

## **Some Thoughts about the Importance of Negotiation for Corporate Legal Counsels**

Today the importance of interdependency and networking in business is greater than ever. Neither individuals nor companies can achieve all their goals on a stand-alone basis anymore. The resulting web of increasingly tight relationships between individuals, groups of people or corporations represents a source of opportunities and conflicts at the same time.

Corporate counsels play a key role in the management of relationships both within the company and at the inter-company level. One of their most important responsibilities is to make sure:

- \* that the contractual terms underlying the relationships with customers, suppliers, partners, employees, etc. lead to a mutually beneficial and conflict-free cooperation,
- or
- \* when conflicts nevertheless occur, that disputes are resolved in a satisfactory way, as cost-effectively and rapidly as possible.

The design of a partnership or the settlement of a dispute means reconciling the different interests of the parties concerned - i.e., negotiating!

From a legal perspective, negotiating is a critical process under two different sets of circumstances. On the one hand, any contract reflects - almost by definition - the results of a negotiation. Therefore, the quality of a contract is directly related to the quality of the preceding negotiation process. On the other hand, disputes can of course be settled through litigation. Taking into account that litigation is time-consuming, costly and damaging on the future relationship between the parties concerned, negotiation-based dispute resolution mechanisms such as mediation are most often a much more attractive proposition.

In any case, good negotiation skills are of critical importance for corporate counsels. In order to strengthen those skills, corporate counsels should consider specific training.

As it enables to decide issues on their merits rather than through a haggling process focused on what each side says it will and won't do, the method of *principled negotiation* developed at the Harvard Negotiation Project is best suited to represent the core of such training.

In some cases, the assistance of a negotiation process consultant as coach, facilitator or mediator may be worthwhile to consider.