International Diplomacy in Perspective-A Contextual Analysis

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1. INTRODUCTION

This article presents a contextual analysis of the international diplomatic process, the initial part of a policy-oriented study of international diplomacy. The central concern of this writing is authoritative decisions, both in the past and in the future, and the policies that should guide this process in attaining a preferred world public order. To appreciate the policy issues underlying decisions, however, one must understand the contexts in which the decisions are made. To clarify how diplomatic decisions are made, this article will analyse the participants in the diplomatic process, the perspectives that they have, the arenas in which the process occurs, the base values and strategies employed by the actors, together with the outcomes and effects of the process.

In scholarly literature, the word 'diplomacy' is used to mean the management of international relations either by negotiation or by the entire process of making and executing foreign policy. But the term 'diplomatic process,' as used in this article, is not as narrow as the first definition, nor as wide as the second. It is used here to mean the process of transnational communication among the elites of the world. The communication is mostly interpersonal; but it also occurs through the written word, through telecommunication devices, or even through acts that are intended to communicate

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*This article is excerpted from a book on Diplomacy and World Public Order which the author has in progress. The text on "participants" and the footnotes are abridged. Copyright is retained by the author.

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1. There have been a number of studies in international law applying this discipline. See e.g., McDougal, Lasswell, & Vlasic, Law and Public Order in Outer Space (1963).
2. E.g., see H. Nicolson, Diplomacy 13 (1950).
a message.

The importance of the study of diplomacy hardly requires a special explanation. Inter-elite communication is an essential precondition for the ongoing social process in the global community—a process by which people, acting as organized groups rather than as individuals and using the base values at their disposal, pursue all human values. Communication is necessary for each elite to know the perspectives (demands, identifications, and expectations) of others in order to have value exchanges, to establish civic (or private) orders, and to make collaborative arrangements for shaping and sharing of values. Communication is inherent, as will be seen below, in all phases of public order decisions. A better world public order can be visualized as one which, among other things, provides a more effective inter-elite communication system.

In the study of diplomacy, lawyers have usually devoted their attention to the privileges and immunities of diplomatic personnel, which indeed facilitate the diplomatic process. Professional diplomats, on the other hand, have concentrated on the practices used in sending and receiving diplomatic personnel and in negotiating agreements. Recently, analytic skills have been employed to study the techniques and behavior of negotiators in the field of international relations, as well as in labor-management relations. Mathematical skills have also been used to develop what is known as "game theory" to provide an a priori analytic tool to understand the behavior of actors in situations of interaction. These different scholarly contributions, though they are selective in scope and perspective, furnish a better means for gaining a comprehensive and meaningful view of the diplomatic process and for studying the policy issues presented to decision-makers.

It is necessary to define the terms which will be used in describing the diplomatic process before analyzing it contextually.

A. The World Social Process

The social process has already been referred to as the

4. Some important contributions in this regard are:
   Thomas C. Schelling, The Strategy of Conflict (1960); Fred Ikle, How Nations Negotiate (1964); Elmore Jackson, Meeting of Minds (1952); Carl M. Stevens, Strategy and Collective Bargaining (1963). Some others are referred to below.

pursuit of all human values. On the world scene, the most important actors involved in this pursuit are the territorially based human groups called nation-states, but social interactions are not limited to them. There are transnational governmental and non-governmental organizations as well as individuals devoted to the pursuit of values. One may categorize values in several different ways; however, the following eight categories are used in this study: (1) "power," which is the ability to influence the behavior of others, arising from formal authority or non-formal factors, or a combination of both; (2) "wealth," which consists of goods and services having economic significance; (3) "well-being," defined as the health and safety of the physical organism; (4) "affection," which is the enjoyment of highly congenial interpersonal relations; (5) "enlightenment," which is the knowledge of contemporary and historical events; (6) "skill," defined as proficiency in arts or crafts; (7) "respect," which is the value of honor and the access to other values without discrimination; and finally (8) "rectitude," which is a moral value, such as virtue.

Participants in the social process employ the base values at their disposal in pursuit of goal or "scope" values, making use of available "institutions" in accordance with their plans or programs. An "institution" is a practice specialized to the pursuit of a particular value or set of values. A plan of management of the available base values and access to institutions for the achievement of goals is referred to as "strategy." An "outcome" of an interaction is the gain or loss of values to the interactors. This immediate consequence to the parties affects the overall pattern of values in the community, and the resulting change is referred to as an "effect."

As processes of interaction become stabilized into practices, the patterns of distribution of values among the members of the community also become stabilized, and remain stable over a period of time. Necessarily, some members of the community will possess a larger share of one or more values than others. The expression "elite" may be used to indicate those who possess a greater share of values than others. "Mass" or "rank and file" refers to the rest.

The Public Order System

Part of the overall social process is the pursuit of power. In any community it is expected that some participants will exercise the power at their disposal and make "decisions"

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6. These categories and several other concepts used below are taken from the writings of Myres S. McDougall and Harold D. Lasswell.
(i.e., or choices among the available alternatives) in the name of the whole community, and enforce them, if necessary, by applying sanctions. These decisions can be divided into those based upon authority and those based upon naked power. "Authority" refers to the structure of expectations regarding those who possess the necessary qualifications and competence to make decisions and the procedures that are adopted to make and implement the decisions. A participant is referred to as having "control" over a decision when he has an effective voice in its making.

Decisions based upon authority and effective control protect some of the features of the social process, including the social goals and implementing institutions. The process of authoritative decision, which is only part of the social process, also receives protection. All features of the social process which receive stable and sustained protection may be referred to as "public order." Public order decisions, on the one hand, establish, maintain, expand, alter, or even radically transform, the processes by which these decisions are made and implemented; on the other hand, they may affect the distribution of values among the claimants. In fact, the same decision may affect the constitutive process of authoritative decisions and the distribution of values, although in any event, one set of consequences may be more prominent than others.

An authoritative decision has seven functional phases: "prescription" is a phase which consists of expressions and communicates in verbal terms the patterns of permitted or prohibited behavior. Prior to prescription are the phases of "intelligence" and "promotion" (or "recommendation"). "Intelligence" consists of gathering relevant information about past events, studying future trends, and formulating and evaluating the various alternatives available to attain the preferred goals. "Promotion" is urging the acceptance of specific proposals that are put forward. Subsequent to prescription are the phases of "invocation," "application," "appraisal," and "termination." "Invocation" is the preliminary characterization of the particular factual situation as falling within the scope of the prescription. "Application" is the final characterization of the situation and the execution of the prescription. "Appraisal" is the evaluation of the prescription in the light of the goals and results actually produced. "Termination" is the ending of either the prescription or some arrangement within the prescription.

B. The Inter-Elite Communication System

The inter-elite communication network in the modern world is highly complex. Each established or aspiring elite group within a nation maintains communication with elite groups outside its national boundaries. The groups include, in addition to the established and aspiring elites of other nation-states, international officials and leaders of non-official international organizations.

Organizationally and functionally, inter-elite communication is more complex than the communication exchange between individuals or small groups who represent larger ones. Careful observation will show that communication can be divided into five phases: intelligence, correlation (analysis and planning), transmission of guidance, communication exchange, and feedback. Information is gathered and subjected to a selective and interpretive process. The intelligence operation in this context is similar to what takes place in connection with public order decisions. The gathering of intelligence is done by both official and non-official agencies, including those of public information. The intelligence acquired is then further analysed and interpreted in relation to the general situation. Alternative plans are prepared to meet the situation, choices are made, and guidance is transmitted to those engaged in communication exchange. The response of the elites forms feedback, which is then treated in the same way as intelligence.

C. Communication and Bargaining

Inter-elite communication occurs more often in a framework of strategic bargaining than in simple bargaining; neither party is explicit in what it offers and expects in return. The excellence of a bargaining strategy will be appraised by the surplus of values or advantages it brings. In other words, if information is sought, more information must be obtained from the other party than is given to it. If it is a collaborative arrangement, it should entail a lesser share of the investment and a better share of the returns. When the objective is promotion of a particular public order, the new public order should further the values preferred by

one's own side to a greater degree than the values sought by the other side.

The success of a diplomatic strategy, however, is dependent to a large extent upon the choices made by the other party. He may refuse to collaborate, or even to communicate or disclose any information. Bargaining situations may even be defined as situations in which the ability of a participant to gain his ends depends on the choices and decisions that another participant will make; each is aware that his own actions are being interpreted and anticipated by the other, and consequently each acts with due attention to the expectations that he creates. Inter-elite communication proceeds precisely within this framework. Each participant shapes what he communicates with a view towards influencing the other, to settle for something approximating the other's minimum, or even less than the minimum, and for something nearing or surpassing his own maximum. The techniques and tactics adopted are designed towards attaining this objective. As a result, communication is rarely straightforward, outspoken, or fully informative.

The strategic game of diplomacy, however, does not always proceed, nor should it proceed, as a purely competitive, or zero-sum game. Indeed, the strategic game in general is never purely competitive, except when the parties engage in a war to the finish; it is partly collaborative and partly competitive. Since the values available to the parties are varied, and since the individual utilities of the nation differ, it is always possible to discover by diplomacy several mutually beneficial solutions to a conflict situation. Thus, the game can be a variable-sum one with a number of alternative solutions.

D. The Game and Bargaining Theories

Game theory is based upon the concept of "pay-off." This is the value accretion or loss, expressed in numerical terms, which a participant is supposed either to obtain or to suffer from a given interaction. Each participant is assumed to have more than one way of playing a game. For instance, if there are two players and each has two alternative moves, the resulting pay-offs of the four possible outcomes can be arranged in a mathematical matrix. The pay-offs vary as the game is a zero-, fixed- or variable-sum game. The matrix be-

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10. T. C. Schelling, supra note 4, at 5, 21.
11. Schelling, supra note 4, at 5, 83; Young, supra note 9, at 36.
comes increasingly complex as the number of actors and the moves available to them increase.

Game theory is a useful tool for analysing and understanding situations of interaction, but its predictive value has several limitations. First, each actor in the world arena is aware of the way in which other participants, or at least those with whom the actor foresees the possibility of interaction, will interpret his moves. Such interpretations, moreover, are likely to vary. As a result, the game is to be conceived as having a large number of participants playing in different styles in which case it becomes extremely complex and difficult to use for predictive purposes. On the other hand, if it is assumed that only two players are involved, the game may be too simple, which makes a prediction unreliable. Second, since there are many values sought by participants, as well as many means for attaining them, the available moves will render the game too complex. Third, since the actors live in situations affected by varied experiences and emotions, they are not likely to act strictly in accordance with reason, which is assumed for the purpose of the game theory. Irrationality is as likely to be present in human actions as not. At any rate, that is the ordinary human expectation.

The theories about strategic bargaining also have their own limitations as tools for predicting outcomes. In developing these theories, scholars have applied analytic techniques and used empirical findings obtained from both simulated games and true case studies. The contributions help explain the influence of culture and tradition on a negotiator's behavior. They also suggest how the behavior of one party, such as that of a "reformed sinner" (one who is unaccommodating at the beginning, fully conciliatory later, and who then makes coopera-

12. The complexity further increases due to the dynamic character of the games, since in social and political contexts no game is exactly replayed, and each game leads to a new game. On the recursive game-models, see M. A. Kaplan, System and Process in International Politics 205 (1957).


14. See e.g., the reply of Stalin, at the Tehran conference, to the query of Churchill, whether Turkey would not be mad if she refused to join the war on the invitation of Russia, losing thereby the sympathy of both the United States and Great Britain, that a number of people preferred to be mad. Winston Churchill, The Hinge of Fate 305 (the 4th of 6 volumes on the Second World War pub. by Bantam Books, New York, 1948) (Hereinafter each volume is cited by its title).
tion conditional) or "lapsed saint" (conciliatory first and conditionally cooperative later) affects the response of the other party.15

Despite the valuable insight gained into negotiating behavior, there is a long way to go before there is a reliable theory for predicting the bargaining behavior of a participant. The reasons are, first, that if one party acts in the expectation that the other party will act in a particular way, the other party, who, by the definition of bargaining, is necessarily aware of this expectation, may choose deliberately to act contrary to the expectation.16 Second, the bargaining theories also proceed on the assumption of rational human choices,17 an assumption which is not wholly true.

E. Diplomatic Strategy, Persuasive or Coercive?

Strategies, broadly speaking, are either persuasive or coercive. Persuasion can be described as the outcome of an interaction where one party has a free choice among several alternatives for obtaining his preferred values, and he chooses in accordance with the wishes of the strategist. The former is said to be persuaded by the latter. On the other hand, coercion is an outcome which requires subjection of one party to a high degree of constraint to cause him to choose according to the strategist's desires. This may be done by drastically reducing the range of alternatives with threats of deprivations or promises of high rewards or by making some alternatives impossible or only notionally possible.18

Strategies can be classified into four categories: "diplomatic," "ideological," "economic," and "military."

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15. See T. Harford & L. Solomon, "Reformed Sinner" and 'Lapsed Saint' Strategies in the Prisoner's Dilemma Game," 11 J. of Conf. Res. 104 (1967). A "prisoner's dilemma" situation is one in which an actor interacts simultaneously and separately with two others, under the conditions that (a) there is no communication between the two others, (b) if both yield or withhold, both suffer, and (c) if only one yields, he gains and the other suffers.


17. Schelling makes this assumption explicit. Schelling, supra note 4, at 3.

18. For a definition of "coercion," see M. S. McDougal and Associates, Studies in World Public Order 29n (1960); C. M. Case, Non-Violent Coercion (1923); F. E. Lumely, Means of Social Control (1925).
While the diplomatic strategy consists primarily of communication among the elites, the ideological strategy comprises communication between the elites and the masses. The economic strategy involves furnishing or withholding goods and services, and the military strategy concerns the use of instruments of violence. Only on rare occasions is any one of these instruments used exclusively; often two or more are employed in various combinations and intensity.

The military strategy is definitely coercive, and the economic strategy may produce coercive effects if the threatened deprivations drastically reduce the freedom of choice among the available alternatives. The ideological strategy is also coercive in some situations.19

When a person who is required to choose from among a set of alternatives, he will select the one that most accords with his perspectives. In a diplomatic strategy, therefore, a communicator endeavors to influence that choice, first by showing how the alternative identifications are more worthy of adoption. Secondly, the communicator tries to change the expectations of the communicatee by indicating that his current expectations are unrealistic with reference to the environment. Finally, the communicator shapes his messages to show that the demands of the communicatee are either unrealistic or unprofitable, and to influence him to adopt new demands which can be easily satisfied. By thus changing the perspectives of the communicatee,20 the communicator seeks to influence his choice. But if the communicatee has access to other sources of information and his freedom of choice is not affected, the process has to be regarded as persuasive.

On the other hand, if the communicator curtails the freedom of the communicatee and his access to other sources of information, the process becomes coercive. The communicator may transmit credible threats of sense deprivations, or promises of high rewards, and manipulate the flow of communication to the communicatee.21 The impact of such operations on the communicatee depends upon the apparent objective of the communicator, the power potentials and capabilities of both parties, the situation in which they are placed, and the tech-

21. On the coercive character of the diplomatic process, see Young, supra note 9, at 37; Young, The Intermediaries 39 (1967); Stevens, supra note 4, at 58.
niques and tactics of communication adopted. To distinguish a persuasive from a coercive strategy and to assess the level of coercion, it is necessary, therefore, to refer to the factual context in which the strategy is applied.

II. CONTEXTUAL ANALYSIS

A. Participants

Participants in the diplomatic process may be described in terms of groups or sub-groups on behalf of whom the elites communicate. Two or more nation-states, for example, may be referred to as engaging in diplomatic interaction by exchanging missions or by participating in negotiations. A rebel group in a state, with which governments of other states are establishing contacts, may also be a participant. There are at present groups and sub-groups of varied character, some territorial and some nonterritorial. There are also a large number of supra- and international organizations, both official and nonofficial. Identification of the group or sub-group on behalf of which an elite is engaging in diplomacy is always important. And equally important is the identification of the individuals engaged in strategy since the character of the particular individual is likely to give rise to special issues of policy. An individual participant may even belong to more than one group, although his participation may be on behalf of only one group. This description, therefore, focuses on individual participants, as well as on the groups on behalf of which the individuals act.

1. Officials of Nation-States

Officials of nation-states are considered first because they currently possess the most prominent role in the diplomatic process. The different categories of officials who form part of the machinery of diplomacy in a nation-state will be discussed below. Those who actually make the policy decisions in each nation-state, however, will not be identified because that would entail an in-depth study of the politico-legal system of each nation-state which cannot be done in a single study. In a pluralist democracy, the issue of who supplies even legal advice on matters of foreign policy—not to speak of advice on political issues22—is an intricate question.23


23. E.g., the position in the United Kingdom can be
Even in a totalitarian or authoritarian state an apparently all powerful dictator may be under pressure from a multiplicity of sources.\textsuperscript{24}

(a) Head of State

The range of participation of a Head of State is dependent upon the constitutional and political structure of the particular nation-state. The varied significance of the Head of State in the United Kingdom,\textsuperscript{25} the United States,\textsuperscript{26} France,\textsuperscript{27} and the U.S.S.R.\textsuperscript{28} illustrates the extent to which the role can differ. Since the Head of State, however, is the chief representative of the nation-state in its international relations, his acts or pronouncements constitute commitments on behalf of the state.\textsuperscript{29}

(b) Head of Government

The Head of Government, whether he is the Head of State or not, is an important policy-maker.\textsuperscript{30} He may undertake

\footnotesize{found in Clive Parry's paper in H. C. L. Merillat, ed., \textit{Legal Advisers and Foreign Affairs} 101-152 (1964).}

\textsuperscript{24} Churchill remarks about Stalin in Closing Ring, supra note 14, at 205, "behind the horseman sits black care." On the pressures to which Bulganin and Khrushchev were subject, see K. Eubank, \textit{The Summit Conferences 1919-1960}, 148 (1966). See also G. A. Craig \& F. Gilbert, eds., \textit{The Diplomats 1919-1939} chap. 8 (1953) (in citing this work below, the names of the contributors of the individual chapters are not mentioned, except when reference is made to a particular author's opinion specifically).


\textsuperscript{26} Henry M. Jackson, ed., \textit{The Secretary of State and the Ambassadors} (papers of the Jackson sub-committee of the Senate Committee on Government Operations) vii (1964).

\textsuperscript{27} Arts. 52 and 53 of the French Constitution.


\textsuperscript{30} In a democratic set up, the Head of Government
negotiations or even gather intelligence for the purposes of policy-making. The sharing of participation between the Head of Government and Minister for Foreign Affairs is a matter for intra-governmental adjustment.

(c) Minister for Foreign Affairs

The Minister for Foreign Affairs, who has a different name in some countries, is generally regarded as the most important agent of the nation-state for the conduct of its external relations. Separate ministries for the conduct of foreign relations were developed in Europe during the post-Renaissance period. They emerged in a response to the need to analyse and interpret the intelligence transmitted by diplomatic missions and to supply these missions with necessary guidance for the conduct of a coordinated foreign policy.

The Department of the Ministry, over which the Minister presides, usually has a complex hierarchy and division of functions among its sections. Most of the personnel are involved, however, in exchanging communication. In a foreign office there is generally a combination of a stable group of career officials and a component of top officials who come and go with changes in the ruling party. This latter group enables the organization to adapt to new situations and to respond to political pressures.

(d) Other Ministers and their Ministries

The minister for foreign affairs and the officials of must accept some sharing arrangement of decision-making power. The war memoires of Winston Churchill show that when he himself conducted negotiations, at every stage he obtained the concurrence of the War Cabinet for the proposed agreements.

33. For an account of the varied influences that operate on the minister for foreign affairs, see Ibid.
his ministry are specifically assigned to the conduct of foreign affairs, but foreign affairs are not their exclusive domain. It is difficult today to differentiate between a nation-state's internal and external matters. As a result, finance, commerce, agriculture, communications, health, scientific affairs, and practically every other ministry have claims for participation in the conduct of external relations. Officials of these ministries also become involved in diplomatic negotiations and conferences. The dominant position of the foreign office in the conduct of diplomacy, therefore, is questionable. A scholar who has studied the situation in the United Kingdom remarks: "In many areas of Government activity which involve international action or reaction, the Foreign and Commonwealth Office is not the coordinating Department, but one extra Department to be coordinated." He adds that "the role could decline to that of a post office for specialist departments, with diplomats abroad acting as door-openers for the men from London." This last remark seems doubtful, however, since the Ministry for Foreign Affairs at any time could claim to have the expertise necessary to evaluate the political implications of economic, commercial, and technological questions.

(e) Military Officials

Military officials are also significant participants in diplomacy. History provides innumerable instances of military officials being appointed as diplomatic officials. There are certain roles connected with the conduct of diplomacy, moreover, where expertise in military strategy, tactics, and weaponry is considered essential. Armistice negotiations, for example, are generally entrusted to military officials. In addition, mili-

34. See Frank Figgures, "The Treasury and External Relations," in Boardman and Groom, supra note 32, at 161-172; also Peter Byrd, "Trade and Commerce In External Relations," in id. 173-199; regarding the U.S., Brookings Institution Foreign Policy Study at 64.
35. Figgures, supra note 34; D. G. Bishop, "The Cabinet and Foreign Policy," in Boardman and Groom, supra note 32, at 138.
36. Figgures, supra note 34, at 196.
37. A major study on military people as diplomats is Alfred Vagts, Defense and Diplomacy (1956); see also W. T. R. Fox, "Diplomats and Military People," in Kertesz and Fitzsimons, supra note 3, chap. 4; R. B. Mowat, Diplomacy and Peace, chap. 8 (1935).
tary attaches in diplomatic missions, the personnel of military liaison missions, and the delegates to intergovernmental organizations concerned with military planning are drawn from the defense forces. 38

(f) Diplomatic Officials

Diplomatic officials, along with foreign office officials, are specially trained in the conduct of diplomacy. Diplomatic missions in this century have grown enormously in size as their functions have begun to expand. 39 The size of a mission will depend upon the interests which the sending nation-state has in the receiving state, the expenditure which the former can afford, the level of cordiality prevailing between the two, and the extent to which the latter permits the mission to perform its functions. The United States missions, for example, in London and Moscow differ in size, and the United States mission in London differs from the United Kingdom mission in Washington. 40

A generalized description of the structure and personnel composition of diplomatic missions is not easy to give since their sizes vary. Most of the diplomatic officials, however, gather intelligence for formulating not merely the diplomatic strategy, but all strategies of influence. Even two centuries ago, the ambassador was required to report on all matters considered relevant to policy-making, beginning with the stresses and strains in the royal household and ending with the conditions of agriculture and industry. 41 Reporting by the head of the diplomatic missions today, however, is considered excessive and a waste of resources. 42 Information gathered by secret


40. Ibid.; H. M. Jackson, supra note 26, at 64, 145. There a view that the U.S. embassies are over-staffed, id. at 143.


42. See Philip Elliot & Peter. Golding, "The News Media and Foreign Affairs," in Boardman and Groom, supra note 32, at
agents, limited in quantum but vitally important, is not necessarily transmitted through the head of the diplomatic mission, though indeed he is kept informed of the activities of the agents.43

The diplomatic officials are by no means high level policy-makers; they mainly serve to implement a recommended policy. They can make policy only within a narrow range left to them after they have been given instructions. Implementation involves engaging in consultation or negotiation with the officials of the nation-state or international organization to which they are accredited, or participating in conference or parliamentary diplomacy. The advent of rapid transportation has created the practice of the Heads of Government and Ministers for Foreign Affairs directly participating in consultations and negotiations.44 The diplomatic officials also serve as agents to receive or transmit communications to or from the foreign office of the receiving nation-state or the officials of the international organization to which they are accredited.45

(g) Consular Officials

The consul's main function is to safeguard and promote the commercial interests of his nation-state. Thus, they gather intelligence relevant to commerce. In a nation-state in which the sending state has no diplomatic representation, however, the consulate may perform several functions belonging to the diplomatic official, including negotiation. But even when there are diplomatic missions, the consul may have relations

305, 311; also the Report of the Duncan Committee (Review Committee on Overseas Representation, Report, Cmd. 4107, 1969) regarding United Kingdom; Brookings Institution Foreign Policy Study at 114; H. M. Jackson, supra note 26, at 23-24.

43. This is true with the U.S., but the information supplied by the secret services forms only about 4 or 5 percent of the overall intelligence coming from different sources. See Thayer, supra note 41, at 175.

44. In considering the criticism that the practice of the Secretary of State himself engaging in negotiations contributes to the undermining of the importance of the ambassador; it is stated that "it is a consequence primarily of swifter transportation and is akin to growing centralization of most governmental affairs." Brookings Institution Foreign Policy Study, at 110.

with the local authorities in the consular district resembling those between the diplomatic mission and the central authority.\footnote{Luke T. Lee, Consular Law and Practice 60 (1961).}

(h) Other Field Missions

Organizations such as the Agency for International Development, the United States Information Agency, and the Central Intelligence Agency are primarily concerned with the operations specifically assigned to them. But their duties entail reporting on their work to parent departments, and keeping the local ambassador informed. United States personnel policy, it is reported, moreover, encourages young officers to present reports even on matters outside their assigned responsibilities.\footnote{See H. M. Jackson, supra note 26, at 24.}

(i) Legislative Officials

Since the conduct of foreign relations is primarily an executive responsibility in all nation-states, the level of participation by the members of the legislative branch is lower than that of executive officials. Individual members, however, may be appointed on an ad hoc basis as diplomats to handle a particular task, or more commonly, to be a delegate to international conferences or organizations. In the event of such an appointment, they also attain diplomatic status.

As a collective body, the legislators of a nation-state exercise considerable influence on the foreign policy of that state, inasmuch as they control both the purse and domestic legislative process. In many nation-states, the power to ratify international agreements is vested in the legislature or one of its committees. In other states, the legislature must, at least, be informed of the contents of an agreement before ratification, to give it an opportunity to express disapproval or to prevent ratification.\footnote{J. M. Ruda, supra note 28, at 23, gives a short account of the practices obtaining in some countries. In England, the Crown ratifies on the advice of the Cabinet, but since 1929 treaties are laid before Parliament before ratification.} A sharing of power exists, therefore, between the legislature and the executive over the conduct of diplomacy.\footnote{Brookings Institution Foreign Policy Study, at 22-25; H. M. Jackson, supra note 26, at 59.}

In actual practice, individual legislators play a more significant role than appears possible from their formal status.
as legislators. Contacts with foreign officials and nonofficials influence their activity in the legislature, and may also cause them to make representations to the executive for whatever interest they favor. This characteristic is more prevalent in nation-states like the United States, where the legislature is highly independent of the executive.

Legislators also have opportunities for communicating with their counterparts in other nation-states. There are nonofficial international organizations which provide an institutional framework for such contacts—for example, the Inter-Parliamentary Union and the Latin American Parliament. The European Economic Community (E.E.C.) and the Council of Europe are exceptional, moreover, in that they have Assemblies in which the members of parliaments from the member states are represented. Interestingly, the members of the Assembly usually disregard their national identifications and divide on the lines of political parties of the same or similar ideologies. The Assembly of the Council of Europe functions as a good instrument of parliamentary diplomacy, by initiating proposals for international agreements, by ensuring that negotiations for such agreements are initiated and pursued, and by giving approval to the texts negotiated to make formalization easier for the member states.

(j) Judicial Officials

Participation by judicial officials is marginal. They may be considered for appointment as ad hoc diplomats, and when they visit foreign nation-states, the executive officials of their own nation-state or the visiting one may use them as vehicles of communication. But there are also nonofficial international associations of judges, such as the World Association of Judges (WAJ) and the International Union of Judges. Communication among members of these forums may eventually influence the policies of their nation-states in respect to the structures, procedures, and values sought in their national legal systems.

50. The former was established in 1889 and has now its office at Geneva, and the latter was established in 1964.


52. See A. H. Robertson, The Council of Europe 214 (1956).

53. The WAJ was established at Geneva under the auspices of the World Peace Through Law Center. The International Union of Judges was established at Salzburg (Austria) in 1953.
(k) Officials of "Unrecognized Nation-States and Governments"

Groups are frequently encountered in the world arena that do not have a definite territorial base on which to claim the status of a nation-state or that have a certain degree of control over a portion of the earth's surface and are in pursuit of gaining unchallenged authority over it to become a nation-state. As soon as such an aspirant group attains a sufficient measure of strength to withstand the established government's effort at suppression, external elites may contact the group's leaders. Such contact is a necessity if the group obtains control over a portion of territory in which the external elite's interests are located. It is appealing when the success of the rebel group holds out a promise of gain. It may also develop out of sympathy for the cause of the group. Contacts of this character are sought to be legitimized at some stage by the "recognition" of the group as a "liberation movement," as insurgents, belligerents, as a de facto government, de jure government, or de facto or de jure nation-state. Before the grant of de jure recognition, however, the group's leaders are not admitted to the full-fledged institutions of diplomacy.

(l) Officials of "Governments in Exile"

Occasionally, a serious crisis forces the ruling elite to leave its territory and take shelter in a foreign nation-state. Such "governments" continue to enjoy recognition and may be admitted to diplomatic intercourse by the governments that recognize the elite, out of sympathy for its cause.

2. International Officials

The establishment of the League of Nations was shortly followed by the crystallization of the concept of the "international civil servant." These international officials continue to be nationals of their respective nation-states, but they are expected to assume perspectives of an international character.

54. For an account of the evolution, see Georges Langrod, The International Civil Service chap. 1 (1963). The chief characteristics of international civil service made their first appearance in the International Institute of Agriculture, established at Rome in 1905.

International officials include all those officials appointed as members of the secretariats or bureaus of intergovernmental organizations. The number of such organizations today is approximately 280. We may also include in the category of international officials all those that are appointed on an ad hoc basis to carry out specified tasks, such as the observation and reporting of a particular situation or the conduct of mediation. A detailed and exhaustive description of all the organizations, their employees, the structures of authority in which they are located, and the range of their competence and participation cannot be undertaken here; it is possible only to focus on major categories. For what is of interest is not the actual number of these organizations or their employees, but rather the magnitude of their role in the diplomatic process within the world arena.

The secretariat or bureau of each organization, especially of the U.N. or one of its specific agencies, is headed by an official called the Secretary or Director-General. He stands at the top of a hierarchy consisting of aides and assistants. In some capacities, this chief executive can emerge as almost as important a participant as the heads of governments.

The relationship among intergovernmental organizations resembles the one that exists among nation-states. Even the Specialized Agencies of the U.N., each of which has its own constituent treaty, stand with respect to one another as "sovereign organizations." The relationships among them were established by agreements, and their activities are coordinated by a process of consultation, negotiation, persuasion, and agreement. So far, the diplomatic process among these organizations has not been studied systematically, but an idea

56. It may be possible to give the total number of employees in the various secretariats, but difficult to specify precisely who participates in the diplomatic process. It is possible that every one of them has some connection or other, however insignificant it might be.

57. The E.E.C. is headed by a Commission of 14 members, including a president and five vice-presidents.

58. M. Virally observes about the U.N. Secretary-General, that he "found himself on a footing of equality with heads of greatest Powers..." Langrod, supra note 54, at 254.

of the amount of communication that flows among their officials can be gained from the emergence in recent decades of the following practices: (a) Many Specialized Agencies and other international organizations have in their secretariats an external relations department, very much similar to the foreign offices of nation-states. 60 (b) The organizations send representatives to the meetings of other organizations to observe, report, and sometimes participate. 61 (c) Agreements are made among the organizations. 62 (d) The organizations maintain at the seat of other organizations liaison officers who function like diplomatic officials of nation-states. 63 (e) Regular and sustained communication exists among the officials of different organizations, especially within such organizational frameworks as the Administrative Committee on Coordination (ACC), established by the Economic and Social Council of the United Nations, and of the Technical Assistance Board (TAB). 64 Coordination of this character is not confined to the U.N. family of organizations. The Commission of European Communities, for example, takes part in the activities of the Organization for Economic Cooperation and Development (OECD) and has a permanent mission at the seat of the latter. 65

Besides this complex network of elite communication connecting the various intergovernmental organizations, international officials maintain communication with officials of the nation-states. Soon after the establishment of the League of Nations, its first Secretary-General, Sir Eric Drummond, initiated communications with governments of various nation-

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60. S.D. Kertesz, The Quest for Peace Through Diplomacy 85 (1967). He states this to be a common feature with most of the specialized agencies.

61. Id. The agreements concluded between the specialized agencies and Economic Social Council for providing such participation.


63. Kertesz, supra note 60, at 85, refers to the practice of appointing liaison officials.

64. On the ACC, see Hill, "The Administrative Coordination Committee," in E. Luard ed. The Evolution of International Organizations 104 (1966). The TAB consists of the chief executives of the organizations participating in the technical assistance programs.

65. Kertesz, supra note 60, at 103. It is stated that the OECD has established special relationship with 19 IGOS.
states, and the latter, in their turn, established permanent missions at the League's seat in spite of the fact that Sir Eric disliked such permanent missions.\textsuperscript{66} He preferred communication directly with governments. Since the establishment of the U.N., permanent missions of members and various observer missions of non-members have become an almost universal phenomenon, not only within the U.N., but also within many intergovernmental organizations. These missions facilitate continuous consultation with governments.\textsuperscript{67} The unique and significant role which these missions, especially those accredited to the U.N., play in the diplomatic process was described by the former U.N. Secretary-General, Dag Hammarskjold, in an address in 1959.\textsuperscript{68} Having in view the facilities of communication which these missions have, and the influential position of the office of the Secretary-General, Hammarskjold stated on another occasion, "I cannot find any part of my present task more challenging than the one which consists in trying to develop all the potentialities of that unique diplomatic instrument which the Charter has created in the institution called the Secretary-General of the United Nations."\textsuperscript{69}

A large part of the history of the League and the United Nations is indeed an account of the role played by the Secretary-General and his aides in the world diplomatic process.\textsuperscript{70}

Diplomacy of international officials vis-a-vis officials of nation-states encompasses the concerns that exist between the particular organization and a particular nation-state or group of nation-states. Important among such concerns is the treatment to be accorded the organization's personnel who enter the territory of a nation-state. This was explicitly set forth, for example, in the "Status of Forces Agreement" entered into with government of Cyprus by the Secretary-General U Thant before the introduction of U.N. troops in-


\textsuperscript{67} Regarding how members maintain consultation with the Secretary-General on a continuous basis see S. Schwebel, The Secretary-General of the United Nations 139 (1952). Even regional organizations such as the E.E.C. have missions accredited to them, and the E.E.C. has missions accredited to it by 69 states. Kertesz, supra note 60, at 101, 111.

\textsuperscript{68} Cordier & Foote, supra note 59, Vol. IV, at 364.

\textsuperscript{69} Id., Vol. II, at 84.

\textsuperscript{70} A detailed historical account may be found in Rovine, supra note 55, and Langrod, supra note 54.
to Cyprus in 1964.\textsuperscript{71} Such concerns aside, to a present-day student of nonviolent settlement of international conflicts, the role played by the U.N. Secretary-General and his aides in mediation and conciliation processes is a highly engaging field of investigation.\textsuperscript{72}

International officials outside the U.N. too have played a significant role in this regard.\textsuperscript{73} But the concerns for the officials of any particular organization include promotion of all its objectives.

Recently, groups fighting for territorial bases to gain the status of nation-states or dissident groups within established states struggling for recognition as separate entities, sometimes referred to as "liberation movements," have been accorded limited access to the arenas of international organizations. Most notable among such groups is the Palestine Liberation Organization. It is allowed to have an observer mission at the U.N. and to participate in the proceedings of its organs. It is given access to the specialized agencies and conferences. This trend requires communication between the international officials and the leaders of such movements, even though some of the members of the particular organization are hostile to the group or "liberation movement" in question.\textsuperscript{74}

International officials also come into contact with leaders of nonofficial groups who are in pursuit of certain values, that a nation-state by itself is ordinarily incapable of supplying. These groups figuring as international nongovernmental organizations (NGOs) are nearly ten times as numerous as intergovernmental organizations (IGOs).\textsuperscript{75} In short, Inter-

\textsuperscript{71} U.N. Doct. S/5634, March 31, 1964; see also Rovine supra note 55, at 383.

\textsuperscript{72} The literature on this subject is extensive. See Rovine, supra note 55, and the bibliography given therein.

\textsuperscript{73} The World Bank successfully mediated in the 1950's between India and Pakistan over the Indus waters; the OEEC, the predecessor of OECD, mediated in 1950's the dispute between the U.K. and Iceland concerning fisheries; the NATO unsuccessfully tried to conciliate the dispute between Greece and Turkey.

\textsuperscript{74} In relation to the admission of the P.L.O. to the World Employment Conference, Geneva, as an observer see N.Y. Times, June 8, 1976, at 12, col. 3. For the observer missions of the P.L.O. and others, of the total of 12 see Id. Sept. 21, 1976, at 3, col. 1; also Gross, "Voting in the Security Council and the P.L.O.," 70 Am. J. Int'l L. 470 (1976).

\textsuperscript{75} On the NGOs, see Lador-Lederer, International Non-Governmental Organizations (1963).
national officials are significant participants in the diplomatic process. They interact with officials of nation-states, of other IGOs, and of NGOs.

All international officials, however, do not participate in every level of the diplomatic process. Most of the officials are involved in the analysis and interpretation of intelligence and in the formulation of proposals to be considered by higher officials or organs of the organization. This work is also of use to officials of nation-states who do not have an adequate intelligence machinery. The intelligence consists mostly of information supplied by nation-states, but it also includes reports prepared by the field units, special committees, or commissions which the organization sends to different areas of the world. More importantly, the top executives of the organizations, especially the Secretary- or Director-General, in the course of their contacts with officials and nonofficials of nation-states, gather information which will not ordinarily be accessible to diplomatic officials of nation-states.

Participation in the exchange of communication is limited to a small section of international officials nominated by the organs of the organization, usually the organization's chief executives and officials authorized by the chief executive. The policy of the organization is determined by its authorized organ and subject to the decision of such organ, and the provisions of the constituent instrument of the organization by the chief executive and his advisers.

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76. Robinson, "Strengthening the Secretariat," 296 Annals 137 (1954), remarks that "the Secretariat of the U.N. is the greatest institute of social research in the world." See also Langrod, supra note 54, passim on the work done by the secretariats of the League, the I.L.O., and the U.N.


78. Rovine, supra note 55, at 457.

79. The U.N. organs first constituted committees or commissions to ascertain facts, mediate and conciliate differences, but later developed the practice of entrusting the matter to the Secretary-General, who in his turn deputed somebody, including persons outside the Secretariat.

80. The troika agitation in 1960 was followed by the evolving of an arrangement by U Thant whereby the Secretary-General came to have 8 Under-Secretaries to advise him on important matters. See Langrod, supra note 54, at 282; Bailey, supra note 66, at 73; U.N. Doct. SG/1060, Nov. 3, 1961.
The influence exercised by the officials, however, on the parliamentary diplomacy in the organs of the organization is more extensive. Studies by the secretariat bring to the attention of members matters to be discussed. This procedure implicitly projects certain values. The officials prepare the draft agenda and thus influence the assignment of priorities among the items for consideration. They advise the presiding officer on procedural matters that affect to a certain extent the outcome of the debates before the organs. Exercising their right to speak before the organs and assisting in the drafting of the resolution, the officials further influence the outcome.81

3. Nonofficials

Nonofficial groups that enter diplomatic interactions may be divided into three categories: (a) transnational political parties, (b) pressure groups that seek to influence public order decisions but are not in pursuit of power, and (c) private associations that are primarily interested in values other than power.

Transnational political parties attempt to develop similar power structures within several nation-states with the eventual goal of establishing central direction and collaborative practices. The trend toward central direction reached a high water mark among the communist parties immediately after World War II, but subsequently took a reverse turn.82 An example of central direction, however, is the fact that the First Secretary of the Communist Party has negotiated treaties with nation-states.83 A high level collaborative goal also exists among the Christian Democrat, Socialist, and Liberal political parties in Europe. Pressure groups and private associations communicate with national and international officials, supplying them with information useful for formulation of policy or with information about violations of prescrip-
tions. They also recommend policies, as well as supply appraisals of past policies. A large number of nonofficial organizations have consultative arrangements with the Economic and Social Council and other international organizations.

For various reasons, officials of nation-states sometimes use nonofficial agents for conveying diplomatic communication. In recent decades, nonofficial associations have even developed a communication network, especially in Europe, which significantly affects the diplomatic process. Concerning this network, an observant scholar writes:

"The deliberate policies of integration, the widespread activities of corporations, the growth of inter-governmental organizations, the ease of communication and the international character of technology . . . have made private organizations more important. They have, to a large extent, been responsible for the growth of extensive political networks and information systems below the state level. Such political networks among professional associations for example have been used to counter or support policies proposed or initiated by states."

Nonofficials may sometimes be appointed as ad hoc diplomats by nation-states or international organizations. At the present time, for example, scientists are being included in a number of delegations to negotiations or conferences. When appointed, however, the individuals attain official status.

B. Perspectives

Participants engage in diplomatic interaction to achieve their objectives, or in other words, to satisfy their value demands. These demands are made in the name of identities greater than the ego-self, and the identifications are based upon expectations or assumptions of fact about the past, present, and future. In the following section, the objectives, identi-

84. Mattingly, supra note 31; Craig & Gilbert, supra note 24, at 20, 550; Figgures, supra note 34, at 177.
86. For a case study on participation by scientists in diplomacy, see H. K. Jacobson & Eric Stein, Diplomats, Scientists and Politicians (1966).
fications, and expectations of those that operate the diplomatic strategy will be discussed. The information about these perspectives is derived from the declarations of the participants themselves and what can be inferred from their conduct.

1. Demands (Objectives)

Generally, the objective of those employing the diplomatic strategy, or for that matter, any strategy, is the maximization of all values of the representative group, and economizing the investment of values to attain this goal. In reference to the diplomatic strategy, however, the objectives may be divided between authoritative power and all other values.

One sphere of authoritative power is the production and allocation of desired events, which can be referred to collectively as the community's public order. Another sphere pertains to the procedures of decision which establish, maintain, modify, or even revolutionize the public order. Thus, a constitutive process of authoritative decision makes decisions relating both to its own operation and to the shaping and distribution of values among participants in community life.

Those employing the diplomatic strategy aim first to optimize their communication with all the elites engaged in the constitutive process, to increase their influence within a variety of functions of decision, i.e., intelligence, promotion (recommendation), prescription, invocation, application, appraisal, and termination. This pursuit springs from an obvious interest in influencing the procedures of the constitutive process. The acquisition of such information depends on access to all the related arenas and institutions of decision. Hence, governments try to become members of as many international organizations as may be useful and to establish diplomatic missions in as many foreign nation-states as possible in order to maintain contact with the officials of those states.

Secondly, the actors employing the diplomatic strategy aim to increase their role in public order decisions having value shaping and distributional consequences. The number of nation-states that are currently participating in the conferences convened by the United Nations is an indication of this concern. The strategies for maintaining public order can be both persuasive and coercive.\textsuperscript{87} All participants in the process of public order decisions, in accordance with the principle of economy of means, however, prefer the persuasive,

\textsuperscript{87} For a detailed description of the strategies, see McDougal, Lasswell & Reisman, supra note 7, at 403.
or at least the non-violent, means to the violent ones. For example, diplomatic methods of settling of disputes, such as negotiation, lending good offices, mediation, conciliation, etc., are preferred over war as instruments of national policy. Participants in diplomacy, therefore, will seek to maximize persuasion and to minimize the incidence and intensity of coercion in public order decisions.

Thirdly, and more significantly, in a community which transcends the nation-state, and thus which is not integrated, the elites will be competitive, as may be expected. They will use the diplomatic strategy, therefore, to see that their preferred system of public order prevails.  

Finally, in the social process involving pursuit of values other than authoritative power, each participant aims at acquiring values from others that his group does not have, preferably by giving nothing in exchange. Sometimes the objective may be merely to influence another participant to refrain from a particular course of action. The objective may also be to reach arrangements for future acquisitions or to collaborate in joint ventures. In general, elites will seek to maintain communication with other elites, and thereby acquire enlightenment (information or intelligence) and affection (cordiality in mutual relations) on a continuing basis.

The statement of objectives thus is rather descriptive, and while it may help one to appreciate the intricacies of the techniques of diplomatic strategy, it may not aid in choosing a particular objective or in determining its impact on aid in determining the impact of a particular objective on the world community. To analyse these problems, the objectives should be distinguished in terms of (a) the magnitude of the innovation sought in the existing pattern of public order in the shaping and distribution of values, (b) the impact of the innovation on the interacting participants in terms of the values gained or lost, (c) the nature of interest sought by the particular participant, whether inclusive or exclusive, common or special, and (d) whether the character of the objective conforms to the basic goals of the public order. It may be added that the perceptions of these aspects of the objectives by an interacting participant and by an external observer are unlikely to be the same. The focus here is mainly on an observer's perceptions.

(a) Magnitude of Innovation

Realization of the objective may or may not entail a

radical restructuring of the public order system, perhaps with serious deprivations to other members of the world community. The number of participants affected by the deprivation may vary. The demand may be for a mutually profitable arrangement or one that falls into the zero-sum pattern with a heavy pay-off. This would not include "vital interests"; however, these are usually claimed to be beyond the purview of negotiation or voluntary exchange. Sovereignty and political independence, for example, may be placed in this category.

(b) Value Acquisition or Deprivation

It is possible to have the objective of conserving the existing position of the group; however, as acquisition of new values is the ethos of human life, an individual or group will rarely be contented with what they have. At the most, they may be content in reference to some specific values or objects such as "territory." The distinction is meaningful only when it refers to a situation in which acquisition is being sought at the expense of others.

(c) Nature of the Interests Sought

Interests are distinguished as either common or special. Common interests are those held by most actors, the realization of which may be beneficial to the community in general. Special interests are those demanded by a few for their own benefit requiring deprivations to others. Common interests may be inclusive in the sense that they affect more than a single actor or exclusive in that they affect a single participant. A typical inclusive common interest is, for example, the freedom of access to outer space. An exclusive common interest is national security against aggression. A special interest, such as that claimed by the ruling elites in Indonesia and South Africa, is the maintenance of an apartheid racial policy. The nature of the interest sought in any particular situation, therefore, enables us to distinguish among objectives.

(d) Conformity with Public Order Goals

The demands made with respect to public order, particularly for innovations, may or may not be compatible with the basic public order goals which an outside observer might posit: An arrangement reached by participants in the social process is permitted to function only within the limits set down by the public order. Contractual relationships receive protection only insofar as they originate in accordance with the con-
ditions prescribed by the public order system. The doctrine of *jus cogens* has great relevance in this connection. A proposed diplomatic settlement of a situation is frequently judged as to whether it disturbs the existing order and stability in a particular area.

The objectives of the participants may also be described in terms of the policy responses desired by the other party to the interaction. These desired responses may be to abstain from a particular policy, to withdraw from a policy that is being pursued, to cooperate with those operating the strategy, to modify an existing policy, or to reconstruct the entire process of policy-making. 89

The objectives of negotiation conducted on behalf of nation-states have been classified by a leading scholar in two major categories: those which have agreement as the goal, and those having other goals. The first group is further subdivided on the basis of the nature of the agreement desired: (a) renewal of existing agreements, (b) termination of abnormal situations, (c) redistribution of values, and (d) the ushering in of new institutions, relationships, or undertakings. The objectives not envisaging an agreement are (a) maintaining contact, (b) avoiding violent action, (c) intelligence gathering, (d) deception, (e) propaganda, and (f) impact on third parties. 90 This analysis of the objectives, however, is narrower than the one used in this study since negotiation is only a part of the operation of a diplomatic strategy.

2. Identifications

Each individual participating in diplomacy is sometimes concerned with personal aspirations: advancement in career, fame as a diplomat, or making a great contribution to mankind. But one also responds to wider identifications that are shaped by one’s cultural background, upbringing, and experiences in life. 91 These identifications necessarily change, sometimes

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90. See Ikle, supra note 4, chaps. 3 and 4. The first set of objectives are termed "extension," "normalization," "redistribution" and "innovation."

91. See in this connection Parsons & Shils, "Values, Motives and Systems of Action," in T. Parsons & E. Shils, eds., Towards a General Theory of Action 45, 128 (1954). Between the two World Wars, Dr. Benes of Czechoslovakia, for instance, realized that the Czech national aspirations coincided with a
gradually and sometimes abruptly; therefore, when we refer to
identifications, it is implied that they are not static.

Since in diplomacy every participant acts for a group,
each individual is required to identify openly with the group.
A minister of foreign affairs, for example, can express in his
public speeches only his identification with his own nation-
state. And yet when he approaches his counterpart in another
nation-state, he is likely to search for common symbols of
identification to influence the latter in agreeing to col-
laborative arrangements.92 Being "neighbors" is a simple basis of
identification, but wider bases with more significant im-
lications are being maritime or land-locked, East or West,
North or South, developed or developing, etc. At the farthest
extreme, there is identification with the whole of humanity.
It is also possible that one may interact while adhering to
his own different identification.

International officials are expected to assume identi-
fication transcending that of any nation-state including their
own. The identifications expected of them were clarified by
Dag Hammarskjold in explaining the Implications of Art. 99 of
the United Nations Charter:93

What does that mean, an International inde-
dependent responsibility? Well, it does not
mean to speak for all sixty (members of the
U.N. at the time), not in the sense that you
represent what all the sixty think or feel,
because you have, after all, to give different
kinds of weight to the votes. People have
their own private interests which are not the
general interests. I mean by sixty in this
case what should be the voice, the interest,
and the wishes of a world of free, independent
nations which are not blinded by short-term
interests or misleading ideologies. (Emphasis
supplied.)

stable and peaceful Europe; therefore, he gave the Czech for-
eign policy an internationalist and European orientation. See
Craig & Gilbert, supra note 24, at 102.

92. One may refer in this connection to the famous
memorandum of Sir Eyre Crowe, "On the Present State of British
Relations with France and Germany," written in 1907. G.P.
Gooch and Harold Temperley eds. 3 British Documents on the Ori-

93. Address at meeting of International Non-Govern-
mental Organizations, London (Mar. 19, 1954) reprinted in
Whether these expectations are realized in practice is another issue. While nonofficials organized as transnational groups generally assume transnational identifications, the groups which confine their activity to national level may assume sub-national, national, or transnational identifications. Irredentists, for example, seeking to gain recognition as a nation-state, emphasize the symbols of a separate national existence and those that unite them with larger groups outside, such as ethnic or religious ties. But leaders of groups other than irredentists keep their distinct identifications at a lower level and adhere to national identifications. This is evident from the tendency of political parties in stable democracies to make foreign policy "continuous," "bipartisan," or "national," while emphasizing at the same time the difference in their ideologies and programs.

3. Expectations

Each participant enters the diplomatic arena with a set of expectations; he is also aware that others may have different expectations. Since participation is on behalf of a group, the individual actor generally subordinates his personal expectations to those held by the leaders and members of the group as a whole. Hence, diplomats operating abroad are required to act strictly according to instructions and their underlying assumptions. The chief decision-makers, moreover, cannot afford to be indifferent to public opinion on policy issues.

Expectations may be widely shared among the leaders of different groups. For example, there are now the common expectations that a major nuclear war will destroy all human
civilization, that a small war with conventional weapons has the potentiality of escalating into a major nuclear war, and that a crisis situation might lead to an outbreak of violence if not diffused by diplomatic procedures. On the other hand, expectations differ sharply about the suitability for progress and well-being of the patterns of political, social, or economic organization currently existing in different nation-states.

C. Arenas

Many diplomatic interactions take place in fairly stable patterns. Insofar as these patterns relate to the pursuit of formal and effective power by the interacting elites, we will refer to them as arenas. Actually the diplomatic process involves pursuit of all values, and so a comprehensive account of the interactions might include a description not only of arenas, but of "markets" (pertaining to wealth), "forums" (relating to enlightenment), etc. But the focus in this study is on interactions for power and on policies that underlie or should guide authoritative decisions or decisions based upon formal and effective power. Thus, the discussion here will be confined to arenas only.

The different features of the arenas established and maintained by the elites may be classified on the basis of their (a) institutional structures, (b) the structures of authority therein, (c) the spatial or geographical features, (d) the temporal feature (duration), and (e) the crisis feature. Access to the arenas may be distinguished as (a) free or restricted, and (b) voluntary or compulsory.

1. Establishment and Maintenance

(a) Institutional Structures

The institutional structures may be distinguished on the basis of the practices involved: (i) classical diplomatic,97 (ii) parliamentary diplomatic, (iii) parliamentary, (iv) adjudicative, and (v) executive.

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97. The expression "classical diplomatic" is used here to refer to what is most commonly called "diplomatic," i.e., the practice of communication exchange, consultation and negotiation. The expression "diplomacy" is used in this paper to refer to the whole process of inter-elite communication, and "classical diplomacy" to the more limited practice of communication, consultation and negotiation among the elites.
(i) Classical Diplomatic: The diplomatic process is most commonly used by an elite with other elites; each may become informed about the other's perspectives, images of others, and capabilities, as well as conveying its own perspectives, images of others, etc. It is also common for either to consult on selected issues with a view to developing a consensus on them, without aiming at any specific agreements. But sometimes the discussions will be directed to reaching specific agreements; this is generally referred to as negotiation. Communication, consultation, and negotiation, moreover, may take place on a bilateral basis or in a conference.

Bilateral: The most common pattern of diplomatic interaction is the bilateral. Bilateral interactions are promoted by the organizational framework provided by the foreign offices and diplomatic missions exchanged among nation-states. Diplomatic missions are accorded several privileges and immunities by virtue of prescriptions which have developed over centuries by custom, and these privileges and immunities facilitate the operation of the missions and furnish the chief personnel of the missions with authority, respect, and dignity. Consulates and other field missions supplement the work of diplomatic missions, and they are also accorded some immunities and privileges. A large amount of interaction takes place in these bilateral arenas, and many problems are reduced without ever receiving public notice.

The permanent and observer missions to international organizations which have developed in recent decades facilitate interactions between the groups that have established the missions, the officials of such missions, and the officials of the particular international organizations. Another recent development, the establishment of liaison offices between international organizations, facilitates communication among the officials of the liaison offices and the international organization to which they are assigned, and the officials of the permanent or observer missions to the organization.

Bilateral interactions also take place outside these organizational settings. The history of diplomacy started with ad hoc diplomatic missions, and the rise of permanent diplomatic missions since the fifteenth century has not completely supplanted ad hoc missions. It is still common, moreover, for Heads of State or Government, Foreign Ministers, and other high officials of two nation-states to meet when necessary and to engage in communication exchange. In fact, the bilateral pattern is so common that it is fundamental to all other forms of interaction.

98. For the distinction between consultation and negotiation, see Kertesz, supra note 60, at 136.
The setting for bilateral exchange of communication may be formal or informal. It may be held in the foreign office or some other office, in a cocktail lounge, at a breakfast, luncheon or dinner table, or in the lobby of a conference hall. Formal procedural rules rarely control the discussions, and the agenda may be determined freely by choice of both parties. Even when meeting in the formal setting of an office, the participants may declare the discussions to be un-official so as not to commit their governments. Free, intimate, and frank exchange of views is possible in this manner, and participants can form realistic expectations about the intentions and capabilities of the other, if neither side is misleading. If any understandings are reached, they may remain unwritten and be implemented in an agreed sequence of steps. On the other hand, the process may be formal with written memorandums of discussions and agreements in writing. The exchange also may be by means of formal written instruments such as notes, notes-verbale, etc., committing each party to the document it has transmitted. The verbal discussions or written communications can be kept away from the knowledge of the public or the elites of third party states.

Conference: A conference represents a pattern of interaction in which the representatives of more than two groups engage in direct, interpersonal communication to reach an agreement or understanding on issues of common concern. The Congress of Vienna in 1815, the Congress of Paris in 1856, and the Congress of Berlin in 1878, along with the Conference of Berlin in 1884-85, are typical of the conferences in the last century. These conferences met by formal invitations.

99. For the important features of traditional bilateral diplomacy, see Nicolson, supra note 2, at 112.
100. See D. Heatley, Diplomacy and the Study of International Relations 39 (1919). An officious conversation is a free exchange of opinions which compromises neither party. Id.
101. For the different forms of written communication, see the section on Techniques, see TAN 160-162.
102. This definition differs from that in J. Kaufmann, Conference Diplomacy 23 (1968). There it is defined as diplomacy at an international conference or in an organ of an international organization, consisting of the interaction among the delegates, the secretariat and its chief executive, and the presiding officer, in and outside the conference hall.
103. At present the expressions "Congress" and "Conference" do not possess any significant difference in meaning. For the different meanings given to them in the last century, see E. Satow, 2 A Guide to Diplomatic Practice 11 (2d ed. 1922). See also F. Dunn, The Practice and Procedure of International Conferences 15 (1929).
extended by the local sovereigns, who provided all the facilities for the conference. Conferences became more frequent during and after World War I. A new development of this century is the practice of meeting under the auspices of some international organization which provides all the secretarial facilities for the conference.

A conference arena appears more suitable than the bilateral one, or a series of bilateral ones, when a large number of groups are interested in a particular matter and especially when several issues are to be discussed. However, as the number of participants increases, discussions can become unmanageable or unproductive because the participants tend to reiterate the positions they have taken earlier. The meetings of the conference in plenary session are then reduced in number, and most of the communication exchanges take place outside the conference hall on a bilateral basis or in small groups. For example, the Congress of Vienna, for the most part, was a conference among the Big Four (Britain, Russia, Prussia, and Austria), and later the Big Five (with France added). Another advantage (or disadvantage) in a conference is that each participant comes under the persuasions of other members, and if the participants are a homogeneous group, a participant with a different perspective may find himself isolated in the conference.

An important feature of conferences in the last century was that they were closed discussions, not open to the press or the public. The proceedings were conducted in accordance with agreed rules and were recorded in a summarized form. The written record was first called protocol and later proces verbal. The record was consigned to the foreign offices and remained unpublished until it lost contemporary political value. The first occasion when the press was admitted to a conference was the Second Hague Peace Conference in 1907. Even now, conferences may not be open to the press and the public, but participants will usually give briefings to the press.

Traditionalists in diplomacy consider open conference proceedings to be a serious obstacle to reaching agreements, since the positions which the participants take in the open forum are publicized, and are difficult to change because of prestige that has been committed or the pressure of public

104. See Lord Hankey, Diplomacy by Conference, 1 (1946).
105. See Dunn, supra note 103, at 216.
106. Kertesz, supra note 60, at 26. Admission was only to the plenary meetings.
opinion. On the other hand, the participants in an open forum can be sufficiently careful to safeguard the maneuverability of their positions. Further, a conference requires favorable public opinion to succeed, and in an unsympathetic climate a conference suffers from depression and pessimism. In addition, the propaganda value of speeches in an open conference forum is not very high.

Conferences have varied outcomes. They may only enlighten others about the expectations of the participants with no specific agreements. There may be only an agreement to continue discussions in the future or at the level of officials in a lower hierarchy. On the other hand, conferences may reach informal understandings to take concerted measures, or they may formally agree in writing on common objectives and means of implementation. The instruments agreed upon may be recommendatory or prescriptive; in the latter case, they may or may not be subject to the formality of ratification. As a matter of general practice, as soon as the initial statements of the different participants disclose an adequate basis for agreement, initiatives are taken to prepare proposals in written form and focus discussions on written drafts.

(ii) Parliamentary Diplomatic: The parliamentary diplomatic arena possesses some features of national democratic parliaments. Important among the features of the latter are that (1) the comprehensiveness of their concerns go beyond the individual subjects under discussion, (2) the permanence of parliaments allow for a continuing debate on issues, (3) the openness of the deliberations affect and is affected by public opinion, (4) the conduct of the deliberations is in accordance with procedural rules which are administered by a presiding officer and the parliament as a collective body and which furnish an opportunity for tactical manipulation, (5) the conclusion of the deliberations is by a simple or sometimes a special majority vote, and (6) conclusions are advanced and highly definitive steps in the process of policy prescription.

107. See the opinion of Sir Austen Chamberlain referred to in Mowat, supra note 37, at 72.
108. Id., at 73.
110. For a more detailed statement of the different objectives, and, by implication, possible outcomes of conferences, see Kaufmann, supra note 102, at 25.
111. For the definition of "parliamentary diplomacy" given by Dean Rusk, who originated the expression, see "Parliamentary Diplomacy: Debate v. Negotiations," 26 World Aff.
The parliamentary diplomatic arena stands midway between the classical diplomatic arena and the parliamentary arena. It possesses some features of both. The interactions are parliamentary in form, but the outcomes resemble those of interactions in the classical diplomatic arena. The legislative bodies of international organizations, for example, are arenas of parliamentary diplomatic character. Many of them possess the first five features of a national parliament, and the sixth feature appears when a competent body, such as the U.N. General Assembly, approves its rules of procedure, staff regulations, budget, etc., since it has the power to adopt definitive resolutions on these matters. Conferences, such as the current conference on the law of the sea, also present an arena of the parliamentary diplomatic type. But some international bodies, such as the NATO Council, do not have open debate and voting, and conclusions are reached by consensus, and as a result, they are not in the parliamentary diplomatic category.

While open debates are important features of national democratic parliaments, the work of members of parliaments also includes lobbying and bargaining outside the chamber of parliament. The work of international organs similarly involves much bilateral and small group discussion. In fact, the current trend is by procedural rules to provide opportunity for negotiation and bargaining in small groups outside the formal meetings, to arrive at agreed solutions to be presented to the assembly.\(^{112}\)

It will appear that a parliamentary diplomatic arena strengthens support for one's own position, through open debate and otherwise. Each participant in the arena also seeks to manipulate the rules of procedure and voting, to favor an

\(^{111}\) Interpreter 121 (1955). He refers to the first five of the features mentioned here.

eventual prescription of a policy preferred by him (such as recommendation, adoption, or authentication of the text of a written agreement, or an expression of a general consensus) or the implementation of a prescription itself. The aim will also be to obtain outcomes that mark a rejection of the policy favored by one's adversary. Continual interaction enables each participant to be better informed about the changing expectations of other participants. In addition, the officials of the institutions' secretariat get an opportunity to participate in the interactions by supplying intelligence and appraisals, by assisting in the drafting of resolutions, and by advising the presiding officer on matters relating to the conduct of the proceedings.

(iii) Parliamentary: It is difficult to distinguish a parliamentary arena from a parliamentary diplomatic arena, though clear examples of the former are the U.N. Security Council exercising its peace enforcing authority, the Assembly of the E.E.C. when it votes to censure the Commission, and the E.E.C. Council acting over a wide range of authority to make definitive decisions. The effect of the resolutions of many international organs is too complex a subject to admit a simple statement. Though the resolutions of the U.N. General Assembly are formally called "recommendatory," they carry high expectations of prescriptive outcomes. All patterns of interaction in the parliamentary form, reached through resolutions which carry high expectations of prescriptive outcomes, are referred to here as belonging to the parliamentary category.

(iv) Adjudicative: The expression "adjudicative" is used here in a wider sense than just arbitration and judicial settlement. The reference here is to all cases wherein a third party undertakes to help the settlement of a dispute between two groups. Lending "good offices" and undertaking "mediation," "inquiry," or "conciliation" are placed alongside arbitration and judicial settlement in this wider context. In the first four, third party influence is exercised to per-

113. See id. chap. 3.
114. For the meanings generally given to these expressions, see M. Sørensen, ed., Manual of Public International Law 675 (1968). When the third party exercises no or very little influence on the parties to reach an agreement and simply acts as a medium of communication, the arena may have to be categorized as classical diplomatic. Cf. the "go-between, mediator, arbitrator and judge continuum," in M. Shapiro, "Courts," in F. Greenstein and N. Polsby, eds., 5 Handbook of Political Science 321, 323, 349 (1975).
suade or pressure the parties to reach a settlement. In "good offices," "mediation" and "conciliation," the third party becomes, by and large, the medium of communication between the parties and is able to manipulate the flow of communication to attain the ends preferred by him. He is able to select what information is to be communicated, when to be sent, and in what sequence and verbal expression, to one or both the parties. He also is in a position to introduce mediatory values to satisfy the claims of either of the parties. In "inquiry" the clarifications of issues of fact and law which the third party furnishes necessarily affect the positions of the contesting parties and of others interested in the settlement of the dispute.

On the other hand, in arbitration and judicial settlement the tribunal maintains communication with the contesting parties and applies the judicial method to arrive at its verdict. The initiation of arbitration is conditional upon the parties reaching a compromis, or other appropriate agreement of a general character providing for arbitration, and the successful progress and completion of arbitration is conditional largely upon the continuing cooperation of the parties with the tribunal. International judicial settlement requires an express or tacit consent for the Court's jurisdiction, and enforcing the verdicts is primarily related to diplomacy. It is to be noted, however, that the competence to give a definitive verdict is not limited to arbitral tribunals and courts, but it may be vested by the contesting parties in an organ of an international organization or in an international official.

An adjudicative arena may be established in the unorganized context of international relations or in the framework of international organizations. A major development of this century is the growth of the role of international organizations as intermediaries to help settle disputes.

115. On mediatory values, see F. Edmead, Analysis and Prediction in International Mediation 16 (1971).
116. On "inquiry" see Sørensen, supra note 114, at 681.
117. Id., at 696.
119. E.g., in 1963, Malaysia, the Philippines and Indonesia entrusted the determination of the wishes of the people of North Borneo and Sarawak, on the basis of the recently held election results, to the Secretary-General U Thant. See Rovine, supra note 55, at 378.
120. See Sørensen, supra note 114, chap. 11, §§ 2 & 5.
(v) Executive: The decentralized pattern of the current world community organization leaves the application of prescriptions primarily to the officials of nation-states, and much bilateral diplomacy is directed to influence such implementation. With the rise of international organizations, international authorities have been vested with certain executive functions. The Commission of the E.E.C. and the U.N. Secretary-General are prominent examples. The exercise of executive functions entails communication between such officials and the officials of nation-states and of other IGOs and NGOs organizations. The latter supply intelligence and appraisals, make recommendations, or invoke prescriptions.

(b) Structures of Authority

The structure of authority in the diplomatic arena is primarily coarchic, rather than hierarchic. Representatives of nation-states stand on equal footing since nation-states interact with each other according to the formal principle of sovereign equality. However, at meetings of nation-states, deference will be shown to an official of higher rank, and he will be allowed to preside.\textsuperscript{121} As against representatives of non-official groups and of unrecognized nation-states or governments, the officials of nation-states claim a higher authority, which will be readily conceded by the first group, but denied by the second.

Within the framework of International organizations, a modicum of hierarchy appears in some contexts. In relation to the members of an organization acting collectively, the officials of the organization are in a subordinate position, though in reference to any single member such subordination does not exist. The officials of the E.E.C. in certain areas, however, stand on a slightly higher level with respect to the officials of the member states. In other organizations, as well, where the organs have competence to receive complaints from a member against another for non-observance of its obligations towards the organization, the officials of the allegedly delinquent member stand in a lower position of authority in relation to the other members of the organ, collectively. The officials of an IGO are in a position of higher authority with respect to representatives of NGOs and IGO officials are equal with officials from other IGOs.

When the organ of an international organization under-\textsuperscript{121} E.g., President Franklin Roosevelt, as the ranking head of state, presided over the Tehran Conference in 1943, and President Wilson presided over the Paris Peace Conference in 1919.
takes a task of good offices, mediation, or conciliation, that collective body or anyone nominated by it has somewhat more authority than the contestants. However, in the performance of its task, the mediator will make every effort to convey an impression that it wishes only to help the parties solve their problem, rather than to impose its own solution. Where mediation is undertaken outside the framework of an international organization expressly vested with authority to deal with disputes, the mediator does not possess any higher authority.

(I) Spatial or Geographical Features: The spatial or geographical factor may connect the interacting groups in some manner, such as being immediate neighbors or belonging to a region. In these days of electronic communication and jet travel, distance may not prevent the establishment of contacts with the elites in a geographically distant region, but proximity does contribute to increased diplomatic interaction. It develops interdependence, and creates a favorable atmosphere for collaborative arrangements. On the other hand, being a neighbor may generate over a period of time conflicts of interests and disharmony. In addition, it is easier for an elite to contact the counter-elite in a neighboring nation-state, and when such contact is made, the relations between the two elites are bound to be strained. But an offer of good offices or mediation in a dispute between two neighbors, coming from a third neighbor, may appear more natural and appropriate.122

Nation-states located in the same area of the world are likely to perceive common interests, and sustained diplomatic interactions may develop on a regional basis. The Organization of American States, the European Economic Community, the Council of Europe, the Organization of African Unity, highlight the development of diplomatic ties on a regional basis. But even if there is no formal organization, the offer of good offices or mediation coming from a nation-state in the same region as the disputing parties may appear normal. On the other hand, a diplomatic overture by the officials of a nation-state to the officials of a distant state, which is regarded by a third state as located in a region in which it is interested, may affect the expectations of the latter two. The United States, for example, in the 1920s resented the initiative of Sir Eric Drummond, then Secretary-General of the League of Nations, to bring about a negotiated settlement of disputes between Latin American states.123 This was apparently due to

122. For an explanation of "salience," see Young, The Intermediaries, supra note 21, at 83.
123. See Rovine, supra note 55, at 65-73.
these states being considered under the Monroe Doctrine, while the League was thought to be a European organization.

The interaction may be "plurilateral"—that is to say, between elites of groups connected with each other by a factor other than geography. The Commonwealth is a good example of an institution furnishing a plurilateral arena. An arena of this type may be established for attaining a comprehensive set of objectives, as the Commonwealth, or a particular objective, as the OPEC was created for maintaining oil prices at a level favorable to the member countries. Many of the general international organizations now in existence were formed with little reference to the geographical element. An arena also may be universal. For example, all significant groups on the world stage today may be said to be connected by some means of diplomatic communication, though the ties may be tenuous.

(ii) Temporal Feature (Duration): The movement in the history of diplomacy, from one point of view, has been from occasional encounters to continuous interaction. Ad hoc embassies preceded resident diplomatic missions, and conferences of an ad hoc character, attended by heads of state or government or other representatives, preceded modern international organizations providing continuing arenas. Ad hoc "Summit" meetings of heads of state or government are even now used when it is thought that they would reduce the complexity of the problems.

The duration of interaction affects the expectations of the parties and may influence outcomes. A diplomatic mission recently opened may not be able to play as significant a role as a long established one. The interaction between the members of an international organization within its framework would, in due course, produce dispositions on the part of the members of fairly stable character towards issues. Consider, for instance, the attitude that developed in the United Nations with respect to colonialism, in spite of the fact that the provisions of the Charter did not specify the goal of independence for colonial possessions. Parties engaged in diplomatic negotiations for a short time may find it easy to break them off, unlike those who have been negotiating for a long time. When negotiations proceed for a considerable time, each party is likely to develop a predisposition to make them a success due to mutual disclosures of information that have occurred, or because of the disappearance in the interim of alternatives originally available, or for the reason that the parties have developed a norm for themselves to negotiate in good faith which was initially absent.124 In addition, when negotiations

in progress for a long time are broken off, the disappointment on the part of those desiring their continuance will be deeper than when recently commenced negotiations are terminated. But it may be true that in some instances the protraction of negotiations is due to an impasse, and the parties and outsiders may be psychologically prepared for their unfruitful termination.

(iii) Crisis: A crisis situation is one which creates for some or all the participants expectations of severe deprivation of their key values, from large scale violence or other circumstances. Events appear to flow in an intense, rapid fashion and are on the verge of going out of control. Diplomatic interactions take place in situations of varied levels of crisis, from the lowest to the most intense. Crises inhibit the process of communication among the elites, since the elites become engaged in planning their own strategies to meet the opponent's challenge, and they make special effort to conceal their plans. Yet crises have a built-in protective mechanism: the fear of the likely catastrophe will activate mediatory efforts on the part of third parties, or the parties themselves will endeavor to escape from the dangerous situation. These safety mechanisms, however, may not be adequate to contain the situation. Nevertheless, the elites with programs of expansion find sufficient incentive to create a crisis with the hope of gaining a diplomatic success.

2. Access to the Arenas

Two questions arise with respect to access: (a) Is it free or restricted? (b) Is it voluntary or compulsory?

In the context of unorganized relations among nation-states, access is not free. Nation-states differentiate between nation-states headed by recognized governments and those headed by unrecognized governments. Only recognized governments are permitted to establish diplomatic missions which facilitate free access to a high degree in the bilateral arena. Unrecognized governments are permitted to establish only such missions and posts as the unrecognizing government chooses to allow. Hence, unrecognized governments have fewer facilities for diplomatic interaction than the recognized ones. These

125. On the characteristics of a crisis, see McDougal, Lasswell & Reisman, supra note 7, at 284; Young, supra note 9, at 6 passim.
126. Sir Harold Nicolson mentions that the creation of a crisis situation was one of the features of the traditional Italian diplomatic style. Nicolson, supra note 2, at 152.
facilities may range from none to a situation which is almost equivalent to the facilities accorded to the recognized ones. Normal exchange of diplomatic missions and consular posts is one of the advantages which cause new governments and nation-states to seek recognition from other nation-states. However, even after recognition, a nation-state may refuse to exchange diplomatic missions or consular posts, if it finds that such a course is to its advantage. Furthermore, frequently recognition is accorded or refused less in compliance with the supposedly legal criteria and more as a result of an explicit or tacit bargain. Access to conferences also is restricted by invitation.

Access to the organized arenas is contingent upon the participant fulfilling the conditions prescribed by those that have established and are maintaining the arenas. Admission to the membership of an international organization is necessarily governed by the relevant provisions of the instrument of the organization. These rules are amenable to manipulation by those who are already members, so as to grant or deny admission to those seeking it. Establishment of observer missions by non-members, liaison offices by other IGOs, and consultative status for NGOs, is again subject to the constituent instrument and other rules of the organization.

Access to the arenas is not as voluntary as it appears to be. Though it is theoretically possible for an elite not to seek recognition, not to exchange diplomatic missions or consular posts, and not to become a member of any international organization, it is doubtful whether any nation-state or group would seek such isolation. Such an isolation cuts it off from the world social process and the constitutive process of authoritative decision. It is doubtful whether other nation-states would allow it to dwell in complete isolation from these processes. A statement nearer the truth is that a nation-state is generally free either to enter or not to enter a particular arena. The optional character of the entry is reflected in the statement of the Permanent Court of International Justice in its advisory opinion in Eastern Carelia: "It is well established in international law that no State can, without its consent, be compelled to submit its disputes with other States either to mediation or to arbitration, or to any kind of pacific settlement." On the other hand, treaties and membership of international organizations may make the entry obliga-

tory under specified circumstances. 129 A member of the U.N., for instance, can bring a complaint before the Security Coun-
cil or General Assembly against another member. The latter
would find it difficult to prevent the consideration of the
complaint and it would be able to do so only by convincing
a majority of the organization that the body lacked competence.
When the issue is brought before the organization, however, its
members may assume mediatory roles.

D. Base Values: Relative Capabilities at Diplomatic
Strategy

Generally, the capability of the participants to oper-
ate the diplomatic strategy is determined by the human values
which are at the disposal of each participant. Every value is
useful in some measure to influence the other participants.
Focusing attention, however, on the essential elements of the
diplomatic instrument, the factors that affect its capability
are: (1) the formal authority which gives access to the arenas
of interaction and to the institutions that facilitate the

gathering of intelligence and the transmission of guidance;
(2) the facilities for communication, which include the per-
sonnel, as well as the organizational skills, that are avail-
able to gather and analyse intelligence and to plan and imple-
ment the strategy; and (3) all other human values, material and
non-material, which can be used to influence the other party.

1. Formal Authority

When access to the arenas is obtained by the relevant
formal processes, it is simple to initiate interaction. Recog-
nition facilitates interaction with the officials of the recog-
nizing government, and admission to an international organiza-
tion makes it easy to communicate with the members—in some de-
gree even with those that have not accorded recognition—and
with the officials of the organization. In the absence of
recognition or admission to membership, interaction will be
difficult, if not: impossible. Access to the arenas, moreover,
accompanied by the establishment of organized institutions,
such as permanent missions and consulates, bring into opera-
tion prescriptions which accord these missions or posts and
their officials privileges and immunities that are useful for
obtaining intelligence and guidance. Even secret agents use
these privileges for gathering, processing and transmitting

129. See Sørensen, supra note 114, ch. 11, §§ 2 & 5.
intelligence, as long as they are not caught obviously engaged in espionage.\textsuperscript{130}

The existence of a large number of diplomatic missions and consular posts in a nation-state, moreover, is in itself an additional facility for the gathering of intelligence since the officials of friendly nation-states can exchange information they have acquired. The same applies to permanent and observer missions. Even the officials of a nation-state who do not like the policies of their home authorities may pass on information with the hope that their state will be forced to change its programs.\textsuperscript{131}

2. Communication Facilities

(a) Intelligence

The sources of intelligence of a group vary. First, a nation-state's own officials gather intelligence from public sources, as well as through secret agents who specialize in collecting information withheld from circulation by the other elites. The press and other media, along with individuals who move across nation-state boundaries, also supply intelligence.

The sources of intelligence of international officials consist in some measure of information transmitted to them by the field missions of their organizations since the organizations cannot, for obvious reasons, maintain secret agencies. But the most important source is the information supplied voluntarily or on request by the officials of other organizations and member-states, as well as publications of government and private agencies. Officials of non-member states and other groups may also be sources of information when the international officials are permitted to contact them.

Officials of nation-states are the best situated group for intelligence gathering. But their capacity is dependent upon the resources and organizational machinery available for this purpose. Besides official agencies, non-officials play a great role in nation-states where the press and other media of public information are not brought under state monopoly. Officials of friendly nation-states generally supply some in-

\textsuperscript{130} See Thayer, supra note 41, at 176 et seq.; Bohlen, supra note 83, at 346.

\textsuperscript{131} Hans Hewarth, a Second Secretary in the German Embassy in Moscow during the 1930's, opposed Nazi policies and passed on information to the American Embassy, apparently, with the hope that it would enable the U.S. to delay the Nazi treaty with the U.S.S.R. Id. at 29.
formation, and non-officials might supply information voluntarily. The intelligence of non-official groups is derived from primary research and from published materials.

Intelligence to be useful must be accurate and relevant to the objectives of the strategy, and it must be transmitted promptly to the centers of analysis and planning. Inaccurate information misleads the planners. Diplomats sending home unrealistic reports just to please the higher officials at home or to defend the policies of the officials of the nation-state to which they are accredited abuse the strategy. Irrelevant information overloads the channels of transmission and overburdens analysts and planners. However, since those gathering intelligence do not know the precise objectives of the strategists at home, and what information will be useful at the time of transmission, it is difficult for the diplomats to distinguish between the relevant and the irrelevant. Intelligence should reach the centers of analysis and planning before events render it useless.

(b) Analysis and Planning

The promptness and efficiency with which analysts and planners process intelligence, formulate available alternatives, and bring them to the attention of the decision-makers are important factors. The quality of the personnel and the organizational structure in which they work are also relevant. Nation-states which have foreign offices furnished with a rich store of information, quick retrieval facilities, competent personnel that can realistically interpret the available data, and a system that can promptly transmit relevant facts and alternatives to policy-makers are likely to fare much better than those nation-states that are deficient in these areas.

132. See Thayer, supra note 41, at 163.
133. See Bourbon-Busat, supra note 22, at 88-89; see also Craig & Gilbert, supra note 24, at chap. 17 (description of how two British ambassadors, Nevile Henderson and the Earl of Perth, made the mistake of advocating the policies favored by Nazi Germany and Fascist Italy).
134. See note 42 supra. The problem of overreporting and the reporting of useless information goes back to 15th century Italy. See Mattingly, supra note 31, at 96.
135. The problem of coordination of policy by the various departments at the national level in relation to the U.N. received the attention of the U.N. General Assembly, the Economic and Social Council and the UNESCO as early as 1947. Some studies were made but no specific action was taken. See J. Hadwen & J. Kaufmann, How United Nations Decisions Are Made 33 (1961).
Diplomats are frequently frustrated by the fact that their messages move slowly in the organizational web at the lower echelons in the foreign offices. The guidance they expect, moreover, may not come quickly enough. It is also possible that decision-makers will fall prey to the human frailty of overlooking reports that are unpalatable.

(c) Policy Decisions

Policy decisions should be made on the basis of the information at hand, as promptly as the situation requires. It necessarily takes time for the organs of international organizations to meet, deliberate, make their decision, and transmit it to the appropriate officials. All modern nation-states, except those under the direction of a single person, also take time to decide. In a pluralist democracy, decision-making is shared by at least the top leaders having constitutional authority, and pressures for wider sharing are often intense. Even in a communist nation-state, the pressures of the party leadership for participation in decision-making cannot be ignored. When a single leader decides policy issues, more-

136. See the findings of the Jackson sub-committee in this regard. H. Jackson, supra note 26, at 51. Due to the hierarchy in the foreign office, instructions sometimes "are out of date, irrelevant and unconstructive." A. Lall, Modern International Negotiation 322 (1966). In any organization the hierarchy also operates as an information filter upwards. The result is that the information reaching the top executive is subject to distortion, even to the point of creating a false image. This indicates the usefulness of personal contacts among top officials. See Boulding, supra note 13, at 148.

137. This is what happened in Nazi Germany after Ribbentrop took over as Foreign Minister. See Craig & Gilbert, supra note 24, at 435. It also affected French diplomacy before World War II. Id. at 388.

138. See generally, Bourbon-Busset, supra note 22; see also, Jackson, supra note 26, at viii; Brookings Institution Foreign Policy Study at 27.

139. Bourbon-Busset, supra note 22, at 80; see also Churchill, supra note 24; Churchill, The Hinge of Fate, Bk.2, chap. 5; Triumph and Tragedy 205; Arthur Lall notes that, after the liberalization in the 1950's, even non-official groups such as the Writers' Association and the Academy of Sciences have been able to exercise some influence. Lall, supra note 136, at chap. 19.
over, there will be little opportunity for correcting errors, and diplomacy may take a disastrous course. But to the extent the decision-making is shared, secrecy cannot be maintained, and as Richelieu remarked, anything worthy of being called a grand design must be conceived in secrecy.\textsuperscript{140}

Facilities for transmitting instructions quickly to those who implement the policy decisions are highly important. Delayed or ambiguous instructions serve little purpose.

(d) Implementation

Implementation of policy decisions involves in a large part exchange of communication with the other elites, and here the personal skills of diplomats who engage in communication exchange are important for the success of the strategy. Ever since the practice of sending emissaries on diplomatic missions started, the personal skill required of a diplomat has been a much discussed topic. Well known publicists on this subject in the Western world are Bernard du Rosier, Ermolao Barbaro, Machiavelli, De Vera, Wiquefort, Callieres, Andrew D. White, Jules Jusserand, Jules Cambon, and Harold Nicolson. A perceptive scholar observes in reference to all these writings:\textsuperscript{141}

One is often impressed in reading Ermolao Barbaro with the timeless quality of what he says about the practice of the diplomat's profession. Much of it has already been said... and would be said again... by... literary diplomats down to the present. The intonation varies with the individual and his environment, but the essential substance remains unchanged. No matter with what air of discovery or paradox it is paraded, or with what personal experiences illustrated, it boils down to the same scanty residue of what seems like the tritest platitudes. So do the simple and difficult rules of any enduring human art.

Whether it is truthfulness and good faith that are emphasized or craftiness, deception, and opportunism, the basic skill is the adaptation of communication techniques and tactics of persuasion, bargaining, and coercion to the goals set by the decision-makers.\textsuperscript{142} The skill also includes the acquisition of

\begin{footnotesize}
\textsuperscript{140} Bourbon-Busset, \textit{supra} note 22, at 83.
\textsuperscript{141} Mattingly, \textit{supra} note 31, at 100.
\textsuperscript{142} For an historical illustration of the exercise of skill in this regard, reference may be made to the role of Talley-
\end{footnotesize}
realistic and useful feedback which is to be transmitted to the decision-makers for obtaining further instructions on policy matters.

Interpersonal conversations are generally expected to be conducted with precision in expression, without yielding any more ground than was decided upon previously by the home authorities and without displaying needless abrasiveness that develops hostility. Diplomats are generally considered to be specialists in the art of communicating unpleasant messages to the adversary in palliative euphemisms. It is also expected that important conversations will be reduced to writing. Claims are formally presented in written form, and most agreements are in writing. Hence, the ability to draft written instruments and to understand the implications of the written word are indispensable skills for participants in all arenas.143

Participants in the parliamentary diplomatic arena, however, require additional skills. They should possess the ability to debate and to manipulate the rules of procedure for obtaining favorable outcomes and preventing unfavorable ones. Skills at giving instant reply to the charges levied by the adversary and at exploiting the opportunities which the adversary provides, unwittingly or unwisely, for propaganda against him are needed.144

For participation in the adjudicative arena, a specialized skill is also needed. To be a successful intermediary, the participant should be acceptable to the contesting parties. They should perceive him to be impartial, i.e., indifferent to the gains or losses of either party.145 Acceptability should be present at the outset of the Intermediary mission and continue throughout the process, or else the mission may fail. For that reason, the intermediary should be capable of appearing as a catalyst in the process of agreement rather than as a dictator of the terms of settlement.146 In addition, the ability to appear at the Congress of Vienna. See H. Nicolson, The Congress of Vienna 140 (1946).

143. Nicolson remarked that "diplomacy . . . is a written rather than a verbal art . . ."; Nicolson, supra note 2, at 113. See also Mowat, supra note 37, at 258, who considers both to be equally important.

144. See in this connection, P. Jessup, "Parliamentary Diplomacy," Hague Recueil 1956-1, at 185, 236; Kaufmann, supra note 102, at 138 et seq.; Hadwen & Kaufmann, supra note 135, at 28 et seq.

145. For a discussion of the "impartiality" of an intermediary, see Young, The Intermediaries, supra note 21, at 81.

ity to take the initiative when needed and to time the moves properly is essential in this, as in all arenas.

3. Values Available for Deployment

An ability to give or withdraw resources that influence the policies of another nation-state, or even the ability to destroy the values of the other party, is a useful asset for diplomacy. Traditionally, it has been believed that diplomacy is better conducted when a nation-state is in possession of military strength. King Frederick of Prussia often applied the dictum that "diplomacy without arms is like a concert without a score."\textsuperscript{147} The diplomats of the previous centuries approached their task in the expectation that if they failed the military would intervene. When a nation-state expects neither rewards nor deprivations from another, the latter is without leverage or power to influence the former, and when there is no leverage, diplomacy can become a frustrating game. Winston Churchill observed, for instance, that Allied diplomacy to win over Mussolini did not succeed because they had nothing to offer which Mussolini could not acquire himself or which Hitler could not provide.\textsuperscript{148} On the other hand, it must be noted that a party capable of foregoing rewards and absorbing deprivations, is likely to react adversely to any coercive measures. In addition, the power of a negotiator often depends upon his inability to make full concessions to his opponent,\textsuperscript{149} because it could prevent the opponent from making some demands. But a nation-state's strategic capability at diplomacy remains dependent on its power to grant or withdraw resources.

The ability to make offers or threats, furthermore, is conditioned by factors internal to the group on behalf of which the strategists operate. Those who conduct diplomacy function within their nation-state's socio-political system\textsuperscript{150} that Dag Hammarskjold "showed a broad talent for improvising diplomatic formula that left no party better off but no party perceptibly the loser."

\textsuperscript{147} Mattingly, supra note 31, at 134.
\textsuperscript{148} The Fall of France, at 108.
\textsuperscript{149} Schelling, supra note 4, at 22.
\textsuperscript{150} See Galtung & Ruge, "Patterns of Diplomacy," 1965 J. of Peace Research 101. They present the thesis that the "elitist" approach to diplomacy should give way to the "structuralist" approach. See also V. Wellesley, Diplomacy in Fellers, chap. 2 (1944), on the impact of democracy on the freedom of statesmen in operating diplomatic strategies.
and the climate of public opinion. Both set limits on what can be granted as rewards or imposed as penalties. Similar problems apply to international civil servants who function in an environment of diverse political pressures generated by the members of their particular organization.

Resources are not only a power base but they also mean wealth for the nation-state. The wealth components, however, can be used for rewards to influence the outcome of diplomatic interaction with a participant who finds utility in the components offered. Enlightenment, i.e., information not available to the other party, also can be used as bargaining assets to obtain other information. Skills in scientific and technological fields have now become a transferable commodity and can be brought to the negotiating table.

Respect commanded by a nation-state, its ruling elite, and its diplomats in the field is another important factor in exercising influence, and the argument that a party will suffer a loss of respect if a particular act is done can be used by either side. The special importance which international officials should attach to the respect value was stated by Dag Hammarskjold:

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151. "The privacy of the diplomatic chamber is an illusion. Its walls are never totally sound-proofed against the voices of the people outside." Claude, supra note 109, at 3. Churchill refers to more than one occasion when he told Stalin that public opinion in England would not accept a proposal. W. Churchill, Triumph and Tragedy, Bk.2, chap. 3; The Hinge of Fate, at 142. But the plea of public opinion is also one of the ways of opposing the adversary's demand.

152. Dag Hammarskjold thought that a Secretary-General who loses the support of a permanent member of the Security Council and two-thirds of the General Assembly could no longer function in office. See Cordier & Foote, supra note 59, Vol. V, at 495.

153. For a discussion of the British use of wealth resources in diplomacy about the time of the Congress of Vienna, see Nicolson, supra note 142, at 57, 59. A nation-state whose wealth resources are dependent upon collaborative arrangements with others cannot afford to adopt rigid or isolationist positions. Lall, supra note 136, at 232.

154. The practice of giving ambassadors up-to-date information to pass it on in exchange, if necessary, goes back to the 15th century. See Mattingly, supra note 31, at 99.

155. For how Talleyrand used a plea based upon respect and fame against Emperor Alexander at the Congress of Vienna, see Nicolson, supra note 142, at 177.

156. Address before the international civil servants,
"Countries are arming in order to be able to negotiate from a position of strength. The Secretariat too has to negotiate, not only in its own interest, but for the cause of peace and a peaceful development of the world. The weight we carry is not determined by the physical force or the number of people who form the constituency. It is based solely on the trust in our impartiality, our experience and knowledge, our maturity of judgment. Those qualities are our weapons, in no way secret weapons . . . ."

It is out of consideration for the value of respect that literary diplomats, except those of Machiavelli's persuasion, have argued against falsehood and deception, which would seriously damage the respect of a nation-state if discovered. Furthermore, it is difficult for those who have a reputation for bluffing at bargaining to communicate credible commitments to any particular positions.157

Cordiality among leaders provides room for mutual influencing, which indicates the importance of the affection values.158 Diplomacy progresses more easily between friendly nation-states.159 Shared values of rectitude, articulated in common ideologies symbolizing aspirations for a better socio-economic-political order, generally create a lower threshold for cordial diplomatic interaction.

E. Techniques and Tactics

"Techniques" consist of the broad operations of managing the base values available for attaining policy objectives, and "tactics" involve the variation and adjustment of techniques to suit the needs of the particular situation. In any context, strategy involves the employment of more than one instrument of policy; rarely is the diplomatic instrument used alone. But strategy does attach primary value to one instru-

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157. On the value of bargaining reputation, see Ikle, supra note 4, chap. 6.
158. President Roosevelt wrote to Prime Minister Churchill that he could handle Stalin better than "either your Foreign Office or my State Department . . . He (Litvinov) thinks he likes me better, and I hope he will continue to do so." W. Churchill, The Hinge of Fate 174.
159. Lall, supra note 136, at 82.
ment over another. Negotiation may be conducted, for example, to allow time for military preparations. A stiff diplomatic posture may be used as a military bluff, or after making preparations for using overwhelming military force, diplomatic communication may be used only to transmit the demand for surrender, as Hitler did to Austria and Czechoslovakia. Negotiations also may be undertaken merely to satisfy public opinion, or to obtain information for propaganda. Cordial diplomatic relations may be maintained to further good trade prospects. On the other hand, the emphasis may be on diplomatic strategy in withdrawing armed forces from a particular area on the eve of a projected negotiating session or in extending economic incentives without any preconditions. The main focus in this paper will be on situations where the diplomatic strategy is the primary instrument, while the other instruments are auxiliary.

Diplomatic operations can be divided into three areas: (1) maximizing the use of communication facilities for intelligence and for the transmission of guidance to agents that engage in communication exchange; (2) preparing for communication exchanges with other elites, which includes the selection of long- and short-term objectives, the formulation of alternative means for attaining those goals, the choice of personnel to engage in communication exchange, and the choice of the appropriate arena for interaction and the venue for communication exchange; (3) shaping communication with other elites for attaining the selected objectives.

1. Intelligence and Guidance

In implementing the diplomatic strategy, each participant aims at maximizing the range and efficiency of his communication system. This is done by obtaining recognition, exchanging missions and consulates, and by supplementing them,
when necessary, with ad hoc missions. It also is useful to be-
come a member of as many international organizations as would
appear to furnish diplomatic opportunities, and where mem-
bership is not possible, to obtain some of the facilities inci-
dental to membership by arranging, for instance, to have ob-
server status. Non-official groups would aim at obtaining con-
sultative status with international organizations.

These diplomatic institutions facilitate transmission
of both intelligence and guidance. The transmission of guid-
ance, however, may not be necessary if the top policy-makers
have a "hot line" to communicate directly, or if they nego-
tiate personally. But if guidance is transmitted, care must
be taken to insure its secrecy if the instructions are to be
useful in negotiations. International officials, however,
should communicate only through official facilities of trans-
mission. The maintenance of secrecy in relation to many mat-
ters is a universal practice among nation-states. Even inter-
national secretariats have secret archives, and when en-
gaged in mediatory missions, international officials as well
should maintain secrecy, at least while the negotiations are
in progress. Information kept secret by one group may be
vital, not only to the diplomatic, but to the overall strategy
of some other group or groups. Hence, great effort is directed
to overcoming this secrecy. Communication codes are broken,
telephone wires are tapped, and electronic devices are
"planted" in diplomatic missions. The missions, for their
part, use audiosurveillance devices to intercept the communi-
cations of the host government. All this has become more

163. See Rovine, supra note 55, at 11.
164. See Dag Hammarskjold's address at Ohio University
     (Feb. 5, 1958) reprinted in Cordier & Foote, supra note 59,
     at 28, 29.
165. See C. Wilson, Cold War Diplomacy 19 (1966).
     Count Ciano of Italy in the 1930's had the mail of foreign em-
     bassies read on a regular basis. See Craig & Gilbert, supra
     note 24, at 523. Before 1929, some assistants in the U.S.
     State Department practised code-cracking to decipher messages
to and from foreign embassies, until Secretary of State Stimson
     ordered the practice be stopped. See Thayer, supra note 41, at 143. But code-cracking is now a common operation for
     secret services. See id., chap. 12.
166. It is reported that the U.S. Embassy in Moscow and
     the Soviet Embassy in Washington have installed devices to in-
     tercept telephone and radio messages of the host governments.
     N.Y. Times, July 8, 1976, at 1, col. 1.
or less a routine activity.\textsuperscript{167}

Host governments may also impede the gathering and transmission of intelligence by diplomatic missions by such devices as not permitting the personnel to move freely outside the missions and by stopping the transmission of messages on some pretext.\textsuperscript{168} The local people may be prevented from contacting the personnel of the missions, or they may be incited against them. The most extreme measure is to order the closing of the mission or post.

Restrictive measures, however, against diplomatic missions provoke retaliations and, consequently, a reduction in the flow of intelligence to those who apply restrictions. Therefore, the advantages of restrictive measures have to be weighed against their costs. Management of the inflow and outflow of intelligence is indeed a highly delicate operation. Even in military and economic strategies, it is occasionally necessary to have the opponent receive some intelligence so that he will refrain from certain types of activity harmful to the strategists' side. Furthermore, in diplomatic, ideological, and economic strategies, the opponent must be fed with intelligence that will create expectations of a favorable payoff.\textsuperscript{169} Otherwise, he will keep himself out of the game, which will be self-defeating to the strategists. Similarly, interference with the transmission of guidance may be self-defeating.

2. Preparation

(a) Clarification of Objectives

The first step in the preparation for diplomatic interaction is to determine the objectives of interaction and the priorities among them. Since a favorable outcome of diplomatic interaction is largely dependent upon the other party's

\textsuperscript{167}. The present practice is in contrast to what occurred in the last century. \textit{E.g.}, in 1893, the French Government recalled nearly all the staff of its Legation at Copenhagen because the French military attache had sought, through an intermediary, to obtain secret information about Anglo-Russian relations. Mowat, supra note 37, at 54.

\textsuperscript{168}. During the 1956 uprising, Hungary stopped the transmission of messages from the U.S. diplomatic mission for over 24 hours. Wilson, supra note 165, at 24.

\textsuperscript{169}. See Schelling, supra note 4, at 176. He states, "In these games (non-zero-sum) one is often more concerned with making the other player anticipate one's mode of play, and anticipate it correctly, than disguising one's strategy."
assent or acquiescence to the proposed program, the policy-makers of the group should determine what programs are feasible. Negotiations initiated without clear objectives are likely to drift into undesired courses.\textsuperscript{170}

(b) Formulating the alternatives to attain the objectives

Those who operate the strategy should work out beforehand, or should be able to develop according to the demands of the situation, the various alternatives available to attain the objectives. If an alternative fails, or is unacceptable to the other party, the immediate availability of another alternative would be a great advantage. When a participant is playing the role of a mediator, it is highly important for the success of his mission that he be able to present varied alternatives for the consideration of the parties in dispute.\textsuperscript{171}

In a conference or parliamentary diplomatic arena, the president can play a major role in the success of the conference by his ingenuity in devising alternative bases of accommodation between the different protagonists. The international officials assisting him can be highly helpful by anticipating and preparing for the different conflicting situations.\textsuperscript{172}

It is a matter of common knowledge that foreign offices prepare one or more draft treaties or proposals in preparation for expected negotiations, or interactions in conference or parliamentary diplomatic arenas.

(c) Choice of personnel

The choice of the personnel is usually related to the arena chosen for interaction. But in respect of each arena there is indeed more than one option.

For the bilateral arena, officials in the foreign office or the diplomatic missions are usually closer. They are

\textsuperscript{170}. Harold Nicolson, after reviewing the Paris Peace Conference of 1919, concludes that its disastrous results were due to the absence of precision in the goals of the leading participants. See H. Nicolson, Peacemaking 1919, 208 (1939); see also H. Nicolson, Diplomacy, supra note 2, at 112.

\textsuperscript{171}. E. Jackson, supra note 4, at 108. He states that one of the reasons for the success of Dr. Ralph Bunche in Palestine mediation was his ability to put forward a stream of proposals.

\textsuperscript{172}. Lall, supra note 136, at 248, speaks highly about the role of Malcolm MacDonald as a co-chairman at the Geneva Conference on Laos in 1961-62.
assumed to possess knowledge about transnational political and other interactions, and negotiating or bargaining skills. The person selected, however, should have a status that is appropriate to the degree of importance of the matter to be discussed, and be acceptable to the other negotiating party. The general practice of appointing persons in the foreign or diplomatic service is departed from in three cases: First, since travel has become quicker and less arduous, there has been a tendency for the foreign minister himself to take up the negotiating task. This so-called 'personal diplomacy' has its advocates as well as its critics. It has become, despite criticism, an established feature of modern diplomacy. Where time and situation permit, and the matter is sufficiently important, no foreign minister would deny himself the role of the negotiator in favor of a diplomatic or foreign office official. Second, since many matters of highly technical character pertaining to ministries other than the foreign ministry are now becoming the subjects of negotiation which require expertise in varied matters, the practice of sending ad hoc missions has become a common feature. Also it has become common practice to send a highly reputed non-career diplomat on special ad hoc missions in which he may have a unique expertise. Third, 'summit diplomacy,' i.e., the heads of states or governments themselves meeting for discussion is also a well established practice. The chief advantage of such meetings is assumed to be that they will provide an opportunity for the chief policy-makers to become acquainted with and understand each other, and to develop cordial relationships. These high officials may be able to settle matters which ordinary diplomats, operating within the limits set by their instructions, find it difficult to settle. But it should be noted that these high officials may not possess the skills of a trained diplomat, and this deficiency should be remedied,

173. E.g., when the British Government sent to Moscow a Foreign Office official, one Mr. Strang, to build up an anti-Nazi front, it roused the suspicion of the Soviet Government about the sincerity of the British Government and the mission failed. See Churchill, The Gathering Storm, at 347.

174. See Thayer, supra note 41, at 108; Brookings Institution Foreign Policy Study, at 110.

175. There is the possibility of developing prejudice also. Lall, supra note 136, at 150, states that the personal feelings of the head of state, government, or other responsible person, when aroused, affect not only the negotiations which occasioned such arousal, but all the relations with the nation-state whose official caused it.
when necessary, by accompanying aides and advisers.

These categories of people, however, may not have the skills required for effective performance in parliamentary diplomacy. Hence, the practice of sending parliamentarians as delegates has developed.

For participation in the adjudicative arena, the qualifications needed by the intermediary differ from those necessary for personnel representing the contesting parties. For the latter role, persons having bargaining skills are the obvious choice. Skill at arguing the case before the intermediary and the adversary is also obviously required. As for the intermediary, skills apart, he should be acceptable to the parties and command their respect. Since an intermediary can obtain a certain degree of control over the process of communication in the arena, the parties will always see that there is the possibility of his use of control to the disadvantage of either. The personal qualities of the intermediary should be such as to minimize these fears. The group to which he belongs also becomes material. If he is an international official, he will be perceived as being free from external pressures; the pressures incidental to his being a servant of a particular organization will be expected to be circumscribed by the objectives of that organization. In the case of a national official, however, unless the nation-state to which he belongs appears to have a genuine impartial interest in the settlement he is unlikely to be acceptable to the parties concerned. To depoliticize the intermediary's role, therefore, Latin American states have developed the unique practice of selecting private individuals of high repute for the role.176

The ability to draft written instruments, understand the implications of the written word, and develop alternative linguistic formulas are indispensable skills in all arenas. Since the skills needed are varied, diplomatic interactions are usually conducted by a team of specialists with various skills headed by a leader, rather than a single individual. The team may be composed of officials selected from the foreign office, other domestic departments, and field missions. Persons on mediation missions, whether consisting of international officials or others, are also generally given the assistance of aides and advisers.

(d) Choice of arenas

Ordinarily the groups' policy-makers prefer the bilateral arena since it facilitates discussions without at-

tracting the attention and pressures of the public and of third-parties, and without the constraints of rigid agenda and procedures. When the bilateral arena is considered unsuitable the choice shifts to another arena. The reason for this shift may include the fact that: (1) there are more than two parties; (2) the arena itself cannot be formed due to the refusal of the other party to negotiate the particular issue; (3) negotiations in the past have not proved fruitful; or (4) there is a degree of hostility between the groups that makes their leaders averse to direct negotiation.

Both parties usually expect that discussions in the arena will remain secret. Secrecy may be broken, however, if the attention of the public in one or both of the negotiating nation-states is engaged to such a high degree that disclosure either unilaterally or jointly is compelled by public pressure. If one of the parties makes a disclosure of a position without the assent of the others, retaliatory disclosures by the other party are to be expected.

A conference arena is appropriate when multiple parties are involved and when more than one issue requires discussion. This arena facilitates communication among many participants within a short time, and the ascertainment of their positions about the issues. If a participant can find support for his position among participants, he can transform the support into pressures to obtain the assent of those having different views. When the opposing party finds that he cannot muster enough support for his position, he might review and revise his position. This advantage, however, is a double-edged weapon; hence any participant who takes an issue to a conference may find himself under persuasions and pressures to modify or reverse his positions.

It is frequently pointed out that international conferences convened without adequate preparation are not likely to end fruitfully. The preparation referred to here is not the study and analysis of intelligence and formulation of alternatives, but exchanges of views by written correspondence involving carefully drafted Notes. Here professional diplomats express their strong disagreement with the faith which Lloyd George and his contemporary statesmen reposed in conference diplomacy. He is reported to have said, "I wish the French and ourselves never wrote letters to each other. Letters are the very devil. They ought to be abolished altogether. . . . If you want to settle a thing you see your op-

177. E. Jackson, supra note 4, at 89, 134.
178. See Nicolson, supra note 2, at 158; Craig & Gilbert, supra note 24, at 27.
ponent and talk it over with him. The last thing you do is to write him a letter." His disdain for professional diplomats is reflected in his remarks, "Diplomats were invented simply to waste time. It is simply a waste of time to let [important matters] be discussed by men who are not authorized to speak for their countries." But professional diplomats assail Lloyd George's diplomacy for the paucity of the results it yielded from 1919 to 1922; for the exchange of incompatible views in public it occasioned; for the conclusion of conferences with resolutions and declarations containing high-sounding platitudes to satisfy public interest aroused by the fanfare heralding the conferences; and for the mutual suspicion it developed between the British and the French. In contrast they point out the splendid example of the Congress of Berlin of 1878, which met, after the leading Powers had agreed on the main points, to give the agreements a formal and complete shape.180

If a conference meets without adequate preparation in the sense of agreement on principal issues, lengthy negotiations and a termination of the conference without an agreement are likely results. This is likely to be so even if the participants are heads of state or government who possess extensive power to make decisions. An examination of the past "summit" conferences shows that under favorable conditions, such as when allies met during a war, they helped to clear up misunderstandings,181 and arrived at agreements on broad policy issues, leaving the details to be worked out by lower officials.182 Under less favorable conditions the most that was achieved was a basis for further discussions. Yet one of the summit's purposes is to bring to the attention of the chief decision-makers information about the other elites which has failed to filter through the hierarchy of their respective foreign offices and diplomatic missions.

It seems that ordinarily preference is not given to the parliamentary diplomatic arena.183 Each party going be-

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179. Id., at 44.
180. Dunn, supra note 103, at 95.
181. Churchill, in relation to his first visit to Moscow, in August 1942, says that when he informed Stalin about the delay in opening the second front in Europe, "I am sure that the disappointing news I brought could not have been imparted except by me without leading to really serious drifting apart." Churchill, The Hinge of Fate at 437.
182. See K. Eubank, supra note 24, especially the last chapter.
183. This seems to be true with the United Nations; members prefer to resort to bilateral and traditional channels rath-
fore it will have to face open debate and also pressures from
the members to accept some solution or other. If the re-
quired skill is not used in the debates the protagonists may
take positions which they later find it difficult to give up.
But there is a fairly high expectation that the initial posi-
tions of the protagonists are likely to differ from the final
ones, so that changes in position before a final settlement
will not cause embarrassment. If each of the contending par-
ties finds it possible to show that he has gained something
from the solution that is evolved, public opinion will be no
more of an impediment to settlement than is the case with
settlements reached by secret negotiations and published later.

The chief advantage of the parliamentary diplomatic
arena is that it facilitates the steady accretion of support
for one's own positions,\(^1\) and opposition to the adversary's.\(^2\)
The interactions in the arena may help to resolve conflicts in
a fairly short time, as has happened in the case of the dis-
pute between Italy and Austria over Bozen, or over a long
time, or merely to encapsulate the conflict to prevent erup-
tion of large scale violence. The recalcitrance displayed by
an elite in bilateral or small group negotiations may be ex-
posed in this arena and the elite might be influenced to al-
ter its position.

The entry into the adjudicative arena is ordinarily a
result of the initiatives and pressures of third-parties in-
terested in the peaceful settlement of conflicts rather than
by voluntary choice. A contestant, however, who believes
that he has a better cause than his adversary may be more re-
ceptive to the mediatory initiatives than his adversary. When
a contestant enters a conference or parliamentary diplomatic
arena, he should necessarily expect the initiation of the
processes of mediation by international officials, by the or-
gan to which the complaint is presented, and by the members
thereof.

(e) Choice of the Venue

The place where the negotiations are conducted, where
a conference is held, or where an organ of an international

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\(^2\) Id., chap. 5, presents a case study of the SUNFED.
\(^5\) A. Yeselson & A. Gaglione, A Dangerous Place: The U.N. as a Weapon in World Politics chap. 2 (1974), on what the authors call "the politics of embarrassment."
organization holds its meetings is likely to influence the outcome. President Wilson is said to have rejected Geneva, The Hague and London as unsuitable for peace negotiations, but Paris turned out to be most damaging to the outcome.\textsuperscript{186} The view may be held that if the U.N. were located at a place other than New York, the outcomes of the deliberations of its organs would be different.\textsuperscript{187} This view is based upon the assumption that the comments and opinions expressed in the local press affect the participants in the negotiations, conferences, or meetings of the organs. Viewed in this way, every place in the world may be said to have its own effect; the general preference of antagonists for a neutral site for negotiations is easily understood. It is also obvious that participants prefer a place where good communications with home authorities are available, and where they have access to comfortable surroundings in which to work.

3. Communication with other Elites

(a) Form of communication

Communication with the other elites is written as well as verbal. It can also be done by acts. Indeed, in crisis situations, it is likely that communication will be more by acts than words, one of the reasons being that words may not then carry much credibility. During the Cuban missile crisis, for example, several acts of Premier Khrushchev, such as calling on the American opera singer, Jerome Hines, signaled an intention of the Soviet Union to avoid open hostilities over Cuba.\textsuperscript{188} However, a major portion of communication is by the spoken word, and all material worth recording in permanent form is put in writing. Communications to international organizations, as such, will necessarily be in writing.

The forms of written communication generally used are the following: The first is a Note. The minister for foreign affairs who intends to send a Note to a foreign nation-state transmits it through the diplomatic representative of his state to the foreign state, or through the diplomatic representative of the latter accredited to his state.\textsuperscript{189} Replies to the Notes are sent in the same fashion. The Note is usually addressed in the first person; the third person form

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\textsuperscript{186} Nicolson, supra note 170, at 76.
\textsuperscript{187} See Hadwen & Kaufmann, supra note 135, at 51, 62-63 on the advantages and disadvantages at New York.
\textsuperscript{188} See Young, supra note 9, at 139.
\textsuperscript{189} See Satow, supra note 45, at 61 and 70.
\end{flushright}
is intended to show a stiff posture. Notes bear the signature of the sending authority, and are formal in tone. Generally the minister for foreign affairs instructs the diplomatic official to present the Note in person to the minister for foreign affairs of the other state; sometimes he instructs him to read it to the minister and leave a copy with him. The representatives of several nation-states may present a Collective Note or an Identic Note, i.e., different Notes having the same substance. Less formal than a Note is a Note Verbale, written in the third person, neither addressed nor signed, but ended with the conventional greetings of courtesy. It is often used as a record of a conversation or to address a question. Less formal than either of these is a Memorandum (memoire, pro-memoria), which is a detailed presentation of facts and arguments based on those facts. It differs from a Note in that it does not begin or end with expressions of courtesy and need not be signed. It may be accompanied by a covering Note. Notes Verbales and Memoranda may also be addressed by the minister for foreign affairs to the diplomatic representatives accredited to his state. International officials also currently use these forms. A particular form of Memorandum is the aide-memoire, a short written memorandum given at the end of an interview between the minister for foreign affairs and the diplomatic official of a foreign state; it contains a summary of the representation the latter is instructed to make. An ultimatum is a Note or a Memorandum presented by a government or its diplomatic representative to another government which sets forth clearly what is demanded of that government, and which requires a prompt, clear response within the time specified. It is the last word from a negotiating party implying at the minimum a threat to break off the negotiations. Each of these forms has its own implications, expressive of claims, agreement, disagreement, resentment, protest and peremptory demand.

190. Nicolson, supra note 2, at 239; Satow, supra note 45, at 67 and 69. The expression "parallel notes" is used to denote Notes having the same substance but different language.

191. See Satow, supra note 45, at 62.

192. Id., at 64. At one time, such a covering Note was called a deduction, or exposé de motifs.

193. Nicolson, supra note 2, at 238. Thayer, supra note 41, at 99, also explains these conventional expressions. For the very extensive meaning of demarche, see Satow, supra note 45, at 111.

194. Id. at 105; Nicolson, supra note 2, at 242.
(b) Content of communication

The content of communication necessarily depends upon the objective which the communicator has in view. When concurrence or collaboration between participants is not necessary, the communication may simply be what the participant considers relevant to achieve his goal. For example, where it is intended that a decision-maker should be supplied with some information for reaching a decision, the communication may simply be a transmission of that information. On the other hand, where the concurrence or collaboration of another or other participants is necessary for the attainment of the objective, whether it be a particular variety of public order decisions or value acquisition or exchange, the communication should have some reference to the latter's perspectives. Communications should then be so shaped as to lead to a discovery of the perspectives common to or compatible with the interacting participants, and to develop such others as are necessary for attaining the objective. Communication would then be molded to persuade, pressurize and even coerce, the other party to conclude a bargain favorable to the communicator. In what follows we shall first focus attention on techniques relative to the constitutive phases of public order decisions as objectives, and then proceed to the techniques pertaining to persuasion, bargaining and coercion in relation to communication exchange in general.

(i) Public order decisions

Intelligence: Communication with another may be intended merely to convey or obtain some information. The information obtained or transmitted may affect the decision reached, regardless of whether that decision has constitutive or value shaping and distributional consequences.

Recommendation: Through diplomatic communication, recommendation may be made to any competent authority to take any particular decision. The range of recommendations is limited only by the competence of both the communicatee to participate in the decision process and of the communicator to make recommendations.

Prescription: There are, broadly speaking, three processes by which diplomatic communication may result in prescription. First, if a participant communicates a unilateral commitment under circumstances where it can be reasonably expected that others will rely upon it, the commitment will constitute a prescription for the communicator himself. The
flow of diplomatic communication may be so directed that it culminates in such commitment. Second, diplomatic communications exchanged between the various participants may create a reasonable expectation about the requirements of the future course of behavior of any set of participants or the members of the community in general, hence forming a basis for an inference of a general practice accepted as customary international prescription. Statements of claims in the communications, responses to those statements, and even absence of response in appropriate situations, form such bases. Diplomatic strategy obviously requires a careful drafting of the statements of claims and responses. Third, diplomatic communication may result in agreements having prescriptive consequence.

Where the agreements reached are intended to be given a written form, diplomatic communication is further directed towards creating a written instrument. The procedural steps to be taken in that direction are briefly: (i) the drafting and "adoption" of the text of the agreement, (ii) "authentication" of the text, (iii) "expression of the consent to be bound" by the prescriptions contained therein. These are the steps that are taken in current practice, and it is open to the interacting participants to vary these procedural steps and yet reach the goal of a written instrument carrying prescriptive efficacy.

"Adoption" of the Text: The written form given to the shared perspectives of the interacting participants should receive the assent of all the participants in its preparation, and so diplomatic communication should be directed to secure such assent. In the conference and parliamentary diplomatic arenas, too, such assent may be required, or the assent of a particular majority of the participants may be considered as sufficient. In a mediation process the prepared text of the agreement must receive the assent of the contestants. The texts may vary in form, ranging from a short, abstract statement which leaves great scope for subsequent elaboration and particularization, to an extensive and de-

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196. For the sake of convenience we are adopting the terminology of the Convention on the Law of Treaties, Vienna, 1969.
197. The Law of Treaties Convention mentions in Art. 9, two-third majority, unless the conference by the same majority decides to adopt a different majority.
tailed statement of mutually expected behavior, which needs relatively less scope for further articulation of common or compatible perspectives. Indeed, all texts require interpretation at the stage of their application. Sometimes the text adopted exhibits only the absence of any worthwhile compatible perspectives. The adoption of such texts is highly disapproved of by the traditionalists in diplomacy, but it should be noted that they are not completely useless. When finally concluded, they become the foci of further communication to evolve compatible perspectives. However, strategists generally try to safeguard themselves against such texts as are capable of forming a basis for legitimizing behavior harmful to their side.

Authentication of the Text: The text adopted is authenticated by a variety of procedures. The procedure may be the one specified in the text itself, or agreed upon separately by the participants while adopting the text. Besides these two procedures, there are the practices of authenticating the text by the signature of the participants, signature ad referendum, initialling, or incorporating in the Final Act of the conference that has adopted the text. After the adoption of the text, diplomatic communication may have to be directed toward securing authentication.

Expression of the consent to be bound: There should be communication by the participants of their commitment to the future course of behavior set out in the authenticated text, in the absence of which no firm expectation of such behavior on their part can arise. The form of such communication is largely left to the option of the parties, and is exercisable explicitly or in an implied manner. In the current

198. We regard the "plain meaning rule" of treaty interpretation as only one of a large set of prescriptions available to interpreters to shape their interpretations, and that by itself the rule is neither definitive nor controlling, and is only manipulative. See in this regard McDougal, Lasswell & Miller, The Interpretation of Agreements and World Public Order (1967).

199. See e.g., Nicolson, supra note 2, at 113, and Craig & Gilbert, supra note 24, at 29, commenting on the diplomacy of Lloyd George.

practice, the generally adopted forms of communication are:  

(a) signature, including initialling where it is mutually agreed that initialling constitutes signature, and signature ad referendum followed by confirmation by the authorized officials of the particular nation-state; (b) exchange of instruments, even unsigned notes verbales; (c) ratification; and (d) acceptance or approval. Commitment to agreements already fully formalized between other parties is referred to as accession.

The internal law of the groups normally prescribes that, before a commitment is communicated on behalf of the group, a particular internal decision-making process must be completed. The internal law of nation-states and of international organizations varies a great deal in this regard; the variation stems from the different patterns of distribution of authority within the groups. Where the communication of the commitment creates a genuine expectation of noncompliance with fundamental internal law, the commitment itself may not insure public order enforcement.

Diplomatic communication is generally directed towards obtaining a reliable "expression of the consent to be bound."

Invocation: A large part of the diplomatic communication consists of invocation of prescriptions, demanding the application of those prescriptions. The communication sets out the alleged facts of the situation under reference, and the policies underlying the invoked prescriptions, and presents the case for application of the invoked prescriptions in the manner claimed in the communication. The replies may present the reasons for not applying the prescriptions, or for not applying them in the manner suggested. There can be invocation of the prescriptions of the constitutive order, affirming why the alleged prescriptions should or should not be regarded as authoritative prescriptions. Reference is

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201. Here it is not proposed to enter into a discussion of the theoretical issue whether ratification is essential unless dispensed with, or whether it is not essential.

202. The technical meanings of the expressions mentioned here are not given as they are well known to students of international law and relations.

203. This statement is based on Art. 46 of the Law of Treaties Convention, which, along with Art. 7, raises several issues of great complexity.

204. The rules of interpretation are also invoked in this context.

205. A Note may be "rejected" and for the meaning of "rejection," see Satow, supra note 45, at 76. More than the
made in this context to the elements constituting an authori-
tative unilateral commitment, a customary rule, or to those
that render an agreement unenforceable under the public order.

Application: Diplomatic communication consists also of
intimation that a particular prescribed policy has been ap-
plicated. A refusal, for example, to recognize or to communicate
with a group of rebels which is not fully organized, intimates
the application of relevant prescriptions.

Appraisal: Appraisals of how the policies have been
working are communicated through diplomatic channels. Such
communications are likely to form an awareness of whether or
not the policies have produced the expected effects, and whe-
ther and how far they need revision.

Termination: Diplomatic communication is directed to
terminate the existing prescriptions. Denunciation of uni-
lateral undertakings and of treaties is communicated through
diplomatic channels. Claims are presented which are contrary
to the supposedly existing customary prescriptions with the
objective of securing acquiescence. Responses to claims for
termination, suspension, or modification of prescriptions form
a considerable part of diplomatic communications.

(ii) Persuasion, Bargaining and Coercion

The reference here is to the process of influencing the
attitudes and behavior of another by verbal communications
which attempt to persuade the communicatee to adopt a particu-
lar attitude or behavior which the communicator desires of
him. Where the communications do not involve promises of high
rewards or threats of severe deprivations which drastically re-
duce the free choice of alternatives by the communicatee, we
treat the process as persuasion, and where they do, as coer-
cion. Bargaining is understood as the process of influencing
the communicatee to make optimum value concessions to the com-
municator, against a minimal concession in return, not dis-
closing during the process the maximum which the communicator
is prepared to give. These are indeed rough distinctions and
they have no clear demarcating line. The various techniques
and tactics employed in the course of diplomatic communica-
returning of the paper itself, it generally implies rejecting
the contentions therein. The expression "Fin de non recevoir"
means rejection without examining the merits, or absolute re-
fusal to consider the matter. See Nicolson, supra note 2, 236.
tion to evolve common or compatible perspectives will be mentioned here, without specifically stating whether persuasion, coercion or bargaining is the predominant element in the context. A definitive characterization along those lines can be made only by a reference to all the factors involved in the context, and not to the techniques and tactics employed alone.

Since the attitudes and behavior of an actor are determined by his identifications, expectations, and demands, the technique involves suitably modifying these subjectivities. Taking up first identifications, it is common to suggest to the other interacting party that he adopt a wider or narrower identification than his present one. When speaking to the rebel leaders of a country, a diplomat of a foreign nation-state may either appeal to them to think in terms of their national identity or draw their attention to the elements common to them and his own nation, depending on whether his policy is to discourage or encourage the disintegration of the nation in which the rebels are located. There may sometimes be an appeal to think in regional terms, such as Asia, Africa, America, Europe etc., or in ideological terms, such as West and East. Common interests are always stressed in bilateral discussions, and sometimes in multilateral discussions. There may also be occasion when the appeal is couched in terms of mankind as a whole, especially when a party is asked to give up demands for the sake of the wider self.

For a successful outcome of the strategy, however, it is not necessary that the interacting party should adopt the identifications of the strategists. As long as the identifications do not imply complete mutual hostility, they do not stand in the way of reaching meaningful agreements. After the Peace of Westphalia, Protestantism and Catholicism ceased to be totally antagonistic symbols of identification which precluded friendly interaction, though they remained separatist symbols for a long time. At present, East and West, and North and South, do not represent totally antagonistic groups.

206. Lall, supra note 136, at 103. He states that a conference (or parliamentary diplomatic) environment provides a better political context for agreement, since they may create, among other things, exhortations to act in the interests of world harmony.

207. See E. Jackson, supra note 4, at 52, where a technique used in Sweden by mediators of labor disputes is described.
Expectations: A variety of techniques are used to shape the expectations into common or compatible ones.

Arguments about applicable legal prescriptions: Frequently, a participant's demands are based upon his assumptions about the legal prescriptions applicable to his demands, and as long as these assumptions persist, the demands are not likely to be given up. Theoretical treatment by scholars of the negotiation process conveys an impression that the area of diplomacy is exclusive to the sphere of legal process and consists purely of bargaining. Quincy Wright contrasted diplomacy with both war and law. Organs of international organizations such as the General Assembly are characterized as political, implying thereby that parliamentary-diplomatic discussions and decisions are outside the purview of legal decision. However, one should not ignore the fact that in diplomatic exchanges claims are seldom presented as legitimized by naked power, but are almost invariably referred to as justified by the pre-existing prescriptions and practices. In the so-called political organs of the U.N., too, such justification is shown and responses are expressed in terms of norms which are assumed to carry authority. Invocation of naked power is far less likely in a multilateral arena, for it will possibly produce adverse reactions on the part of the other participants therein.

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208. This point is rightly taken by Eisenberg, supra note 124, at 637, though, it may be added, the scholars he refers to were primarily interested in negotiation process and negotiating behavior, and not influence of norms.

209. See his "The Role of International Law in Contemporary Diplomacy," in Kertesz & Fitzsimons, supra note 3, at 55, 56.


211. Oschar Schachter, "The Relation of Law, Politics and Action in the United Nations," Hague Recueil, 1963-11, chaps. 1 and 2; Eisenberg, supra note 124. Eisenberg's thesis relates to the negotiation process in general and is not confined to diplomacy in the world arena. He, however, makes a concession in relation to what he calls "rule-making" negotiations, i.e., negotiations for arriving at a sharing arrangement in a new enterprise. Even here, it appears the parties would necessarily refer to analogies and pre-existing higher level norms of sharing such as equity, fairness etc.

212. Lali, supra note 136, at 113, says, "the larger the conference, the weaker and the less influential is any individual member of it."
There may, however, be a situation in which the demand of the adversary is one for terminating or radically departing from a supposedly current prescription. In such a situation, arguments centering on such prescription may not influence a change in the adversary's position, nor would they do so when the adversary relies on naked power to achieve his objective.

Disclosures and Clarifications: When the interacting participants approach each other, neither is generally fully aware of the other's expectations and both are fully aware of that fact. So the purpose of the endeavor will be to obtain a disclosure from the other of his expectations and to clarify his own. But neither participant may expect that his disclosure will be fully reciprocated by the other, and neither side is likely to engage in a straight disclosure of his expectations and of the assets and capabilities which render the expectations realistic. It is, however, true that in some situations, out of a perceived advantage arising therefrom, there will be disclosure in a credible manner. But normally disclosures and clarifications emerge in the course of exchange of communication, sometimes after a considerable length of time.

An intermediary's role, if it is not merely one of lending good offices, also includes discovery of the expectations of the parties in dispute, and indications to the parties of the unrealistic character of those expectations, if necessary. Remaining outside the emotional field generated by the conflict, the intermediary directs his efforts to clarifying the facts and persuading the parties to perceive the facts as realistically as possible. The procedure of "inquiry," whether resorted to within the framework of an international organization or outside, is directed to provide the parties (and possibly other interested parties) with a clarification of the facts and applicable legal prescriptions. A debate in a multilateral arena also helps the parties and others to obtain clarification.

213. Schelling, supra note 4, at 176. See also note 169 supra.
214. See E. Jackson, supra note 4, at 32, 158; Young, The Intermediaries, supra note 21, at 36; Boulding, supra note 13, at 316. J.W. Burton, The Use of Controlled Communication in International Relations (1969) describes an empirical study of the technique of controlled communication.
215. Sørensen, supra note 114, at 681-682. Some judgments of the International Court of Justice also serve merely this purpose.
Warnings: The expectation of a participant may be that if he pursues a demand, others will acquiesce and will not oppose it. In such a situation, a communicator may bring to the participant's attention the likely reaction on the part of others, including his own group. He may point out that if the demand is pursued, others will have an incentive to pursue a conflicting demand. An argument used to dissuade a nation-state from acquiring nuclear arms is that it will lead its adversary also to acquire them, drawing both into the precarious balance of nuclear deterrence. Intermediaries generally warn the parties in dispute about the consequences of an open conflict or absence of agreement.

Falsehood and Deceit: Nicolson affirms the precepts left by Callieres and Lord Malmesbury that the most important virtue of a diplomat is truthfulness. He explains this to mean "not merely abstention from conscious misstatements, but a scrupulous care to avoid the suggestion of the false or the suppression of the true." Indeed, the use of falsehoods is a poor technique to change the other participant's expectations, for he ordinarily would verify the sources of information and the falsehood would then be exposed. The falsehood is likely to be acted upon without verification only in crisis situations when there is not sufficient time available to take the usual precautions. Further, agreements reached on the basis of falsehoods are likely to be repudiated when the facts are known. Therefore, unless the agreement creates something like a transitory obligation for the other party, which is immediately acted upon, the positive pay-off for the falsehood seems doubtful and negative pay-off surely follows discovery. Sir Henry Wotton's celebrated apothegem, "an ambassador is an honest man who is sent to lie abroad for the good of his country," is not.

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216. On the distinction between "Warnings" and "threats," see Ikle, supra note 4, at 62; Schelling, supra note 4, at 123. A warning presents a predicted detriment to the adversary as a natural consequence of the latter's contemplated act, whereas a threat presents it as a punishment, which might entail loss to the inflicting party also.

217. E. Jackson, supra note 4, at 139; Young, The Intermediaries, supra note 21, at 36.

218. Nicolson, supra note 2, at 107-109. He cites Callieres and Lord Malmesbury. See also Thayer, supra note 41, at 242.

219. Nicolson, supra note 2, at 44.
taken by any professional diplomat at present as anything more than a witticism and a clever pun on "lie." Sir Henry himself pleaded with James I that he intended it only as a merriment.

This indeed does not mean that a communicator engaged in diplomatic communication is expected to make a full disclosure of all facts. Lord Malmesbury's advice was to parry all indiscreet questions, and not to contradict a true statement or admit as true a false statement. What Nicolson seems to suggest is the necessity to refrain from bad faith and deception, and not the necessity to supply the adversary with all available information; the adversary should depend upon his own resources for intelligence. That apart, Ikle remarks, "what would be condemned as a lie in one situation may be a shrewd tactic in another." This implies that the use of falsehood and deceit is a distinct possibility where a positive pay-off is foreseen.

Creating Trust: The expectations of the other party about the reliability and trustworthiness of the communicator's group to keep engagements solemnly undertaken may not be very high, and this makes the progress of negotiations exceedingly difficult. The participant who doubts the reliability of the other would want safeguards against possible cheating to be built into the arrangement and insurance against being worse off in such an event than when there is no agreement at all. The trend of disarmament negotiations since the 1920's amply demonstrates this phenomenon. Moral exhortations by outsiders to develop mutual trust are accorded little weight. Trust is likely to develop, however, out of past experiences of compliance. Also there may be situations when the benefit accruing from cheating appears less attractive than the loss arising thereby, including the loss of reputation for reliability. Trust can be developed then by creating a continuing relationship which can give rise to instances of compliance. Negotiators take the cue from this and structure what seems a single transaction into a series of transactions, so that at any stage if a party fails to comply, the other can exercise the option of terminating the arrangement. The technique involves a re-

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220. Id., at 112; Thayer, supra note 41, at 243.
221. For the view that full disclosure of all facts is not expected, see Thayer, supra note 41, 242.
222. Note 4 supra, at 106.
223. Schelling, supra note 4, at 45. In this connection, refer to principles 4 and 5 adopted in McCloy-Zorin Agreement of 1961 regarding disarmament.
structuring of expectations about mutual reliability.

Enunciation of issues, arranging their priorities, splitting and combining of issues: The expectation of a participant in relation to an issue depends partly on how the issue is formulated. Further, the formulation becomes the point of departure for evaluating the possible gains and losses. In the mediation process it becomes the task of the mediator to formulate the issue for the parties, and in so doing he should not appear to be partial to either side. In the multilateral arena, too, the way in which a resolution is drafted shapes the expectations and the response of the participants. After the issues have been enunciated, priorities among the issues for discussion should be determined. The determination of an issue in a particular manner affects the expectation about the issues next in order. It is for this reason that the fixing of the agenda itself becomes a matter of extensive discussion, and negotiations may break off at that stage. The order in which resolutions are put to vote frequently forms a matter of serious contention in the parliamentary-diplomatic arena. Strategists always endeavor to see that enunciation of issues and the ordering of their priorities do not place them in a disadvantageous situation; and if they are strongly motivated to see that negotiations progress, they will not drive an opponent to the point of cessation of discussion on these matters.

The expectations about an issue also depend upon the context in which it is seen, whether a broader or a narrower one. It may be easier to harmonize the expectations of the various participants if an issue is split into a number of issues. The resolution of some of these issues, even if they are peripheral, may make it easier to shape the expectations towards compatibility in relation to others. Sometimes the combining of issues may make it easier to develop compatible expectations.

Commitments and bluffs: The other participant may be under an expectation that the strategists will concede his demands if only he stands firm and does not yield. To pre-

224. Ikle, supra note 4, at 218; Young, The Intermediaries, supra note 21, at 49.
225. The Foreign Ministers Conference at Paris in 1951 met for four months, failed to agree upon the agenda, and broke off.
226. Lali, supra note 136, at 173; Ikle, supra note 4, at 223.
227. See id., at 222. Sometimes package deals succeed.
vent him from entertaining such an expectation, generally the technique of commitment is employed. A commitment may be stated to be a communication to the other party that the first would not go beyond a certain point in responding to the other party's demands. A commitment when communicated in a credible manner modifies the expectations of the other party, and leaves him the options of either playing the game with the limitation or of abandoning it. It is a matter of common experience that on the eve of negotiations with a strong adversary, statesmen make an open proclamation of their commitments. There is also the possibility that the other party takes the commitment to be bluff and continues to press his demand.

Promises and threats: Promises do affect expectations depending upon what is promised and whether the promises are credible. A promise is more than a commitment to make a concession; it involves an affirmation that the commitment will be kept, and thereby the reputation for keeping the pledged word is made a matter at stake. A threat is also a commitment that if the other does not act as desired he will be made to suffer some loss or damage. A threat implies that the carrying out of the threat hurts both the parties, but it will hurt the party threatened more than the party carrying it out. A good example of threat falling directly in the realm of diplomacy is the Hallstein's doctrine. After carrying it out by severing diplomatic relations with Yugoslavia and Cuba, West Germany reinterpreted it so as not to necessitate its application in the case of some African and Asian countries that entered into a form of relations with East Germany.

Fait accompli: A fait accompli is rated as "the most effective weapon of international diplomacy." It is an act that forces the other party to revise radically his expectations. He cannot thereafter press some of his demands.

Demands: Modification of identifications and expecta-

228. Schelling, supra note 4, at 36; Ikle, supra note 4, at 62.
229. Boulding, supra note 13, at 253; Schelling, supra note 4, at 123; Ikle, supra note 4, at 62.
230. See Bot, supra note 127, at 41.
tions may influence the leaders of the other group to give up such of their demands as are incompatible with the demands of the strategists. If modification does not occur to the desired extent, or does not lead to a modification of demands, some additional techniques should be adopted to bring about compatibility of demands. While in pursuit of this objective, it is pointed out, negotiators have a continual three-fold choice, either to settle on the basis of the terms offered by the other participant, or to continue the bargaining with the hope of obtaining better terms, or to discontinue the negotiations.\textsuperscript{232} The choice also presents itself as whether to induce the other party to remain in negotiations or to drive him to the necessity of breaking off. Using the game theory terminology, it may be stated that when the other participant perceives the game to be a zero- or fixed-sum game, and that he might be better off by retiring to the "minimax" or "saddle-point" than by continuing it, he will abandon the negotiations.\textsuperscript{233} The participant perceives the negotiations to be useless for obtaining satisfaction of his demands, even perhaps partially, and that he can stabilize his gains or losses at a certain level without having any understanding at all. Where a positive outcome is desired from the negotiations, each participant should see that the other does not find the retirement to the saddle-point attractive. In other words, the game should be made to appear as a variable-sum game which is worth playing for obtaining a better pay-off than the pay-off expected at the saddle-point.

We may set out a few techniques generally employed to evolve compatibility of demands. The first and the obvious step is to reduce one's own demand. In order to not give away anything unnecessarily, the negotiators on either side engage in chaffering. Protracted haggling, however, may cast a doubt on the sincerity of the party that overplays this technique. A similar result will ensue when the party raises his demand as soon as his original demand is conceded, or presents a fresh demand, and especially so when the fresh demand is of an extortionary character.\textsuperscript{234}

Second, the other party may be offered some values as a substitution for the demands he is asked to give up. A media-

\textsuperscript{232} Ikle, supra note 4, chap. 5.

\textsuperscript{233} The concept of "minimax" or "saddle-point" was developed by Neumann and Morgenstern. On this see also, Boulding, supra note 13, at 44; Kaplan, supra note 12, at 175.

\textsuperscript{234} This is a demand that does not bring much benefit to the party making it, but entails a high detriment to the party to whom it is presented. See Ikle, supra note 4, at 208.
tor's success generally depends upon his ability to offer any values as a compensation to the party that is asked to give up some of its demands.235

Third, if the other participant had made any commitment, he should be helped to release himself from it if that is possible. If it can be made to appear that he received substantially what he demanded, or if he is supplied with casuistic arguments or rationalizations for abandoning the commitment, he might modify his demands. A mediator’s special task is to enable either or both the sides to stage a retreat without losing face, for "a face saved may be a dispute resolved."236

Fourth, the strategists may cause pressures to build up for investment by the opposing elite on other matters than the pursuit of the demands it is presently pressing hard. For an elite, the value of what it demands increases with the investments it makes, and with that the incentive to invest further also increases.237 But the incentive is likely to diminish if pressures build up for investment on other pursuits. An elite desirous of acquiring nuclear arms, for instance, may have to defer this demand in the face of pressures for investment on welfare measures generated by discussions in the multilateral arenas. If the rank and file is influenced by these discussions, the elite would be hard put to find the resources necessary for both, and might be forced to postpone the weapons program. The leaders of a nation-state making a demand on a neighboring nation-state for a piece of territory might give it up if they are confronted by the demand of a dissident group for separation, and hence the strategists might contact the dissident elite and encourage them to press their separatist demand.238 Or if the leaders find that another neighboring nation-state comes forward with a demand

235. Refer to note 115. The success of the World Bank’s mediation of the Indus waters dispute was due to the offer of mediatory values.

236. E. Jackson, supra note 4, at 27; Young, The Intermediaries, supra note 21, at 39.

237. See Edmead, supra note 115, at 9. The model he builds up may be seen as illustrative of the manner in which pressures might be built up.

238. For an illustration of the use of this technique, see N.Y. Times, July 31, 1976, at 5, col. 1. In 1972, Iran requested the U.S.A. to supply arms to the Kurdish rebels in Iraq, and the U.S.A. supplied one million dollars worth of captured Soviet arms. Later, Iran and Iraq reached an agreement on their border dispute, and further supplies were stopped.
for a more valuable piece of the former's territory, they might defer their demand against the first neighbor. Diplomacy also has to be used in those contexts to see that other elites do not lend additional resources to the elite against which the strategy is directed.

Fifth, the strategists may deliberately create a crisis with the hope that it will lead the other party to give up some of his demands with a view to escaping from the dangerous situation created thereby.

Sixth, the strategists, under favorable conditions, may steer the bargaining towards what are called focal points for producing compatibility in demands.\(^{239}\) A focal point is a basis of accommodation of mutual demands which appears to the parties, because of geographical factors, precedents, or common pattern of human behavior, to be a prominent basis of solution. Boundaries are agreed to by reference to geographical features. A settlement on the basis of each party meeting the other half way appears reasonable under some circumstances. Even if a focal point is not apparent at the outset, a negotiator, a mediator, the president of an international organ or conference, or an influential group therein, may put forward, in a dramatic way, a suggestion that may become a focal point. What is agreed upon by some influential nation-states is likely to become a focal point for others, and may result in due course in a series of similar agreements.

Seventh, the strategists may be able to drive the other party into a 'prisoner's dilemma' situation, by opening simultaneously negotiations with another party, under conditions such that the two parties have nil, or very restricted, communication, and present the context as one in which the party that makes a concession first, benefits, and the other suffers. Situated in such a position, a party may make more concessions than it would ordinarily do. Just before World War II, the Allied Powers (Britain and France), Nazi Germany and the U.S.S.R., placed themselves, each against the other two, in a roughly analogous situation. The triangular maneuvers resulted in the Soviet-Nazi Non-Aggression Pact which cleared the way for the war.

Eighth, a similar but less coercive move is to open negotiations simultaneously with two parties, and to plead with both that if a concession is made to one, it will have

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\(^{239}\) The concept of "focal point" was discussed by Schelling, supra note 4, at 67; Ikle, supra note 4, at 213; and Young, The Intermediaries, supra note 21, at 39, refers to it as salient point.
to be made to the other also, and thus escape making such a concession.240

4. Techniques Specialized to the Parliamentary
Diplomatic and Parliamentary Arenas

In these arenas, since they are open and the number of participants is large, the problem of ordering discussion arises. As a set of prescriptions of procedure and the administrators thereof emerge, the strategists face the task of determining how to manipulate the rules to achieve their own objectives.

The conferences held in the last century did not present problems of regulation of discussions in the open forum since they constituted merely arenas of negotiation. The Congress of Westphalia was no more than two simultaneous mediations conducted at two different places, Münster and Osnabrück.241 The Congress of Vienna was a Big Four or Big Five negotiation, and the Congress as a whole never met.242

Parliamentary style of discussion had its rudimentary beginning at the Congress of Berlin of 1878, but the Congress met more or less to formalize the secret agreements already concluded by the Big Powers. Bismarck, who presided over the Congress, firmly refused to allow matters of procedure to affect the discussion of substantive issues.243 The First and Second Hague Peace Conferences for the first time appeared more similar to assemblies than Big Power negotiation exercises. They operated on the principle of unanimity, and on the basis of a set of rules of procedure that formed a hybrid between parliamentary practice and small group negotiations.244

After the establishment of the League of Nations, permanent organs of international organizations have come to possess their own standing rules of procedure, and ad hoc conferences now consider at the outset the provisional rules of procedure prepared for the conference and adopt them.

In a parliamentary or parliamentary diplomatic arena, apart from what goes on behind the scenes, discussions converge on draft resolutions proposed on the items on the agenda. Each participant has as an immediate, as well as long term, goal the gaining of support for his own demands, and winning

240. On such intersecting negotiations, see Schelling, supra note 4, at 30.
241. Dunn, supra note 103, at 51.
242. C.K. Webster, The Congress of Vienna 71 (1920);
Dunn, supra note 103, at 63.
243. Id., at 95.
244. Id., at 132.
over the supporters of the adversary's demands. There may be some who take up the role of a "fire brigade," ready to take the initiative to introduce proposals that would effect a compromise between the radically divided groups of participants.245

The first aim of the strategist is to ensure that his proposals are adopted with the requisite majority.246 The next one is to defeat the proposal of the adversary by seeing to it that it does not get the requisite majority. Since this task cannot be always achieved by a merely negative approach, initiative is taken to introduce directly, or indirectly through others, resolutions on the same subject which appear to the participants in general to be preferable to those proposed by the adversary. An alternative to this is to move or encourage others to move, and subsequently gather support for, amendments which would render the adversary's proposal innocuous for the strategist's side, or useless from the adversary's point of view. The proceedings are regulated by the presiding officer and the assembly itself, in accordance with the prescribed rules of procedure. These rules are invoked to obtain an opportunity to speak or reply, to propose items for discussion, resolutions, amendments, or procedural steps, such as continuing, closing or recessing discussions, assigning priorities to the items on the agenda, and to resolutions and amendments already proposed, for the purpose of discussion or voting. Rules are also invoked to invite the presiding officer to give rulings on issues of procedure, and to challenge the rulings. These and other similar moves are taken to ensure that the resolutions (whether they become prescriptions immediately on acceptance, or only steps in the process of prescription) proposed by the participant are adopted, and those introduced by the adversary are defeated.

F. Outcomes

The most general statement that can be made about the outcome of diplomatic interactions is that each elite becomes informed about the perspectives of the other elites and informs them of its own perspectives. Each obtains an opportunity to form an image of others, and to influence the perceptions of its own image. This mutual communication is not indeed full

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245. The expression "fire brigade" was first used by The Economist. See Hadwen & Kaufmann, supra note 135, at 65.

246. This is indeed too brief an account of the techniques, but considered adequate for the present purpose. For detailed discussion, see Hadwen & Kaufmann, supra note 135; Kaufmann, supra note 102; P.C. Jessup, supra note 144.
and does not create fully realistic images. Nevertheless, some images are formed which are useful for facilitating the employment of the diplomatic process itself for maintaining, shaping and improving the public order, and civic orders, or value exchanges and value shaping and sharing arrangement brought about by non-violent means. Having made this general statement, we shall proceed to state more specifically the various value outcomes.

1. Participation in the constitutive process of decision

Diplomacy facilitates participation of all the elite groups in the processes of public order decision, or at least in some phases of decision. International officials, national officials and nonofficials obtain access to participation, but their roles vary. Nonofficials are admitted only to the phases of intelligence, promotion and appraisal, and international officials to these and to a marginal extent to the prescription, invocation and termination processes. Only the officials of nation-states as a general category obtain access to all the phases. But even among these, the officials of some nation-states do not get access to all arenas, and hence there arises a differentiation in roles, besides the variation expected from the different levels of effective power possessed by the respective nation-states. The officials of some nation-states may obtain only a highly limited role when they get recognition from only a few nation-states and admission to none or few international organizations—a result that can ensue from the exercise of the influence of the more powerful nation-states. Contrariwise, some elites occasionally obtain access to participation, despite their lack of control over a territory or the population therein, and in the face of the opposition of the controlling elites. Such admission to participation, whereby the former could press claims against the latter, affects the latter's participation in public order decisions for the particular territory.

Employing the diplomatic processes, the officials of nation-states have so far succeeded in expanding to a vast extent the constitutive machinery of public order decisions. A large number of international organizations have been established apart from the vast network of diplomatic missions and consular posts established by the beginning of this century, the prescriptions and practices connected therewith, and the vast opportunities for bilateral interaction for constitutive purposes afforded thereby. These have expanded the scope for participation by the officials of nation-states,
and have significantly provided opportunities for non-territorial actors--international officials and nonofficials--to play an influential role. An increase in multilateral diplomacy at the expense of bilateral diplomacy, and the survival of diplomatic missions as consulates is predicted.\textsuperscript{247} But the fact has to be observed that the vital prescriptive and terminating functions still rest substantially with national officials, and are exercised at higher levels of authority at national capitals. Transnational parliamentary institutions slated in the Assembly of the E.E.C. and of the Council of Europe have not grown in authority and functions as was hoped for.\textsuperscript{248} International organizations currently provide conference- or parliamentary-diplomatic arenas and not parliamentary ones. The farthest limit reached in vesting prescriptive functions in international organs seems to be the power of the Assembly of the WHO and of the Council of ICAO to issue certain types of regulations which become prescriptions for members unless they express disapproval or reservations.\textsuperscript{249} There is further a general preference among the national elites for the diplomatic processes over the judicial process, since the former are assumed to give the contestants participation in the making of decisions, whereas the latter involves imposition from above.

Diplomatic procedures now provide as wide a participation in the process of reaching value shaping and distribution decisions as in constitutive decisions, but the allocation of functions in both of the processes is more or less the same, with national officials having preponderance over international officials and nonofficials. Retention by the officials of nation-states of a preponderance of authority in their own hands should not surprise anyone, since they themselves constructed the various diplomatic institutions, possess effective power, and perceive themselves as having greater responsibilities towards their respective nation-states than the participants of other categories.

2. Shaping and sharing of values

A most significant outcome of diplomatic interaction is information to both sides. Communication necessarily brings in enlightenment value, and face-to-face communication de

\textsuperscript{247} Galtung and Ruge, supra note 150, at 103.
\textsuperscript{248} See regarding the Assembly of the E.E.C., Mathijsen, supra note 51, chap. 3; and of the Council of Europe, Robertson, supra note 51, chap. 3.
\textsuperscript{249} Sørensen, supra note 114, at 633, 648.
nently brings in more information than either communication through the written word or by act. Comparing the value of a personal interview with that of intelligence which experts by their insights and inferences are supposed to discover, an experienced diplomat queries, "How does a scientific intelligence expert take into consideration and evaluate a subtle smile he never saw or a handshake he never felt?" He does not belittle the contribution of the scientific intelligence group; he only emphasizes the utility of reports by diplomats. And the personal contacts of the diplomat are not limited to the minister for foreign affairs of the receiving nation-state and the officials of the foreign office thereof, but extend to other officials at different levels, leaders of political parties both in government and in opposition, non-official elites, fellow diplomats from other countries, and his own fellow nationals of different vocations who come as travellers and gather information. In the parliamentary-diplomatic arena of an international organization, the scope for obtaining information is even greater.

The information is not confined to what is learned in personal interviews. The diplomat has the opportunity of personal observation of the conditions in the host state, and his evaluations of the day to day developments are likely to be more sophisticated than those made in the run-of-the-mill journalistic reports. The store of information against which the emerging events are assessed is likely to be greater in his case than of others of his own country.

Besides discharging their normal functions, the diplomatic and consular agents supply in a subtle manner assistance to their own national secret agents engaged in unearthing the secrets of the host government. The concern of the officials of the host state about safeguarding the secrets makes them adopt measures such as imposition of restrictions on travel etc., which obstruct even the normal intelligence gathering. The bargaining techniques employed also lessen the realistic information obtained as a result of interaction.

Next to enlightenment, we may take affection, or cordiality in the relations between the elites. Sustained communication in a carefully shaped framework is likely to generate mutual goodwill and an attitude of mutual helpfulness. Diplomats sent abroad are expected, among other things, as Ermalao Barbaro of the fifteenth century put it, "to win or to maintain the friendship of a prince." The very same purpose is mentioned in every scholarly treatise on the func-

250. Thayer, supra note 41, at 182.
tions of diplomats, and has recently been reiterated in Art. 3(i)(e) of the Vienna Convention on Diplomatic Relations as "promoting friendly relations." However, this outcome is obviously dependent upon several historical and contemporary factors, such as the political, economic and cultural relations that existed in the past, the current identifications of the parties, their expectations and the nature of the demands each has against the other. To these one may add the predispositions and prejudices of the present ruling elites of either group.

A third noteworthy outcome is acquisition of power. The Munich meeting in 1938 between Hitler, Chamberlain, Daladier and Mussolini gave Hitler the power to snatch the Sudetenland away from the Czechs, and this power was largely reinforced when the British and the French rulers put pressure on the Czechs to accept the Munich arrangement, regarding which they were not even consulted. Later, the outcome of the meeting between Hitler and Hacha was the surrender of what remained of Czechoslovakia. These results indeed flowed from the superior military power which Hitler then had and which made the path of diplomacy easy.

In diplomatic interactions of the zero- or fixed-sum character, the pay-off of the stronger party will always be higher. This prevailing expectation makes the ruling elites frequently affirm that they will negotiate only from a position of strength. The paradox involved in this assertion may be pointed out by saying "one may dictate from strength, but one does not negotiate." But the very same phenomenon dissuades the weaker from negotiating whenever there is the possibility of becoming stronger, securing allies, or presenting a fait accompli. However, when a stronger elite calls a weaker for negotiation, and the latter has no hope of assistance from a third party, it will be constrained to accept, whatever be the likely outcome. The outcome may be coercion on various levels, the highest of which is exemplified by the bloodless conquests of Hitler referred to above.

The influence of power disparity is considerably reduced in a parliamentary-diplomatic arena wherein the participants have equal voting strength. If the interaction is

252. Boulding, supra note 13, at 323.
253. On the eve of Poland annexing Tatschen in 1939, the Polish Foreign Minister refused to see the British and the French Ambassadors, apparently apprehending that the two would put pressure against taking that step. See Churchill, supra note 173, at 289.
254. Lall, supra note 136, at 82.
255. Id., at 103. He also states that the General
of the variable-sum pattern, whatever be the power differential of the interacting parties, the pay-offs could be satisfying to all of them. It should be remembered, however, that actual situations do not fit exactly into the mathematical models such as the zero-sum game etc., and each interaction may have an outcome ranging from pure persuasion to different levels of coercion.

Access to diplomatic arenas and the obtaining of favorable outcomes earn respect for the participants. The dignity and deference shown to diplomats and the ceremonials observed in relation to diplomatic missions convey the respect for the individual who receives these honors, and the group he represents. It is one of the reasons why nascent nation-states seek recognition and admission to membership of international organizations. The statesman who wins for his nation something by diplomacy without recourse to violence earns the respect of his nation and of others as well. A successful mediator, whether an international official, national official, or nonofficial, is respected by all and earns prestige.

Diplomatic interactions have led to the promotion of a variety of rectitude values in the course of history. Even if we leave out of account the times when religion figured importantly on the political scale, and refer to the period since the Congress of Vienna, there will appear as significant instances of the promotion of the values of rectitude the abolition of slave trade, prohibition of white slave traffic, and promotion of the concept of human rights. A considerable part of diplomatic activity is currently devoted to securing respect for, and observance of, human rights.

The outcomes of shaping and sharing wealth, skills and well-being also flow from diplomatic interactions. Arrangements for expansion of trade, movement of capital, transfer of technology, exchange of scientific information, promotion of health, and production of food, are currently evolved by diplomatic interactions in bilateral and multilateral arenas. The benefits however accrue in different proportions to different groups, and to different levels among the members of each group.

While the institutional facilities created for diplomacy help to promote fruitful diplomatic interactions, they do have some adverse outcomes as well. For instance, the contacts which diplomats maintain with the dissident groups in the receiving nation-state cause concern to the incumbent elite about Assembly is preferred by weaker states to the Security Council for this reason.
the security of its power and other values.\textsuperscript{256} If the premises of the mission or residences of the diplomatic officials are used as centers for harboring dissidents and criminals, it might, among other things, affect the perceptions of the citizens of the host state about the power equations between their own elite and the elite of the sending state. Irresponsible behavior of the diplomatic personnel frequently poses a problem for the rulers of the host state. The "diplomatic bag" is not always used for its intended purpose, and a most extreme instance of its abuse is that of two Egyptian diplomats in Rome attempting to send a man in 1964 in "diplomatic mail" to the Foreign Ministry in Cairo.\textsuperscript{257} Lesser forms of abuse of the diplomatic bag are the evasion of export, import and customs laws.

G. Effects

Diplomacy is an essential feature of the world social process, and the process of public order decisions, whether pertaining to the constitutive process or the shaping and distribution of values. As long as the communication process goes on without interruption, it rarely becomes a matter of concern for the world community. It is only when it is interrupted, either due to the deliberate action of an interacting elite, or due to the emergence of a crisis, that the community's concern becomes engaged. On the other hand, the advancement of the interests of all the members of the community depends upon a sustained flow of communication at the optimal level.

Diplomacy facilitates exchange of values between the interacting groups and arrangements for future exchanges. The arrangements facilitate pooling of resources for major collaborative enterprises and for sharing the profits. The progress of the community lies in the maximization of the shaping and sharing of all human values, which will be impossible without mutual communication and interaction.

Diplomacy is essential for the maintenance and expansion of the world public order inasmuch as communication is central to all the phases of public order decisions. It is possible, however, for one to present two inadequacies of the diplomatic process as a means for bringing about a qualita-

\textsuperscript{256} Such contacts have existed ever since resident embassies became a common institution. E.g., for the situation in the time of Queen Elizabeth I, see Mattingly, supra note 31, at 171, 241.

\textsuperscript{257} See Wilson, supra note 165, at 15.
tively better world public order. First, diplomacy relies on the consent of the interacting parties for reaching decision outcomes that will be consequential to public order, and where such consent is not forthcoming decisions will not be reached at all. It is difficult to expect consent where the demands of the interacting elites are sharply opposed to each other, and even less so when an elite involved perceives its "vital interests" to be at stake. The preference implied by this statement is in favor of legislative and judicial processes which involve prescription and implementation of policies, if need be by force, in the name of and on behalf of the community. Second, it is stated that diplomacy cannot be regarded as a method suitable for attaining radical solutions to conflicts; this unsuitability arises from the very same requirement of the consent of the parties for a solution. Changes have to be achieved by incremental stages, winning the consent of the affected parties at each stage.

There is much validity in these points, though the way in which they are put tends to weigh the scales more heavily against diplomacy than is warranted, and so these points require reformulation. First, agreement is only one of the outcomes expected of diplomatic communication, and there are others which should not be overlooked. Even if diplomatic communications merely involve mutual transmission of claims and counter-claims, there is the possibility of the emergence of unilateral commitments and customary prescriptions from such exchange. That apart, engaging in negotiation is less harmful to community values than having recourse to violence, and is to be welcomed for this reason.258 Until such time as centralized institutions commanding monopolized control over instruments of violence, and authorized to interpret and apply the value preferences of the community are constructed, diplomacy supplies a better alternative than the recourse to violence. The possibility of entrenched interests not yielding to diplomatic persuasions, pressures and coercion has to be accepted. Second, it is not fully accurate to say that by diplomacy radical solutions cannot be reached. It may be recalled that Hitler, Daladier, Chamberlain and Mussolini provided by diplomacy a radical solution to the Sudeten question. The Congress of Vienna and the Paris Peace Conference of 1919 effected an extensive redrawing of the political maps. With-

258. It seems that the view presented by Ikle, supra note 4, at 46, that negotiation does not assure refraining from recourse to violence is preferable to the one that negotiation influences the parties to desist from violence.
out expressing any judgment on the results reached in these instances, it may be stated that radical changes are not impossible of achievement by diplomacy. But the difficulty arises when a group has to be persuaded or coerced to surrender the resources (territory and others) in its possession in accordance with the solutions reached by diplomacy.

It is to be remembered that diplomacy is a communication process, and communication by itself, or the consensus reached as an outcome thereof, cannot bring about a transference of resources except by the consent of those that are presently in control. In the last century, where such consent was not forthcoming, recourse to violence was taken for granted. The world community has moved far away from that anarchical position, but it has yet to find more effective alternatives to violence than diplomacy. The formulation of goals which can form viable alternatives, and transitional devices to reach such long-term goals, can be achieved only by diplomacy.

The possibility of using diplomacy as an auxiliary instrument, concentrating primacy on the other more coercive instruments, has been noticed. The seeming successes of diplomacy in such situations should not mislead anyone into overlooking the factors that have brought about the agreement. Agreement is a legitimizing factor in social and legal systems but only within certain prescribed limits. The possibility of some effects being unacceptable to the community or its decision-makers, even though they are brought about by agreement is always to be visualized. The issue that arises in those contexts is whether the agreement is compatible with the basic or fundamental values or expectations of the community. Perhaps some would debate the very existence of such values or expectations.