider, A. (2006). *Reputations in negotiation*. In A. Kupfer Schneider, & C. Honeyman (Eds.), *The negotiator's fieldbook: The desk reference for the experienced negotiator*. Washington, DC: American Bar Association
- Turner, D. W. (2010). Qualitative interview design: A practical guide for novice investigators. *The Qualitative Report*, 15(3), 754–760.
- Ury, W., Brett, J., & Goldberg, S. (1988). *Getting disputes resolved: Designing systems to cut the cost of conflict*. USA: Jossey-Bass Inc Publishers.
- Van Kleef, G. (2010). Don't worry, be angry? Effects of anger on feelings, thoughts, and actions in conflict and negotiation. In M. Potegal, G. Stemmler, & C. Spielberger

- (Eds.), *International handbook of anger: Constituent and concomitant biological, psychological, and social processes* (pp. 545–560). USA: Springer.
- Van Kleef, G. A., & De Dreu, C. K. W. (2002). Social value orientation and impression formation: A test of two competing hypotheses about information search in negotiation. *International Journal of Conflict Management*, *13*(1), 59–77.
- Van Kleef, G. A., Steinel, W., Knippenberg, D., Hogg, M. A., & Svensson, A. (2007). Group member prototypicality and intergroup negotiation: How one's standing in the group affects negotiation behaviour. *British Journal of Social Psychology*, *46*(1), 129–152.
- Von Neumann, J., & Morgenstern, O. (1944). *The theory of games and economic behaviour*. Princeton, NJ: Princeton University Press.
- Warschaw, T. (1980). *Winning by negotiation*. New York: Berkley Books.
- Walton, R., & McKersie, R. (1965). *A behavioral theory of labor negotiations: An analysis of a social interaction system*. USA: McGraw-Hill.
- Walton, R., & McKersie, R. (1992). A retrospective on the behavioral theory of labor negotiations. *Journal of Organizational Behavioral*, *13*, 277–285.
- Weingart, L. R., Hyder, E. B., & Prietula, M. J. (1996). Knowledge matters: The effect of tactical descriptions on negotiation behavior and outcome. *Journal of Personality and Social Psychology*, *70*(6), 1205–1217.
- Weingart, L., Olekalns, M., Smith, P. L. (2005). Quantitative coding of negotiation behaviour. *International Negotiation*, *9*(3), 441–456.
- Weingart, L. R., Thompson, L. L., Bazerman, M. H., & Carroll, J. S. (1990). Tactical behavior and negotiation outcomes. *International Journal of Conflict Management*, *1*, 7–31.
- Welsh, N. (2012). The reputational advantages of demonstrating trustworthiness: Using the reputation index with law students. *Negotiation Journal*, *28*(1), 117–145.
- Wetlaufer, G. (1996). The limits of integrative bargaining. *Georgetown Law Journal*, *85*, 1–25.
- Wheeler, M., & Waters, N. (2006). The origins of a classic: Getting to yes turns twenty-five. *Negotiation Journal*, *22*(4), 475–481.
- Wheeler, M. (2012). Three cheers for distributive bargaining. *Negotiation Journal*, *28*(1), 73–78.
- White, J. J. (1984). Essay review: The pros and cons of “Getting to YES.” *Journal of Legal Education*, *43*, 115–124.

## Appendix A Semi-structured interview schedule

### Information sheet and consent form:

- Stress that no names will be used - confidentiality
- Seek permission for recording – stress confidentiality
- CONSENT FORM

### Demographics

Male/female

Role (union/management)

### Personal information about the negotiator (ask to build rapport)

How long have you been negotiating collective agreements? (Years of experience)

How did you get into this line of work? (Training etc.)

### Background/CONTEXT

I'm interested in how people behave at the negotiating table, especially strategic behaviours and why they select the behaviours they do; so I'm going to ask you some questions about this and ask you to share some stories with me based on your experiences...please feel free to raise any other ideas that come to mind, I'm interested in your thoughts and experiences.

Can you tell me something that you most remember about a recent substantial collective bargaining experience?

What was your role in the negotiation?

Was there a bargaining history between the parties?

What was the relationship status going into these negotiations? (Trust etc)

What sort of relationship did you want to have with the other party, *and what was your plan for achieving that? What was the outcome?*

Who was on your bargaining team? (What were the internal relationships like?)

Who were you dealing with on the other side? (*MECA employer or single employer or legitimate union etc...*)

Were there others present? Who were they? Why were they there?

Were you conscious of anyone or any particular group of people when you were negotiating? *Who were you conscious of?*

Did it matter how the process looked, and if so, to whom?

Were there any unique features of the industry that impacted on the way people behaved?

Was there a deadline for reaching agreement or any other type of time pressure?

And what were the consequences, if any, of failing to reach agreement?

## **GOALS**

What was your most important goal?

What were the other party's primary goals? How did you establish this?

Were you in conflict and if so why?

Did you have any goals in common?

And if so, how did you establish this?

**PREPARATION**

What was your preparation for this negotiation?

Did the two parties lay down any behavioural rules? Establish a BPA (bargaining party agreement) *or some other form of rules or guidelines?*

**STRATEGY**

Given that you said you wanted to achieve X ....what was your broad plan or strategy to achieve that? (Did you stick to this plan?)

Whose needs had to be met for the negotiations to be considered successful?

What was your approach to information sharing?

How do you feel about agreeing to some proposals that you might not particularly like in order to build relationships? Did you do this?

How did you build your proposals? (Separately or did you work jointly?)

How would you describe your overall approach/strategy?

Were there any risks involved with taking the approach you took?

What were the benefits of taking this approach?

Did you plan any particular behaviours or tactics in advance or during the negotiation?  
*(What were they and why did you plan to use them?)*

Did your approach place any restrictions on your behaviour?

How did the other party approach the negotiations? (*What was their strategic approach would you say?*)

Was it a fairly typical experience for you? If not, how did it differ to a 'typical' experience?

### **BEHAVIOURS**

Can you please describe for me some of the behaviours that you used in this negotiation that you consider to be typical?

Did you do anything out of the ordinary? If so, please explain.

Were there any really memorable behaviours or tactics?

Did anybody's behaviour take you by surprise?

Did anybody's behaviour leave a bad taste in your mouth?

Did any of the behaviours backfire?

Were there any dirty tricks used?

What behaviours really helped to move the parties' forwards?

What behaviours lead to the best results in negotiation?

What are some of your favourite negotiating behaviours?

### **NORMS AND RULES**

What are the rules of engagement in collective bargaining in NZ?

Are there minimum standards of fair play? (What are the rules?)

Are these widely accepted or not?

How are these learned?

What happens if you violate these rules?

What are the risks of operating outside of the rules?

Are there any benefits? When might you operate outside these rules?

What are the benefits of playing by the rules?

Can you tell me the most extreme behaviour you've engaged in something that might be considered outside the rules and what compelled you to do so?

### **OUTCOMES**

In general terms, what to you, is a good outcome? *How would you define a good outcome in general terms?*

On a scale of 0 – 10 (with being no concern and 10 being high concern) how much did you care about achieving your own goals in this negotiation?

Do you ever go in to negotiations wanting to WIN?

On a scale of 0 – 10 (with being no concern and 10 being high concern) how much did you care about assisting the other party to achieve their goals in this negotiation?

In general, do you care what the other party ends up with?

Can everyone win in negotiations as the win-win philosophy states?

When the negotiations are over how much do you care about the relationship with the other party?

**CHANGE**

In your experience, would you say that there have been any changes to the way that people negotiate collective agreements in the time that you've been negotiating? And, if so, what has changed and why?

Is there anything you can think of that you would like to add? Is there anything important that I have missed?

**Thank you that concludes the interview.**

## Appendix B Memo example

### *Memo example 1 (M1)*

*Advocate openly talked about his dislike for unions and referred to members as lazy and self-interested trouble makers! He has strong ideological views on a personal level. He reluctantly accepts the unions' role in this organisation and thinks it's better to work with them than against them but clearly states that he wouldn't have unions involved with his own organisation – we'll work with them but just make sure they're just a mouth piece for the workers we're not interested in their agenda. He said he was solely focused on achieving his own outcomes, with the exception of giving the other side enough to keep them happy and maintain that relationship but openly states that he couldn't care less what the other side ends up with really that it's not his job to care, his job is to care for his clients outcomes, and justify his fees.*

*He described this negotiation as fairly smooth. It seems like the parties were competitive in that they adopted distributive strategies and tactics as opposed to integrative behaviours - however, there were factors that appeared to restrain their competitive behaviour. For example, their concern for the ongoing relationship and being 'seen' to abide by the legislative requirements. This negotiator also had a desire to maintain self-control, and a desire to keep negotiations progressing. He also explained that the other party approached negotiations 'fairly' and described the other side as fairly relaxed and reasonable – they weren't asking for much. It's also important to note that the parties were not in dispute over the salary claims, the company had been given funding from the Government (which was public knowledge – even the amount) and really it was just a conversation about how to split that up – and other employers were not prepared to pass it on this employer was.*

*Participant has invited me to come back to him if I have further questions or if he can help in anyway. Might be ideal candidate to pilot test survey.*

*Memo example 2 (M4)*

*Advocate explicitly referred to using lots of distributive tactics for example he talked about use of positions, concessions, controlling the documentation, lowering expectations, guarding information, having a lead spokesperson, separate adjournments, observation of the other party's body language, acting for constituents and short line outs; he also explicitly talked about uncovering the other party's interests and attempting to help them meet their interests in ways that he was comfortable with. In this case there is evidence of distributive bargaining and some integrative behaviours.*

*I think in this organisation management is very powerful. The participant has a really nice demeanour but is very firm and clear that he is in control in negotiations, and appears to be very confident in his ability to negotiate. I get the sense that he enjoys negotiation. He reports have a really good relationship with the other side, in fact his children and the union negotiator's children are all friends and these two advocates see one another outside of this formal context to drop off and pick up children. I wonder how much this outside relationship impacts how they manage the relationship in here. At the end of today's interview I asked him if there was any possibility that I could sit in and observe future negotiations, he thinks there might be seems promising, remember to follow up!*

### Appendix C Checklist of tactics for observations

Behaviours from Interviews (with some examples)	Interview Codes	Observations
Good cop/bad cop	M1, M19	
Make the OP feel uncomfortable – destabilise the OP	M1, M2, M5, U8,	
- Eye balling (M1, U17)	M,13, U17, M19,	
- Starting with a prayer (M1)	U20, M21	
- Deliberately frustrate the OP (M2)		
- Union make personal attacks (M2;M21)		
- Employer makes personal attacks (U15; M19)		
- Wind the OP up just to get a reaction (M5)		
- Uses the fact that he is a lawyer to undermine your team’s confidence in you because you’re not a lawyer (U17, U20)		
- Lawyers try to intimidate (M13)		
Control of documentation	M1, M4, M11, M12, M19	
Use of positions and use of supporting arguments, justification, defend and articulate positions, data, use of comparative data to support positions	M1, M2, M3, M4, M5, U7, U8, U9, U10, M11, M12, M13, U14, U15, M16, U17, U18, M19, U20, M21, M22, U23, U24, U25, OM1, OU1, OU2	
Managing expectations or altering OP’s expectations of what they can achieve	M1, M2, M3, M4, M5, U7, U8, U9, U10,	
- Disarm the OP, lower expectations (M1)	M11, M12, M13,	
- Leading with a proposal about state of the company (M2)	U14, U15, M16, U17, U18, M19, U20,	
- Redundancies prior to CB to lower expectations (M3)	M21, M22, U23, U24, U25, OM1,	
- Lower expectations in your opening remarks (M4)	OU1, OU2	

- 
- Mgmt grandstanding to lower expectations (U8)
  - Opening statements set the scene (U10)
  - Scene setting (M11)
  - Lower union expectations (M12)
  - Dark talk from the employer about the recession (U14)
  - Lowering expectations (M16)
  - Scene setting (U18)
  - Bring in CEO to close off financial matters (M4)
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Concealing own information and in some cases simultaneously seeking information from the OP	M1, M2, M3, M4, M5, U7, U8, U9, U10,
<ul style="list-style-type: none"> <li>- Poker face (M1;M5;M12)</li> <li>- Pushing &amp; probing (M1)</li> <li>- Holding back information (M1)</li> <li>- Respond to a question with a question (M2)</li> <li>- Use of throw away issues (M2)</li> <li>- Deliberate use of silence (M2;M5;U18)</li> <li>- Presenting a united front (M3; M5;U17)</li> <li>- One lead speaker to control the flow of information (M3; M4;M5; U10, U14;M16;U18)</li> <li>- Being slow to reveal a salary offer (M4)</li> <li>- Observing body language of OP (M4; M5)</li> <li>- Asking open ended questions (M16)</li> <li>- Guarding information (U8;M16)</li> <li>- Employer blocking union getting financial information (U10;U14;U17)</li> <li>- Guarding information (M11;M12;U14)</li> <li>- Play dumb and ask lots of questions (M12)</li> <li>- Refusing to share commercially sensitive information with the union (M12)</li> <li>- Withholding claims until the employer has given me their claims (U14)</li> <li>- Provides false documentation (U7, U17)</li> </ul>	M11, M12, M13, U14, U15, M16, U17, U18, M19, U20, M21, M22, U23, U24, U25, OM1, OU1, OU2

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Concessions

M1, M2, M3, M4,

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- Low value to us high value to them (M1; U9)	M5, U7, U8, U9, U10,
- Trade productivity increase for concession on wages (M2)	M11, M12, M13, U14, U15, M16, U17,
- Don't want to give too much away (M3)	U18, M19, U20,
- Give nothing away quickly (U9)	M21, M22, U23,
- Horsetrading (M16)	U24, U25, OM1, OU1, OU2
Be 'seen' to consider and respond to the OP's proposals (M1)	M1, U15
- Employer 'pretends' to be considering proposals to get the heat off them in bargaining then after bargaining turns them down (U15)	
Make it clear that management is in charge	M1, M3
Tactical use of time pressure, use the issue of back pay to force settlements	M2, M11, U15
- Clock is my best friend	
- Employer uses time pressure ruthlessly, get this ratified within 24 hrs or deals off	
Demand the union reduce their claims	M2, M11
Use of the media	M2, U7, U9, U10, U14, M21, U23, U24
Use of a mediator	M2, M4, U9, M13, U15, U18, M21
Union will often wear the OP down/attrition (M2)	M2, M21
Employer tries to wear OP down (M21)	
Threats and increasing costs to the OP:	M1, M2, M3, M5, U7, U8, U9, U10,
Game of tit-for-tat (M3)	M12, M13, U14,
Lock out in response to a strike previous year (M5)	U15, M21, U23, U24
Threats of industrial action (M2; U8;U10; M13)	
If they play hardball we'll give it back (M1)	
Threats – public belting (U7)	
If management humiliates delegate give it back twice as	

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hard (U7)

If someone tries to destabilise your side, destabilise back (U7)

Introduced punishment for management in the form of back pay because management arrived completely unprepared and wasted unions time and money (u7)

Industrial action – rolling stoppages in response to nil offer (U8)

Strike action (U8, U9, M10, U14, M21)

Litigation (U9)

Intimidation (U9; U15)

Employer lockout in response to strike (U10)

If they push us we push back, not going to roll over (M12)

Unlawful lockout (M13)

Restructuring and paying out workers to leave in response to strike action (M13)

Striking, picketing, sabotage of the plant, assaulting non-striking workers (M13)

Industrial action in response to nil offer (U14)

Threaten breaches of good faith (U14, U18)

Threatens harsh consequences for strike action and gloats about ability to hurt the union (U15)

Employer will spend whatever is necessary to defeat strike action (U15)

Pickets(M21; U24)

Industrial action – wearing bare feet to work, putting stickers on the workplace (M21)

Threats of litigation (M21)

Hints at industrial action (M19)

\*\* a sewage workers union in 2002 showing up to dump sewage on the town hall (didn't but the threat was there (M19)

\*\* someone put a pike under his bosses tyre during a dispute (M19)

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Short line outs	M4, U8, U9, U14, M16, U17, M19,
Off – the record meetings (M21)	M21
Suggesting areas of commonality	M5, U9
Hold the OP accountable for their actions and hold them to their word	U7
Deliberately splitting bargaining team into ‘roles’	U8, M12, M16
Undermining the bargaining process	U9, U10, M13, U15,
- Offering non-members one off payments (U9)	U17
- Off non-members deals (U10)	
- Complete refusal to engage (M13)	
- Employer communicates directly with the members (U15)	
- Persuades new members not to join the union (U15)	
- Call members and try to influence their ratification vote (U17)	
- Communicate directly with members (U17)	
Use of imaginative proposals (U9)	U9, M16
Open ended questions (M16)	
Empathise over the OP’s issues	U9
Deliberately stall the process	U10, U18, , M19,
- Employer had a deliberate strategy to stall the process so that they could wait for CPI figures in December because they would be lower than present figures (U18)	U20
- Employers’ impossible to pin down for negotiations (U18, U20)	
- Delayed negs didn’t want to be the first settle because of the implications across the sector (M19)	
Deliberate use of theatre	U8, M11, U14, M16,
For example deliberate use of anger (M11)	U17, U18, M19
- Raised voices, bad language, physical posturing	

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(M16)	
- Sometimes the person whose been the good guy becomes the hard-arse (M16)	
- Deliberate use of anger and frustration (U17)	
- Tactical use of emotions (U18)	
- Union negotiator throws tantrums (M19)	

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Low offers and nil offers	U8, U10, U14, M16, M19
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Working party	M16, U18, M19
	(advocates M16 & U18) from same negotiation)

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Employer puts pressure on the delegates	M12, U15, U17
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Lack of authority at the bargaining table	U7, U9, U14, U18, M19
	** all state sector, often lot of intra-organisational bargaining goes on

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Genuinely consider and respond	M4, M19
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Use of problem solving tools	M4, U8, U9, M16,
- Working parties/joint committees (M16 and U8)	M19
- Joint committees (M19)	
- Joint training (U9)	
- High value/low value trades (M4, M19)	

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