

The Business Of Getting To Yes

'Many Canadians have stopped dealing with real problems. They must learn to care about each other again.'



As a member of a B-29 bomber crew in the U.S. army air force during the Second World War, Roger Fisher was taking off from a base in Guam when one of the aircraft's engines suddenly caught fire. The airplane, which had risen about 20 feet off the ground, crashed back to

earth and began sliding off the end of the runway. As the crew scrambled to leave the plane, fearful that the now-flaming aircraft would explode, the only passenger, a young marine flying for the first time, looked at them calmly. Recalled Fisher: "He stayed cool and collected—because he did not know any better. He looked at us crew members and said, "What do you guys usually do now?" "

That story, which Fisher often tells with evident relish, illustrates one of the dilemmas involved in the business of what the Harvard law professor, founder of the Cambridge, Mass.-based consulting firm Conflict Management Group, calls "getting to yes." Said Fisher, who headed the three-man CMG team that *Maclean's* enlisted to direct the discussions of its 12-member constitutional forum: "We negotiators are the people expected to have the answers—even when it is not clear if any exist." For Fisher and his colleagues at CMG, achieving that goal as negotiators involves a careful blend of timing, inquiring, directing, listening—and often, some spontaneous improvising at the bargaining table. Said Fisher's associate, CMG executive director Stuart Diamond: "We make the different sides realize that among them they have the answers. We provide the process leading to that conclusion."

That philosophy—and CMG's success in applying it—has made the group arguably the most respected and sought-after practitioner in a fast-growing international field. The 69-year-old Fisher has worked as an adviser or consultant for governments in a dozen countries, including the Soviet Union, Yugoslavia, Colombia, El Salvador and South Africa. He helped the U.S. government devise the procedure that led to the landmark Camp David accord between Israel and Egypt in 1978.

In fact, Fisher is credited with inventing many of the techniques now regularly used by conflict resolution specialists—including a formula called "principled negotiation," which CMG describes as the cornerstone of its philosophy. That approach contrasts with many elements of traditional negotiating, including the conviction that disputing parties should begin talks with specific, declared objectives, as well as basic undeclared final positions that they are prepared to fall back on.

The methods pioneered at Harvard University in Cambridge also have spawned an entire new industry that is swiftly taking root around the world. In Canada, where the field is still relatively new, more than 250 people attended an Ottawa conference last year studying conflict resolution strategies. Among the proponents of the process is Benjamin Hoffman, 40, a former student of Fisher's at Harvard, who founded

Ottawa-based Concorde Inc. in 1989. Since then, he says, his business has doubled in volume each year. His clients have included native groups, municipalities and both management and labor groups. Said Hoffman: "We are looking at a process whose time has clearly come."

In fact, he and other experts foresee a variety of new uses for their field. With litigation costs rising dramatically across North America, insurance companies are turning to conflict resolvers to help settle claims. And with environmental concerns on the rise, large companies and government authorities are beginning to use independent mediators in environmental-assessment talks to reach agreement on project development. As well, the increase in the number of native Canadian groups making land claims has created a need for specialists familiar with the complicated issues being negotiated.

But while interest in conflict management strategy grows, Fisher continues to be regarded as pre-eminent in the field. Declared Hoffman: "Roger is the first, and best." That view is clearly shared by experts in a variety of fields. Along with CMG, Fisher works with a number of related Harvard-based groups offering negotiation advice and consultation in areas ranging from diplomatic training to foreign investment, labor-management relations and corporate planning. In one of CMG's more remarkable projects last year, it trained 46 diplomats from then-Warsaw Pact countries and members of the North Atlantic Treaty Organization on negotiation techniques that would help them adjust to the changing relations between them. In another venture, it worked with officials and groups in Israel, Jordan, Syria, Saudi Arabia and Lebanon, as well as with Palestinian diplomats, on ways to resolve their differences.

Still, Fisher said that in each situation, the basic tools he brings as a negotiator seldom change. He cites seven elements aimed at producing agreement between potential antagonists: interest, options, legitimacy, commitment, communication, relationship and alternatives away from the table. Those are building blocks for producing agreement. During the Briars session, they were used in the following ways:

- Focus on interests, not positions. The different sides are asked not to bring specific demands to a bargaining table. Rather, they are asked to list their underlying needs and interests in the hope that those will lead to



II. DIAGNOSES: SOME PR

- MINORITY TREATMENT
 - LACK OF EXPERIENCE WITH MINORITIES
 - MISCOMMUNICATIONS
 - MEDIA EMPHASIS ON SELECTED ISSUES
 - IGNORANCE OF CULTURE
 - HISTORY OF DISCRIMINATION
 - RACISM
- POLITICAL
 - POLITICIANS LACK AVENUES TO FEEL POWER
 - ELECTORIAL SYSTEM
 - POINT SCORING NOT PROBLEM SOLVING
 - FEDERAL-PROVINCIAL POWERS NOT WELL MANAGED



Fisher leading a Saturday session: 'more willingness among private citizens to be flexible than among politicians'

common ground. At the *Maclean's* forum, CMG negotiators asked the 12 participants to avoid getting mired in such traditional topics of debate as Quebec's language laws, the Meech Lake constitutional accord and what political parties they feel most comfortable with. Said Diamond at the outset: "We must avoid labels wherever possible."

- Attempt joint problem-solving. The participants are asked to work together to develop additional options beyond any proposals they have already brought to the table. That encourages them to work together and think creatively. At the June 7-to-10 retreat on Lake Simcoe, the negotiators asked federalists and Quebec sovereigntists to accept each other as people with legitimate interests who would like to be heard.

- Use objective criteria and standards. Often, one or both sides rely on their overall strength or emotions to set conditions for agreement.

- Develop new options. Throughout the *Maclean's* weekend, negotiators repeatedly told participants that they should try to think of options beyond those that had already been publicly suggested by politicians for Canada's future.

- Assess the alternative to a negotiated agreement. Each side is asked to consider realistically what the actual consequences will be if it is unable to reach an agreement with the other, and to consider whether that outcome justifies the risk. For their part, Quebec sovereigntists and Canadian federalists alike briefly considered the consequences of cutting

all ties with each other. Without asking anyone to abandon that possibility, they agreed to look first at an agreement that would keep Canada together—one that would be better for everyone than not reaching agreement.

- Separate the people from the problem. Every negotiation involves two issues: people and problems. A civil approach to the other side is far more likely to produce agreement than an aggressive, insulting manner. In fact, the CMG negotiators said that the close relationships and bonding developed among participants in the *Maclean's* forum members were significant achievements.

- Diagnose problems and individual goals. Sometimes, two sides agree on solutions that do not deal with deeper overall problems. Both sides should look beneath problems for their root causes, a process that helps find hidden solutions. The *Maclean's* participants were encouraged to look at why they and their colleagues felt personally aggrieved with the present state of Canada—and at how to change it.

- Try to understand one another's needs. Often, parties make demands that are impossible for the other side to meet. Each side should put itself in the shoes of the other side to consider each other's pressures and give choices that make it easier to agree. In three key areas—native rights, and anglophone and francophone perceptions of each other—the *Maclean's* participants said that their discussions had for the first time

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given them insight into the concerns and fears of other groups. That insight, some of them said later, made it easier for them to try to satisfy the different demands.

At the same time, CMG's Robert Ricigliano introduced a relatively simple chart of a circle divided into four quadrants. Using that chart, a regular tool in the group's work, he asked participants to divide problem-solving into four stages of thought: symptoms of the problems, diagnosis, general prescriptions and specific action ideas.

In the first stage, the *Maclean's* forum participants were asked to define the gap between the current situation in Canada and their preferred view of the country. The group cited problems including the country's moribund economy, inter-regional tensions and a chronic lack of faith in the present political process.

In the second step, the group began analysing how those problems had come into existence. They mentioned factors including elected politicians' determination to vote on party lines rather than reflect the wishes of constituents; a widespread sense that the present electoral process does not properly represent the needs of different regions; and the subsequent lack of any coherent process to guide the economy.

In the third stage, the group began offering solutions. They divided into three groups of four dealing with the Constitution, the economy and the general lack of understanding among Canadians. Then, each group presented its findings and recommendations to all the participants, who discussed them further.

In the final step, the group moved towards a specific plan of action and followed the one-text procedure used at Camp David. The facilitators started with a rough draft and showed it to the participants, continually revising the text to reflect suggestions and reactions. At that point, no one made a commitment either for or against any specific wording.

After three drafts, the group reached agreement. The forum's joint statement included suggestions on how to improve the economy and increase goodwill among regions, as well as how to make politicians more accountable to the electorate. If those steps can be achieved, the document concluded, "constitutional questions will be far easier to resolve."

In addition to the seven techniques, CMG negotiators follow careful guidelines defining the way that they should conduct themselves as conciliators. Declared Fisher: "There is often a perception that a negotiator must act very tough or very soft all the time, and be consistent in that. We reject that notion." Instead, the CMG philosophy, according to Fisher, is, "Be soft on the people, but hard on the problem."

In fact, Fisher, Diamond and Ricigliano said that they worked hard to apply all their usual methods to the *Maclean's* exercise. But, the CMG negotiators added, the experience of dealing with representative Canadians in such an environment sometimes contrasted sharply with their past work. Usually, the group deals with elected politicians, professional diplomats or other trained negotiators. But in the case of the *Maclean's* weekend, Fisher said, he found the participants to be refreshing in their approach. Declared Fisher: "There is a lot more willingness among private citizens to be flexible than among politicians who continue to

worry about their past positions and what the media might say."

But the encounter at the Briars posed a different problem. Many of CMG's tactics rely on conducting negotiations in a private, informal manner, so that participants feel less pressure to posture or defend previously articulated positions. Said Diamond: "Our sessions are usually highly confidential, severely restricted." But during the *Maclean's* forum, 11 editors and reporters and one photographer from the magazine monitored developments all through the weekend, as did a 25-member television crew that was preparing a one-hour special to be aired on CTV on June 30. Said Fisher of the *Maclean's* exercise: "I have never taken what were nominally representative citizens and put them in a fishbowl with television cameras and microphones." That process, he added, was sometimes "distressing." At one stage, Fisher said, the participants' awareness of the cameras surrounding them caused them to "fall back into hardened positions, sounding like broken records." He added: "It really exacerbated the initial problems."



Forum members meeting in groups on Sunday: trying to understand one another's needs

Despite such differences, Fisher said that the process of the sessions was consistent with the original CMG plan. And, said Diamond, the way in which *Maclean's* 12 diverse and often divided participants moved to agreement on issues provides a model that could easily be used across Canada. Declared Diamond: "If this group can come up with the ideas it [managed] after two days, without millions of dollars, tremendous political clout or huge staffs, then the people who run this country ought to be able to come up with an even better list in a reasonable time."

At the same time, the CMG members developed their own impressions of Canada's constitutional debate. Declared Fisher: "Many Canadians have stopped dealing with real problems. They must learn to care about each other again—as these people learned to do." Said Diamond: "One reason Canadians have not said 'yes' to anything is that there are not enough ideas on the constitutional table." He added: "Just because Canada has been talking about things for more than 100 years does not mean it is talking about the *right* things." For both men, the key to successful negotiation—and to deciding Canada's future—requires both a new kind of talk and a renewed willingness to listen.

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