THE INTENTION TO SETTLE DRIVERs OF CONSTRUCTION DISPUTE NEGOTIATION

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Negotiators may take different behaviors to pursue their goals. Having varying levels of intention to settle is considered as the impetus that underpins the respective strategy. This study aims to understand the aggressive-cooperative nature of negotiating behaviors from the perspective of negotiators’ settlement intention. In this regard, we identified six drivers of intention to settle from a review of literature. These are preparation, integrating, goodwill, trust, commitment, and self-efficacy. A self-reported questionnaire was designed to measure negotiators’ assessments about their negotiating behaviors and intention to settle drivers. Factor scores of each driver were calculated to show the relative importance respective to negotiating behaviors. Results showed that negotiators who adopt cooperative behaviors also score the highest among the six intentions to settle drivers, suggesting that intention fosters amicable actions whereby settlement is more likely. The findings also reveal that negotiators having the intention to settle would avoid using aggressive negotiation behaviors to pursue amicable settlement. Furthermore, the most critical driver of intention to settle is ‘preparation,’ whereas ‘trust’ between the negotiating parties is found to be the most difficult to cultivate.

Keywords: Aggression, Cooperation, Negotiating behaviors, Settlement intention.

1 INTRODUCTION

Negotiation involves discussions among negotiating parties with the desire to reach a mutually acceptable solution (Rubin and Brown 2013). Construction dispute negotiation (CDN) is especially complicated due to the different motives and concerns (Sorenson et al. 1999). Negotiators may hold different viewpoints when negotiating with their counterparts. For example, some may unilaterally press for their own party’s position to claim rights, while some may value more about their cooperative relationships and be willing to make concessions and propose mutually acceptable offers (Wang et al. 2016). Negotiators with different attitudes and expectations in construction transactions will have different levels of intention to settle the disputes. As suggested by the theory of planned behavior proposed by Ajzen (1985), one’s intention guides their decisions. In this study, we adopt this proposition and propose that negotiators’ inherent settlement intention will drive negotiators to adopt different negotiating behaviors to resolve disputes. To get a better understanding of how negotiators decide their negotiating behaviors, this study examines the drivers of intention to settle in the context of CDN. Exploring these intention drivers will help to evaluate negotiating parties’ overall intention to settle. Furthermore, the study would contribute to negotiation management by systematically analyzing the relationship between intention to settle and negotiating behavior in CDNs.
1.1 Construction Negotiating Behaviors

Negotiation behavior can have both competitive and cooperative elements (Halpert et al. 2010). Attempting to balance the mixed expectations of maintaining relationship and safeguarding self-interest, negotiators would adopt a cooperative stance to reach a consensus agreement or a competitive approach for their own best interest. Cooperative negotiating behaviors can be accommodating, collaborating, or problem-solving. Manifestations of cooperative behaviors include showing kindness, actively exchanging information, or making appropriate concessions. Competitive negotiators are aggressive, attacking, refusing to concede, or making threats. De Dreu et al. (2000) suggested that cooperative negotiators could reach more integrative solutions than aggressive negotiators. There is a quite unified view that cooperative approaches would derive better outcomes (Halpert et al. 2010). This study further explores if having intention to settle would drive cooperative behaviors.

In this study, five types of negotiating behaviors were used. These are attack, confront, neutral, accommodate, and cooperate, representing from aggressiveness to cooperativeness. Their identifications are summarized in Table 1. Respondents’ choice of negotiating behavior will be applied to assess the importance of intention to settle drivers in this study.

Table 1. The identifications of negotiating behaviors (Cheung et al. 2009).

<table>
<thead>
<tr>
<th>Behavioral component</th>
<th>Identifications</th>
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<tbody>
<tr>
<td>Attack</td>
<td>Aggressive behaviors, e.g., directly point out mistakes made by my counterpart or press for concessions from my counterpart</td>
</tr>
<tr>
<td>Confront</td>
<td>Confrontational behaviors, e.g., insist on my own position and refuse to compromise</td>
</tr>
<tr>
<td>Neutral</td>
<td>Middle course behaviors, e.g., try to find a neutral ground to break deadlocks</td>
</tr>
<tr>
<td>Accommodate</td>
<td>Obliging behaviors, e.g., change my position to respond to the proposal of my counterpart</td>
</tr>
<tr>
<td>Cooperate</td>
<td>Problem-solving behaviors, e.g., collaborate with my counterpart to find solutions accepted to both parties</td>
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1.2 Taxonomies of Intention to Settle Drivers

In the context of CDN, intention to settle is defined as the state of favorably engaging in the negotiation and actively putting an end to the dispute (Lin and Cheung 2021). Drivers represent stimuli and forces that facilitate negotiators to settle. With varying levels of drivers, negotiating parties may take different approaches, i.e., cooperative or aggressive, to achieve their goals. For example, negotiators who have no desire to build a solid relationship with their counterparts may adopt aggressive strategies. A comprehensive literature review was applied to summarize the intention to settle drivers. To facilitate interpretation, these drivers are further arranged as six key factors according to their nature:

(i) Preparation: Adequate preparation is commonly believed to be the groundwork for a robust claim (Fells 1996). It is relatively simple but would make a significant difference to the negotiation dynamics. It would be a disaster to start a negotiation without sufficient preparation. Good preparation should at least include relevant contractual documents, a comprehensive checklist of key points, support of legal proof, and compliance procedures. With these preparations, negotiators can conduct rational analysis by proper evaluation of the settlement options, setting their priorities, and selecting the initial demands before the actual interaction process. A mature negotiator would set their trading zone with a resistance point and a target point before entering a
negotiation (Schaerer et al. 2016). On a practical level, sufficient preparation at the pre-negotiation stage provides the platform to settle the differences.

(ii) Integrating: There are five commonly adopted negotiating styles: integrating, obliging, compromising, dominating, and avoiding (Van de Vliert and Kabanoff 1990). Their respective use would reflect negotiators’ underlying motivators (Olekalns and Smith 1999). Compared to the other four styles, integrating is considered to be the most suitable way to solve differences as it shows both concerns for the self and others (Rahim 1983). Cooperation will occur with the integrating style, including openness, information exchange, and actively examining the differences in the proposals to meet both negotiating parties’ desire (Lin and Miller 2003). Prior studies have proved that negotiating parties engaged in integrative negotiations are more likely to achieve amicable settlement and optimal outcomes (Abigail et al. 2018). In this connection, adopting the integrating style can be seen as one of the drivers of intention to settle.

(iii) Goodwill: Negotiation is a process to sell thoughts and proposals via verbal and nonverbal communication (Whitney 1983). Good communication offers better settlement prospect; however, poor communication may escalate conflicts (Chebet et al. 2015). Nelson Mandela once said that “Our experience has taught us that with goodwill, a negotiated solution can be found for even the most profound problems” (Low 2020). Goodwill is a kind of negotiation attitude to show kindness and good faith. People at the negotiating table would be especially sensitive. The signal of goodwill sent by negotiators will be detected by their counterparts, thereby alleviating the tension of negotiations. A personalized and friendly relational tone can show negotiators’ honesty, politeness, and respect, thus leading to open discussion and the efficiency of negotiation. Thus, showing goodwill can be one of the signals of intention to settle.

(iv) Trust: Trust has varying definitions. In the field of construction industry, trust was defined as the willingness of a party to be vulnerable to the other party’s action (Zhang et al. 2016). As the negotiation evolves, negotiators assess and reassess how much they can trust their counterparts, and according to that assessment, they develop and adjust their negotiation strategies. In this connection, trust is vital to effective negotiation. Trust building between negotiation parties can simplify the negotiation as it can minimize transaction costs of verifying each other’s statements, claims, and proposals (Lewicki and Polin 2013). Wong and Cheung (2005) also stated that trust is one of the significant factors in fostering the spirit of cooperation and maintaining positive working relationships in strategic affiliations. The trust relationship can be seen as the glue between negotiation parties which will facilitate coordination and settlement.

(v) Commitment: Negotiators are the protagonist of the negotiation, and their cognition and interpretation of the states would affect their decisions to settle or withdraw from the negotiation. Chow et al. (2015) found that commitment is key to project success because committed participants would put more effort into completing their assigned tasks. In CDN, commitment to negotiation can be considered as negotiators’ continuing effort to invest in negotiation and a desire to reach a mutual settlement. It is suggested that negotiators with high commitment would be more likely to invest their time to solve problems, however, declining committed negotiators would behave a lousy attitude like refusing to continue or distancing from their tasks and roles, which may result in the ultimately destructive breakdown (Pool and Pool 2007). Sen and Durfee (1994) proved that commitment would allow negotiators to deal flexibly with dynamically changing environments. Based on the afore-stated conceptualizations, commitment is an indispensable settlement driver.
(vi) Self-efficacy: Bandura (1977) defined self-efficacy as individuals’ degree of confidence in their ability to conduct specific actions. Social-cognitive approach portrays that a person’s self-efficacy is a reliable positive contributor on making correct decisions for performance (Stajkovic and Luthans 1998). People who are confident with their engaged task will predict success results and search for ways to solve problems (Sullivan et al. 2006). Nevertheless, people with a low level of self-efficacy would prefer more controllable activities. Negotiation is actually a challenging task that requires more confidence to propose offers and pursue desired outcomes. Yiu et al. (2012) redefined self-efficacy in CDN as negotiators’ confidence to successfully use appropriate approaches to achieve desired results. Typically, negotiators with a high level of self-efficacy would be more confident to guide the negotiation course and overcome constraints. However, it is worth noting to avoid the dark side of overconfidence that may impede dispute resolution.

2 DATA COLLECTION

This study aims to identify the significance of negotiators’ intention to settle drivers under the choice of different negotiating behaviors. To achieve this, the questionnaire includes three main parts. The first part collected the background of the respondents. The second part provided five types of negotiating behaviors, as presented in Table 1. Respondents were asked to evaluate their negotiating behaviors and choose one of the identifications that best represents their behaviors. The third section evaluated respondents’ intention to settle drivers.

Respondents are construction professionals in Hong Kong. The contacts were mainly collected from research networks and websites of professional institutes. 171 data sets were saved as valid. Over 59.65% of the respondents had at least 5 years’ experience in CDN. The respondents include project manager (27.49%), department manager (18.13%), contract administrator (20.47%), engineer (18.13%), legal personnel (2.92%), and other (12.87%) from the contractor, developer, and consultant.

3 RELATIVE IMPORTANCE RANKINGS OF THE INTENTION TO SETTLE DRIVERS

The collected data were divided into five groups according to negotiating behaviors reported by the respondents. For each group, the score of intention to settle drivers can be calculated by averaging the mean score of the items of each factor. In this connection, the degree of significance of intention to settle drivers can be disclosed with each type of negotiating behavior (i.e., attack, confront, neutral, accommodate, and cooperate). The drivers’ rankings respective to negotiating behaviors are summarised in Table 2.

Table 2. Rankings of intention to settle drivers for different self-reported negotiating behaviors.

<table>
<thead>
<tr>
<th>Intention to settle driver</th>
<th>Negotiating behaviors: factor scores of drivers (ranking)</th>
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<tbody>
<tr>
<td></td>
<td>Attack  (N=2)</td>
</tr>
<tr>
<td>Preparation</td>
<td>4.750 (6)</td>
</tr>
<tr>
<td>Integrating</td>
<td>5.375 (2)</td>
</tr>
<tr>
<td>Goodwill</td>
<td>5.250 (5)</td>
</tr>
<tr>
<td>Trust</td>
<td>5.500 (1)</td>
</tr>
<tr>
<td>Commitment</td>
<td>5.375 (2)</td>
</tr>
<tr>
<td>Self-efficacy</td>
<td>5.375 (2)</td>
</tr>
</tbody>
</table>
Interestingly, most respondents did not feel their negotiating behavior was aggressive, even though it is expected that CDN is inherently combative due to the opposing positions and interests of the disputing parties. Only 2 respondents considered their negotiating behavior as attacking, and 14 participants rated themselves as confrontational. Furthermore, very few negotiators (N=5) take the accommodative behaviors. Instead, most respondents reported the use of neutral (N=43) and cooperative (N=107) behaviors. These two groups of respondents share the same rankings of the drivers. Two most important factors are ‘preparation’ and ‘integrating.’ In essence, these are the pragmatic and effective approaches to tackle negotiation issues. It also makes good sense that ‘goodwill’ (the third most important factor) and ‘commitment’ (the fourth most important factor) support their gentle behaviors. However, ‘trust’ gets the lowest score, which indicates that it is difficult for negotiators to cultivate mutual trust, even though it is believed to be critical as an instrumental driver. As for the confront group, it shares a similar ranking of the intention to settle drivers as the group of neutral and cooperate. However, the factor ‘commitment’ gets a higher ranking (the second most important factor) in the confront group. It can be explained that confrontational negotiators would devote more effort with the aim of attaining their demands. The number of responses for attack (N=2) and accommodate (N=5) groups are too small for any form of generalization. In general, along with the drivers’ scores increasing, negotiators are more likely to choose gentler behavior. Six intentions to settle factors under the cooperate group get the highest scores, suggesting that negotiators who are motivated to end the disputes would adopt more rational and peaceful means. Thus, it is reasonable to summarize that intention to settle is essential to reaching an amicable settlement.

3 CONCLUSIONS

This study examines the intention to settle drivers with the aim of understanding negotiators’ behaviors in CDNs. Five degrees of aggressiveness/cooperativeness were used to identify negotiating behaviors. Furthermore, six factors that facilitate settlement intention were summarized: preparation, integrating, goodwill, trust, commitment, and self-efficacy. The findings suggested that CDN may not be inevitably adversarial. Negotiators may behave aggressively, but most respondents considered themselves as non-aggressive. Moreover, it can be concluded that intention to settle drivers provide negotiators the platform to reach a harmonious settlement. The technical factors, including ‘preparation’ and ‘integrating,’ were found to be the most critical to represent settlement intention. ‘Trust’ is also instrumental for a negotiated settlement, but it was found to be the most challenging factor to achieve in practice.

References


