

Intercultural Negotiations: Issues and Challenges in the Oil and Gas Industry from Malaysian Perspective

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Abstract

There have been numerous studies on the strategies of intercultural negotiations within the western contexts and cultures, however there has been limited number of studies that examine intercultural negotiations from the Malaysian perspectives specifically in the context of oil and gas industry. This paper reports an investigation into negotiating styles adopted by Malaysian personnel in the oil and gas industry when dealing with foreign counterparts. This aim of the study is achieved through a qualitative approach by interviewing three highly experienced negotiators in the industry on their negotiation experience throughout their multinational negotiation assignments. The interview outcome provides implications for practical recommendations which identify different stands taken by the negotiators in different situations.

Key Words: *Intercultural Negotiations, Challenges in Oil and Gas Industry, Malaysia.*

Introduction

The first oil discovery in Malaysia was in 1910 in Miri, Sarawak. A modest production of 83 barrels per day 103 years ago has now expanded into a multi-billion ringgit industry. The oil and gas industry underwent extensive expansion with the establishment of the national oil company (NOC) in 1974. Currently the NOC serves as a fully integrated multinational corporation with business involvement in domestic and international oil and gas exploration and production, oil refining, trading and marketing, including downstream gas and petrochemical operations. The strategic location in the center of the Asia-Pacific region amid key shipping lanes is advantageous for Malaysia's aim in becoming regional oil and gas storage and trading hub.

In the international arena, the Malaysian oil and gas company has exploration and production operations in over 22 countries in the Middle East, Southeast Asia, Central Asia, Africa and Latin America. In the financial year ending September 2009, the NOC recorded RM47.7 billion or 48.6% of its total revenue from international operations, compared to RM29.4 billion (30%) from exports and RM21 billion (21%) from domestic operations. Similar trend was also reported in financial year ending March 2008 (The Edge, 2009). More recently in June 2012, the corporation forged ahead in the international stage with the acquisition of Canada-based Progress Energy, gaining a foothold in British Columbia's shale gas reserves (Polson, 2012). In lieu of the international endeavors of Malaysian oil and gas industry, intercultural communication is indispensable in international business relationships. The intercultural aspect of negotiations in the oil and gas industry is of unique interest in line with the rapid expansion of the national

oil company into the global market. While most information pertaining to the negotiations in the oil and gas industry are reserved in confidentiality, the research problems that spawned our search in this direction include closing of knowledge gap in intercultural negotiations in petroleum industry from the Malaysian perspective and lack of defined strategies for conflict management in the scope of negotiations within Malaysian oil and gas industry.

Three Malaysian personnel with vast experience in negotiations within the oil and gas industry were interviewed. The objectives of the interview were to examine the negotiation strategies to identify possible obstacles in cross cultural negotiations in oil and gas dealings, and to analyze strategies as solutions for bridging cross cultural barriers in negotiations. Their views and perceptions are essential for practical recommendations as misunderstanding could occur in negotiations that could be grounded in cultural differences. The misunderstanding could consequently complicate, prolong and frustrate negotiations (Cohen, 1997). Even though a handful of studies have been done within the western context, it may not be directly applicable to negotiators from Malaysia because of the different cultural values. As argued by Lailawati (2005) ample studies on intercultural communication can be found on cultures of Chinese and Japanese but very little research done on other Asian countries like Thailand, Malaysia and Indonesia.

The literature offers abundance of intellectual debate and discourse over how negotiation between parties from different cultures could be successfully conducted. Numerous models have also been developed by communication scholars for successful negotiations. It is however imperative to ascertain that the different theories and models could actually be applied in certain specific contexts. In the case of the paper, the discussion revolves around how experts negotiate in an industry-specific context which is within the oil and gas business dealings. The negotiators interviewed were from Asia that are generally characterized as upholding values of collectivism, hierarchical community with emphasis on social power and indirect communication due to high-context cultures.

Review of Literature

Cultural components play significant roles in how negotiations are carried out. In fact it has long been recognized that cultural context has an impact on the negotiation styles and processes (Parnell & Kedia, 1996). Cultures of different countries and continents however can be in stark contrast, as reflected in the basis of the word "culture shock". Failures in negotiations are largely attributed to the differences in cultures when the negotiators come from different cultural background (Brett, 2000). Culture can be seen as socially transmitted values, beliefs, norms, behavioral patterns, and rituals that are shared by a community or large group of people (Rudd and Lawson, 2007). It constitutes economic, social, political, and religious institutions that govern the way the community members behave and act. These cultural values and norms could have an impact on negotiation as it could form as the foundation of how situations and meanings are interpreted. Brett (2000) argues that cultural values that are relevant to norms and strategies for negotiation include individualism versus collectivism, egalitarianism versus hierarchy, and direct versus indirect communications.

In individualistic cultures, individual accomplishments are rewarded even though they have strong personal self-interest as their goals in negotiation (Brett & Okumura, 1998). On a contrary, in a collectivist cultures, individuals are interdependent and are expected to adhere to social obligations. Egalitarianism versus hierarchy refers to the extent to which a culture's social structure is flat where hierarchical cultures implies social power is highly regarded in the community. Such different orientation in communities could pose different challenges when in a negotiation situations. High-context Cultures offer little and sometimes abstract or non-direct information in the message. On the other hand, communication in low-context cultures is straight-forward and action-oriented.

Acuff (2008) relates how cultural factors may influence international negotiating process in the model below.

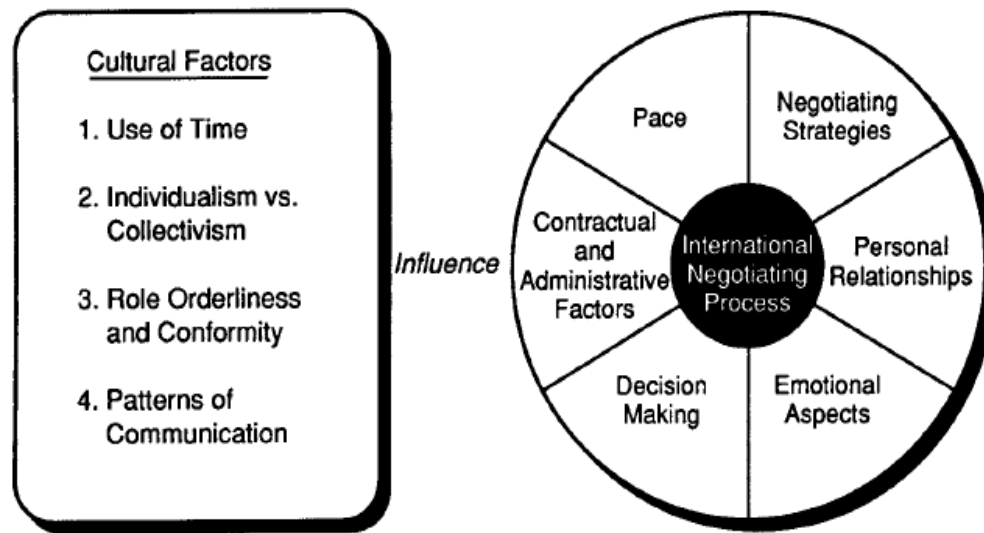


Figure 1: Cultural factors that influence international negotiations (Acuff, 2008)

Acuff (2008) explains that the issues pertaining to negotiation strategies such as opening offers, the formality of approach, differences handling manner and concession making differ from region to region. Very often researchers make a distinction between the East and the West where the West generally uphold contrasting values than the East. The western people are said to value individualism, egalitarianism, and low context, communication, and the East value collectivism, hierarchy, and high-context communication. Such assumption may lead practitioners and negotiators to fall into the trap of over-generalization. Hence, it is imperative to have closer examination of inter-cultural negotiation by practitioners especially in industry-specific context.

Miller (2013) defines business negotiation as the process by which two or more parties come together to attempt a mutually agreeable contractual decision. Each party will have competing interests and therefore, negotiations can be quite intricate and lengthy. Adding the factor of differing cultures into the equation and we find increasing complexity in negotiations of international businesses. Consequently, most international negotiators find it necessary to modify the negotiation approach of their home country. Moore and Woodrow (2010) describe intercultural negotiation as a process initiated by individuals, groups or organizations from different cultures that enables them to: jointly define the form of their relationship, clarify individually and together the goals and outcomes to be achieved, communicate about issues of individual or common concern, educate each other about shared and differing issues, interests or needs, develop options that address their needs, issues, problems or conflicts, influence and persuade each other, reach mutually acceptable decisions and agreements and implement agreements reached.

Negotiating oil production agreements with foreign oil companies is a challenge with which governments of natural resource-rich countries encounter. The terms that governments enter into with contractors will determine how much a government and a country earns from its natural resources. Though contracts can vary widely in their details, all must address two key issues: how profits (often called “rents”) are divided between the government and participating companies and how costs are to be treated (Radon, 2005). What complicates negotiations is the high level of uncertainty caused by incomplete or even faulty information. Prior to development of the oil block, the prediction of recoverable oil in the block is merely a deduction from geological knowledge of the block, which often may differ significantly from the actual oil content in the block. As such, typically at the time of signing the contract, neither the oil company nor the host government knows with certainty how much oil or gas there is in an oil block, whether future oil or gas prices will justify that cost, or how much it will cost to explore and develop the block. Nine out of ten

exploration efforts result in a loss (Radon, 2005). Companies will seek to protect themselves against possible losses, which drive up investors' internal costs. Contract negotiation requires skillful bargaining to reach a reasonable and mutually acceptable balance between the interests of an investor and a government. Host governments very often turn to international financial and legal experts to advise them during these negotiations. The type of contractual system governments worldwide use to establish the terms of the oil block development process are: a joint venture (JV), a production-sharing agreement (PSA), or a concession license agreement (Radon, 2005).

Gayashanti and Sunitiyoso (2013) conducted a study on evaluating negotiation strategy adopted by an oil and gas company in Indonesia. The study had adopted a qualitative approach by conducting a series of interviews. Their findings indicate that amongst the negotiation barriers identified includes bad planning, lack of preparation, incompetent negotiator and urgency of work that make negotiator has no room and time to make a deep analysis. Sercikov (2010) had conducted a study on the Russian negotiation style in the oil service industry. The researcher had interviewed managers of the international oil field service and equipment services operating in Russia on the negotiation styles adopted. Their findings indicate that culture has a substantial influence on the way Russian negotiates. Establishing personal relationship is crucial as Russians trust relationship more than contracts.

Theoretical Models for Cross-Cultural Negotiations

Moore and Woodrow (2010) identified five basic strategies for conducting cross-cultural negotiations: adhering, avoiding-contending, adapting, adopting, and advancing. In adapting the framework for a discussion of oil and gas industry related case study, an International Oil Company (IOC) would negotiate concessions of oil blocks that are controlled by National Oil Company (NOC), an authorized representative of the host government. The choice of strategy hence depends on the IOC's ability or willingness to adapt to NOC's culture and NOC's ability or willingness to adapt to the IOC's culture. Figure 3 illustrates these strategies on a behavioral grid for both sides in the negotiation.

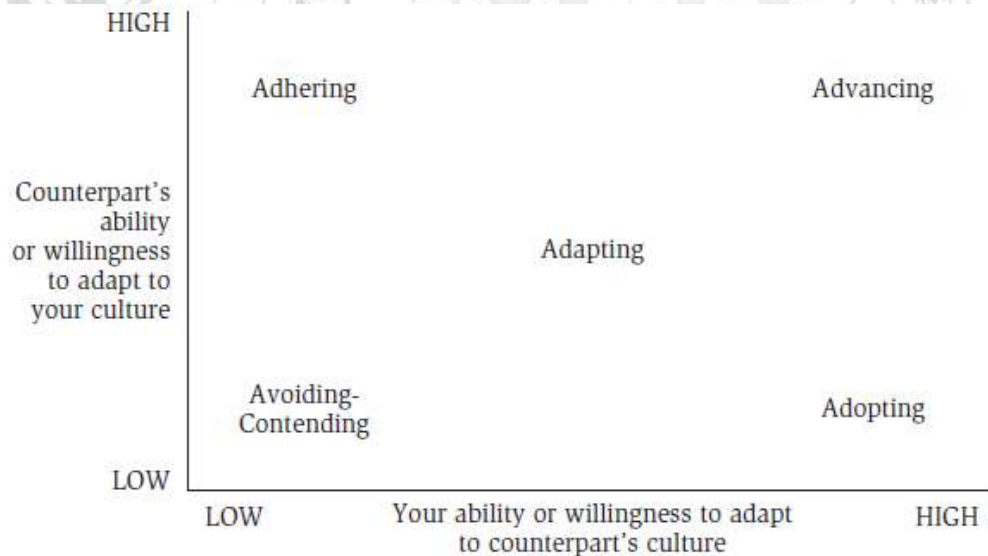


Figure 3: Strategies for intercultural negotiations (Adapted from Moore & Woodrow, 2010)

When an IOC is unable or unwilling to deviate from NOC's cultural style of conducting business, while the NOC is able to accommodate IOC's style, then the IOC may choose to follow the adhering strategy. If neither party in a negotiation is willing or able to adapt to a different cultural style, two possible courses of action are avoiding and contending (Moore & Woodrow, 2010). In the course of the avoiding strategy,

negotiating parties could be uncomfortable with each other's cultural norms, therefore they seek only minimal contact. Whereas in the course of contending, people contend for many reasons, including stubbornness, ignorance, arrogance, or desires to establish dominance. In this strategy, both parties engage in give-and-take for adapting their responses to intercultural interactions and differences (Moore & Woodrow, 2010). The adapting strategy requires that both parties know at least a little about each other's cultures and remain fairly flexible to accommodate each other's cultural and procedural preferences. Compromise is the means to arrive at a comfortable way of proceeding for both parties, resulting in a mixed set of procedures. Adapting is a suitable strategy for establishing a healthy long-term relationship, which may develop into the advancing strategy over time (Moore & Woodrow, 2010). When an IOC is familiar with NOC's culture and are comfortable with their approach to negotiations, the IOC can apply the adopting strategy. An IOC is more likely to adopt NOC's culture when the IOC is the visitor on the grounds of the NOC (Moore & Woodrow, 2010). The advancing strategy is in many ways a more evolved version of adapting. Negotiators still adapt, but not to each other's styles. Instead, negotiators jointly develop a third way that may or may not include elements from both cultures. Advancing takes time and trust to develop. This strategy is employed when negotiators are interested in a longer-term relationship and perhaps future encounters. Advancing may be particularly relevant when there are more than two people or two cultures. Many multinational corporations have also developed third cultures that are characteristic of the organization as a whole rather than any one of the participant cultures (Moore & Woodrow, 2010). Acuff (2008) explains that while there are many different negotiating approaches required among cultures, ten strategies tend to be effective anywhere in the world. Though the application of these strategies may vary on the basis of locality, their basic premises remain viable. The ten strategies are as following:

- Strategy 1 – Plan your negotiation
- Strategy 2 – Adopt a win-win, interest-based approach
- Strategy 3 – Maintain high aspirations
- Strategy 4 – Use language that is simple and accessible
- Strategy 5 – Ask lots of questions, then listen with your eyes and ears
- Strategy 6 – Build solid relationships
- Strategy 7 – Maintain personal integrity
- Strategy 8 – Conserve concessions
- Strategy 9 – Make patience an obsession
- Strategy 10 – Be culturally literate and adapt negotiating strategies to the host country environment

Brett (2000) offers another model for negotiation between parties from different cultures. This model emphasizes on the conditions in which the agreements are achieved. The compatibility and clash zone both have the capability to reach an agreement but the state of the environmental and emotional competencies is looked upon in this model.

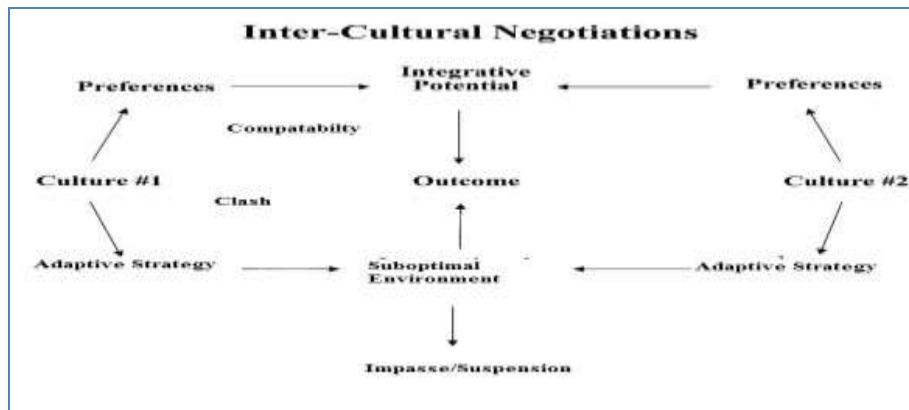


Figure 4: Intercultural Negotiation Model (Adapted from Brett, 2000)

The model suggests both the negotiating cultures strive for an agreement even when the cultures are not compatible. This is especially significant because cultures play an important role in the course of negotiations but culture is not a limiting factor. The incompatibility has to be very severe for the negotiations to fail. In case the cultural differences are present, the final outcome of the negotiations will be achieved but under Suboptimal conditions, which means the relationship between the two parties might be strained.

Methodology

The study adopted a qualitative approach through a structured interview with three personnel who have a vast experience in the Oil and Gas industry business. They are senior members of three different oil and gas organizations in Malaysia and have served for more than 20 years with ample negotiation experience at the international level with various countries from different continents. To name a few of the countries include Indonesia, Thailand, Sudan, Iraq, China, Equatorial Guinea, Turkey etc. The researchers have kept their names anonymous as per requested.

The interview parameter was set from the intercultural negotiations angle which includes the following questions.

1. What are the negotiation strategies in multicultural project management within the oil and gas industry?
2. What are the main obstacles in intercultural negotiations in O&G dealings?
3. What is the scope of compromise towards reaching consensus in intercultural negotiations?
4. What intercultural concerns do you anticipate prior to negotiations?
5. Is there any protocol/procedure for IC negotiations provided by your organization?
6. What are the negotiation strategies that you have adopted during your dealing with foreign O&G companies?
7. Was any agent/facilitator employed in IC negotiations between Malaysia and collaborative countries? What were the reasons for the employment? How was it beneficial or otherwise?
8. During IC negotiations, what are the main obstacles that you encountered?
9. What is the scope of compromise towards reaching consensus in intercultural negotiations? What is the extent of compromise that you had undertaken in order to achieve desired negotiation outcomes?
10. What are the most valuable lessons learnt from your toughest case that came from an off-tracked/failed negotiation?
11. What is your advice to the junior executives when in negotiation with people of different cultures?

Results and Discussion

The Initial Cultural “Shock” and Adaptation

Cultural shock in this context refers to subtle practices that are foreign to the negotiators that travel abroad on business mission. The fact that they are subtle and previously thought to be insignificant caused a lot of frustration among the negotiators. An example given by an interviewee, in Sudan the phrase “I will pass it to you later” does not imply that the required documents will be delivered sometime later that day but that the documents will be handed over sometime in the next day or on other days to come. There is a difference on the understanding and interpretation of time. Another incident shared was in Oman during the Shia religious Day of Ashura. Shia community mourns the loss of Husaynibn Ali by starving and flagellating themselves. The negotiating team, on the other hand, was having a joyful meal unaware of the mourning day. This ignorance of such an important day in the host country had severely offended the locals around the area. The socially unacceptable behavior had reached to the knowledge of the party in negotiation with the foreign delegates and had consequently jeopardized the business negotiation dealing that was going on then. This could have been avoided with the proper understanding and cultural literacy of the region or the host country. Due to the incidents such as these, the NOC has placed more emphasis on educating their

staff in the cultures and traditions of the host country. It has become a significant part of the preparations nowadays. It has also become a part of the adapting procedure to send a few officials to the country to understand the culture. All the interviewees agreed that adapting to foreign culture was best learned through experience and circumstances rather than by book knowledge.

In this particular instance, the negotiation was compromised due to an incident that occurred outside the negotiation process. Many of the models and theoretical strategies deal with what takes place during the negotiations e.g. Brett (2000), Moore and Woodrow (2010). Negotiation across cultures is not only about reaching consensus or winning the business deal but more importantly it is related to respecting the norms of the negotiating partners and establishing a long-term cordial relationship for business. Most negotiations in the oil and gas industry require a long-term framework. Cross cultural negotiations could take up to two to six times of discussion (Hendon et al, 1996).

“Floor and Ceiling” Effect

Interviewee A mentioned that in negotiations pertaining to financial matters, the paying party aims to bargain for the least price or “floor” price, whereas the receiving party expect to gain the maximum price or “ceiling” price. This is referred to as the Floor and Ceiling effect by one of the interviewees. He explained that due to the different cultures, it is common for both the parties to be in different “pages” in the context of where an agreement could possibly be ignited. The host nation might be expecting a “ceiling” and the company might be willing to offer only a “floor”. This is complicated more by the fact that in some of the countries, access to the local geological data/literature is either restricted or the database itself is limited. For example, even though there is abundance of literature available on negotiation styles and tactics (see Roemer *et al.*, 1999) but there is very little specifically focus on the oil and gas industry.

One example given by the interviewee is when the host nation wanted a deal which was much higher than his mandate. He was unable to present the deal to his management and was unable to formulate a basic geological map because the data room provided by the host nation was limited. As a result the negotiations were hindered because of the geological data was not available to justify the financial cost of the prospective business. As an alternative the negotiator could also offer sub-optimal incentives such as food aid, community infrastructure development work and construction of schools in exchange for the desired deal. Another technique shared by the negotiators was to understand the very specific need and aspirations of the community in question and offer a custom but quick and practical solution. This builds trust which can assist in the negotiation process.

Intercultural Ethical Barriers

Oil discoveries have been made in mostly very remote and impoverished places in the world. This comes with a new set of challenges. When the interviewees were asked about their experience with corruption, they all agreed to the fact that ethical misbehavior could be rampant in the oil and gas industry. One of the senior interviewees told us about a case in which a top level politician of an unnamed nation invited him to his house just to tell him, unless the company made large contributions to his personal assets, he would not allow the deal to go forward. Other cases reported by the interviews were not as serious as these but they did make it clear that corruption could be a daily occurrence. Some companies are comfortable paying off the personnel of the host country to ease the process of negotiations but it is against the companies’ ethics and policy to proceed with such bribery. When asked how they solved this problem, they explained that they always attempt to negotiate legal incentives for the community or the country but if the attempt fails, they have no choice but to abandon the project.

This is not the case elsewhere as mentioned above; some western companies have been prosecuted in corrupt behavior in African subcontinent. Bribery is deep rooted in some regions like North Africa (Sardan, 1999). This has grown from years of civil unrest and extreme poverty ravishing the region. As when the

large multinational oil companies arrive to do business, it is seen as an opportunity for corruption. This point of view was shared by all the interviewees.

Optimal Conditions for Agreement or Disagreement

The main objective of the negotiation is to resolve the conflict or dispute between the parties and still have a healthy relationship intact for future collaborations. The key to this is to create optimal conditions for the result of the negotiations whether they are positive or negative. In one of the interviews, the expert shared about a case in a Middle East country in which the negotiations were running longer than usual and the mandate given to the negotiator was running out of time. The top management refused to renew the mandate and has sent a letter for withdrawal. This would seem to be a normal process when negotiations reached an impasse; unfortunately the cultural aspect played a crucial part in this incident. The method of informing the opposite party, by a letter was considered extremely offensive. This incident created less than optimal conditions for future negotiations in that country. The method of rejecting or accepting an offer is very subjective to the culture that one is dealing with and in this case, culture played a crucial part in shaping the professional relationship for the future. This is in line with many other studies indicating that failed negotiations may be due to lack of understanding.

Implications

The experience of these negotiation experts places emphasis on cultural sensitivity. The model encompasses different stages of their duty from initial intercultural experiences to negotiation experiences. The findings imply that most negotiators would go through the experience of cultural shock when placed in a new environment. Upon adaptation, the negotiator would proceed with optimal conditions for negotiations. As indicated in the model, compliance to mandate dictates primarily whether negotiations may lead to agreement or disagreement (impasse). Mandate in this context refers to the negotiation terms (cost, time and resources), that is within acceptable range of the contract-seeking party. Agreements take place due to compatibility and acceptances of terms by both parties, but when there is a disagreement, it does not necessarily mean that the negotiations have failed. Persuasion is applied in order to proceed by legal means, wherein our Malaysian negotiators would emphasize on the community gains and communal benefits of their offers (rather than gains with self-interest of bribery that is illegal according to the company policy). The multinational participation in the oil and gas industry calls for careful consideration of negotiation strategies specifically in terms of cultural concerns. This project has been informative about negotiation strategies from the perspective of Malaysian oil and gas industry.

It is evident that cultural values and differences of both negotiating parties contribute to the formulation of unique negotiating approach. Therefore, the awareness of the skills required for negotiation in an intercultural environment will be advantageous for negotiators. Effective negotiators understand predisposition of one's own culture as well the business counterpart's culture and strive to bridge the cultural gap tactfully. It is observed that Malaysian negotiators believe in adapting to the culture they are negotiating without compromising their company ethics. The examples and scenarios discussed in this report might not be very different from what negotiators of other cultures might employ but it builds a foundation on which further research could be carried out.

Future Research

Numerous research has been done on intercultural negotiation competencies, but there is limited literature offered in the Malaysian context. More studies specific to Malaysian Oil and Gas industry can be helpful to offer the future generation of negotiators, as there is no "play book" with vast collective experiences of the Industry Seniors. These studies on intercultural negotiations can be conducted specifically in accordance to each business partner nation, as cultures could interestingly vary in stark contrast from one nation to another. This would be an invaluable resource for a young negotiator to understand intercultural

negotiations in the industry. An interesting aspect that surfaced from this intercultural negotiation studies is the ethical barriers, specifically the involvement of bribery in relation to business dealings. While bribery is a sensitive matter and often conducted in the grey shades of confidentiality, it would be beneficial to launch a study on how to circumvent such unethical demands in pursuit of a clean and honest business dealing that benefits all communities.

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