

Table of Contents

Foreword	7
Chapter I. The Phenomenon of Negotiations	9
1. The negotiable law	12
The open-endedness of legal interpretation	14
What is a legal rule?	16
Negotiation triggers	17
Result	18
The claim to universality	20
Statistical justification.....	21
2. Three models for negotiations.....	23
The argumentation model	24
The topic-rhetorical model.....	25
The economic model	25
Criteria for distinguishing between negotiation models	27
3. The practice of negotiations	27
Five sources of misunderstanding	28
The existing models of negotiations	32
Chapter II. The Argumentation Model	37
1. Rightness as a negotiation criterion.....	40
The concept of rightness.....	40
The discursive approach to rightness.....	46
2. The top-down strategy	47
Normative deduction.....	47
The key moments of negotiations.....	49
3. Controversy over the argumentation model	52
The objections of positivists	52
The objections of <i>laissez-faire</i> advocates	54

The façade objection.....	57
The undecidability objection	58
4. Ten principles of right negotiations	60
Chapter III. The Topic-Rhetorical Model.....	68
1. Efficacy as the criterion of negotiations	72
The concept of efficacy	72
Particular audience	74
2. The bottom-up strategy	76
The key moments in negotiations.....	76
Negotiation eristic.....	81
3. Controversy over the topic-rhetorical model.....	87
Underdetermination	88
Amoralism.....	88
Psychologism	89
Eristic character	90
Eclecticism.....	90
Relativism.....	91
4. Ten principles of efficacious negotiating.....	92
Chapter IV. The Economic Model.....	100
1. Economic efficiency as the criterion of negotiations.....	102
The economic way of thinking.....	103
Law as an economic fact.....	104
Peculiarities of legal negotiations	109
2. The mixed strategy	112
Between top-down and bottom-up	112
Common and conflicting interests.....	115
The key moments of negotiations.....	117
3. Controversy over the economic model.....	121
Counter-factual character	121
Moral monstrousness.....	124
Limited applicability	126
The façade objection.....	127
4. Ten principles of efficient negotiations	128
Bibliography	137
Index of Names.....	141
Subject Index	147