

# **Alliance Management: Supporting and Guiding the Collaboration after Deal Signature**

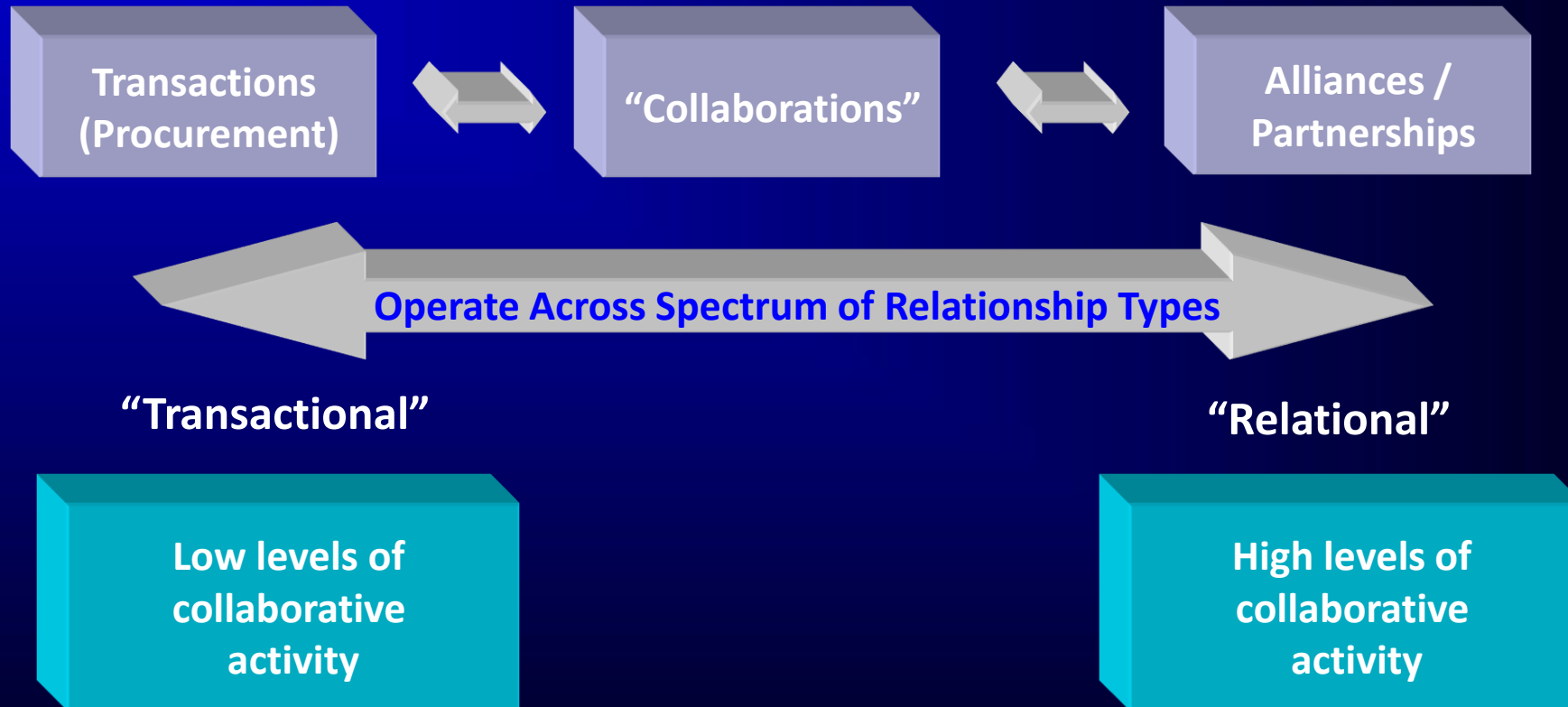
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## How Do You Try To Avoid Problems after Deal Signature?



# Make Use of Varying Degrees of Partnership



## Select Partners Rigorously

- Make a realistic assessment of partner capabilities, based on experience
- Consciously assess partner desires and possible future desires
- Consider cultural issues from the outset
- Ensure that partner selection is regarded internally as a critical activity
  - Criteria for partner selection must be clear and well-understood
- Acknowledge that there are always few (if any) perfect substitutes
  - Options are always highly constrained



## Evaluate Possible Changes in Strategic Direction

- Make the objectives of the relationship explicit
- Always think 3-4 years ahead
  - What will the situation and pressures on the other company be?
  - What could change in your own firm?
- Include mechanisms for dealing with changes and disputes
  - Steering groups
  - Periodic review
  - Use the right level of individual for steering groups



## Build escalation and dispute resolution processes into the agreement

- Processes are the same for large alliances and small collaborations
  - Apply active alliance management
    - Monitor
    - Raise potential difficulties early
  - Have an escalation procedure to involve senior management in resolving disputes
    - Make sure that level is appropriate
  - Possible mediation (not arbitration) step
  - Reserve rights for potential litigation



## Raise Difficult Issues - Diplomatically

- How are the project and the relationship developing?
- Were the initial goals explicit?
  - E.g. One firm may wish to learn about another sector. Has this aim been acknowledged in the contract and the project documents?
- What challenges are your goals causing the other party?
- What problems and issues are beginning to emerge?  
Does the contract or relationship need to be adjusted?
- Has your senior management's view of the project changed?



## Be Aware of, and Allow for, Cultural and Personal Factors

- Be sensitive to cultures and to personality styles
  - Consider cultural awareness briefings or formal training
  - Are there critical individuals? How will you deal with these?
- Monitor different evolving perspectives
  - Project leader(s), technical teams
  - Both senior management groups
- Manage the alliance carefully through critical personnel changes
  - Commitment, motivation and interests may change





## **Avoiding and Managing Disputes**

**Draft Agreement Carefully and Apply Alliance Management Practices**

## **1. Issue / Root Cause – Unclear Agreement**

## Beware of Agreements To Agree

- Generally-speaking, it is possible to oblige people to discuss matters
- It is difficult legally to force a future agreement
  - If you need an agreement, specify the price or price-setting mechanism now, and be as specific as you can
- “Rights of first refusal” can cause problems and set limitations

## Use “Moral Persuasion” Language...but Don't Rely on It



## **2. Issue / Root Cause – Technical Challenges**

## Technical Difficulties Can Be Under-estimated

- Sometimes it is apparent, after a project has started, that the budget will only cover 50% of the projected work, and technical work makes little progress
- If possible, challenge resource estimates before the project has started
  - Develop credible outline plans and agree these between both sides
  - Allow some contingency
  - Build go / no-go check-points into the technical plan and the legal agreement
  - Having a steering groups or nominated dispute resolution individuals (senior managers) can help
- Once you are aware of an issue, raise it with your side first and then with the other party

### **3. Issue / Root Cause – Changes**



## Changes of Personnel or Company Interests Can Cause Major Issues

- **Manage changes of personnel, as far as is possible**
  - Be conscious of major changes
  - Monitor management changes on the other side, as far as is possible
  - Introduce new personnel to the group
- **Arrange periodic meetings to monitor other party's perception of the project, and to build a relationship with key staff**
- **Try to raise any difficult issues**
  - This can be challenging for your own staff
  - Does the contract need re-negotiating or adjusting?

## **4. Issue / Root Cause – Unreasonable Behaviour**

**If a Serious Dispute Occurs, How Do You Respond?**

**Apply a Dispute Management Process, To Minimise Negative Outcomes**

## Take Control and Manage Communications

- Stop all non-technical communications with the other party
- Establish yourself as the sole channel of communication regarding the dispute
- Stop all work extensions or negotiations that are in progress
  - Allow current work to continue
  - Brief technical staff not to discuss commercial issue / dispute
    - Insist



## Gather Data

- Gather all data and documents that are relevant to the dispute
  - Initial agreement
  - E-mails and key communications
    - Pre- and post-contract (if available)
  - Critical meeting minutes
- Review all of the documents yourself
  - Know what data is available
  - Does the data support the assertions of your side?  
Are there gaps?
  - Never accept that a critical document exists unless you have a copy



## Establish a “Deal Team”

- Gain legal and patents (and possibly finance) support, and brief team members
- Legal input may not be initially required, but ensure a lawyer is allocated
- This process is similar to establishing a deal team, albeit for a dispute resolution



## Brief Management

- Brief management upward to an appropriate level
- Usually brief to a level higher than you would for a new deal situation
- Be aware that the other party may have social or similar connections to your senior management
- Given the rancour and ill will that disputes can cause, briefing is essential
  - Stick to the facts and the matter at issue
  - Do not issue predictions





## Negotiate (and Negotiate)

- Engage in discussions with the counter-party
- Understand the other side's official position, and any underlying emotional or personal issues
- Is the apparent (surface) issue the real cause of the dispute?
- Have egos been offended?
- Remain calm and factual
- Work through multiple discussions, if necessary
- Consider escalation on both sides
  - Is senior management of the counter-party aware of the dispute?
  - What are the current (deal) issues and what are the long-term issues for a relationship?

**Avoid Litigation If at All Possible**

## Litigation is Time-Consuming and Expensive

- Set a minimum threshold value for litigation
- Calculate pay-offs, costs and probabilities using decision-trees
- Consider reputational effects
  - Possible damage
  - Possible “market signalling” benefits
- Have all negotiation / escalation options been exhausted?
- Consider alternative dispute resolution processes

## Remember the “Reputation Effects” of Public Disputes



## Ensure systematic application of a deal process

- Take control and manage communications
- Gather data
- Establish a “deal team”
- Brief management
- Negotiate (and negotiate) Avoid litigation if at all possible

## Conclusions

- **Actively manage collaborations to avoid disputes**
- **Accept the limitations of agreements**
- **If a dispute occurs, take control and apply dispute management process**

**Thank You**

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