Examining Argumentation in Context
Argumentation in Context (AIC)

This new bookseries highlights the variety of argumentative practices that have become established in modern society by focusing on the study of context-dependent characteristics of argumentative discourse that vary according to the demands of the more or less institutionalized communicative activity type in which the discourse takes place. Examples of such activity types are parliamentary debates and political interviews, medical consultations and health brochures, legal annotations and judicial sentences, editorials and advertorials in newspapers, and scholarly reviews and essays.

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Volume 1
Examining Argumentation in Context. Fifteen studies on strategic maneuvering
Edited by Frans H. van Eemeren
Examining Argumentation in Context

Fifteen studies on strategic maneuvering

Edited by

Frans H. van Eemeren
University of Amsterdam

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Dedicated to the Memory of Peter Houtlosser
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Preface

*Examining Argumentation in Context* is dedicated to the memory of Peter Houtlosser, who died of cancer on the 14th of February 2008. Peter was not only a dear friend of the contributors to this volume and a great many others, but he was also a prominent argumentation theorist who died before he could realize his full scholarly potential. Peter and I were convinced that a satisfactory analysis and evaluation of argumentative discourse is possible only if the argumentation concerned is first situated in the communicative and interactional context in which it occurs. Together we worked for ten years on the development of a theory of strategic maneuvering in argumentative discourse that would enrich the pragma-dialectical approach developed at the University of Amsterdam by including the contextual dimension. The fifteen studies on strategic maneuvering presented in this volume are brought together as a token of respect for Peter’s intellectual contributions to the study of argumentation.

As part of a research program on strategic maneuvering in argumentative discourse subsidized by the Netherlands Organisation for Scientific Research (NWO, no. 360-80-030) Peter and I organized in Amsterdam four one-day conferences for argumentation theorists interested in this topic. The first conference took place in October 2006 and was devoted to a discussion of general perspectives on strategic maneuvering. The second conference was held in May 2007 and concentrated on qualitative and quantitative empirical research with regard to strategic maneuvering. The third conference in October 2007 focusing on strategic maneuvering in institutionalized contexts was the last conference in which Peter could take part. The fourth conference in May 2008 was dedicated to presentational devices used in strategic maneuvering.

The papers presented at these four conferences provide useful and sometimes illuminating insights in the views of strategic maneuvering of more than forty argumentation theorists studying argumentation in context who have paid attention to the problems involved in the analysis and evaluation of strategic maneuvering. For this volume I had to make a selection that is a good representation of the rich variety of the four conferences and the ideas presented. This means that this volume contains some essays in which general views with regard to strategic maneuvering are presented as well as essays reporting on the results of empirical study, essays that examine argumentation embedded in a particular
legal or political context, and essays highlighting the presentational aspect of strategic maneuvering. More often than not the essays offer a combination of these perspectives.

After an introductory chapter by me and Peter Houtlosser on strategic maneuvering as a key notion in studying argumentation in context, M. A. van Rees discusses strategic maneuvering with dissociation, Christopher Tindale emphasizes the rational character of rhetoric, and G. Thomas Goodnight links strategic maneuvering with New Institutional Theory. Eveline Feteris illustrates how in the justification of judicial decisions strategic maneuvering can relate to the presumed intention of the legislator, David Zarefsky analyzes strategic maneuvering in political argumentation, Isabela Iețcu-Fairclough concentrates on the same political field in discussing “legitimation” and strategic maneuvering, Corina Andone deals with strategic maneuvering by accusing someone of an inconsistency, and Dima Mohammed examines strategic maneuvering in Prime Minister’s Question Time. After Jeanne Fahnestock sketches a rhetorical stylistics for argument analysis, Yvon Tonnard discusses the effectiveness of the choice of presentational means used in strategic maneuvering, A. Francisca Snoeck Henkemans concentrates particularly on the use of praeteritio in strategic maneuvering, and Andrea Rocci examines maneuvering with “tropes.” Daniel O’Keefe closes this volume with a discussion of the persuasive effects of strategic maneuvering starting from some meta-analyses of experimental persuasion research.

Next to this tribute to Peter Houtlosser I hope to publish in the near future an accompanying monograph based on the work Peter and I have done together on strategic maneuvering in argumentative discourse. For now I would like to thank Bart Garssen and my assistants Renske Wierda and Nanon Labrie for their help in preparing the manuscript of *Examining Argumentation in Context*.

Frans H. van Eemeren
Amsterdam
19th January 2009
Strategic maneuvering
Examining argumentation in context

Frans H. van Eemeren and Peter Houtlosser

1. Introduction

The pragma-dialectical theory of argumentation developed by van Eemeren and Grootendorst (1984, 1992, 2004) enables the analyst of argumentative discourse to make a theoretically motivated reconstruction of the discourse that results in an “analytic overview” of all elements that are pertinent to a critical evaluation (van Eemeren & Grootendorst, 1992). The analytic overview clarifies the difference of opinion at issue and the positions of the participants. It identifies the procedural and substantive premises that serve as the starting point of the discussion. It surveys the arguments and criticisms that are – explicitly or implicitly – advanced, the argument schemes that are used, the argumentation structures that are developed, and it determines the conclusion that is reached.

The analysis is based on the pragma-dialectical model of a critical discussion that provides a survey of all speech acts and combinations of speech acts that have a constructive function in the various stages of the process of resolving a difference of opinion on the merits and therefore provides an appropriate heuristic and analytic tool for reconstructing the development of the resolution process. This reconstruction consists of carrying out transformations that amount to making explicit these speech acts that remain implicit in the actual discourse but are relevant to the resolution process (“addition”), reformulating in an unequivocal way speech acts whose function would otherwise be opaque (“substitution”), rearranging in an insightful way speech acts whose order in the discourse does not reflect their function in the resolution process (“permutation”), and abandoning speech acts from consideration that do not play a part in the resolution process (“deletion”) (van Eemeren et al., 1993).

In some cases, however, neither the textual presentation, nor contextual information in the strict sense (“micro-context”) or in the broader sense (“meso-
context,” “macro-context,” and “hyper-context”) nor the possibilities of making logical and pragmatic inferences, nor general or specific background knowledge – our regular sources for giving a justified analysis – seem to offer enough evidence for a full reconstruction of the discourse, so that pragma-dialecticians – in a charitable fashion – take refuge to so-called “maximal” strategies aimed at making the analytic choices that do optimal justice to the purposes of a critical discussion, but remain, in fact, arbitrary (“maximally reasonable reconstruction,” “maximally argumentative interpretation,” “maximally argumentative analysis”). This predicament makes the analysis that can be achieved less thorough and comprehensive than desirable, its justification less firmly grounded than desirable, and an evaluation based on this analysis less well-balanced than desirable.

In our view, the reconstruction that takes place in a pragma-dialectical analysis of argumentative discourse can be further refined and better accounted for if the standard version of the pragma-dialectical theory is extended by including a rhetorical dimension that makes it possible to take the strategic design of the discourse into consideration in the analysis (cf. Leff, 2006; Zarefsky, 2006a). A pragma-dialectical theory that is thus extended will, because the strategic function of argumentative moves is taken into account, also allow for a more realistic treatment of the fallacies in the evaluation of argumentative discourse (cf. Zarefsky, 2006b).

In the research project Strategic Maneuvering in Argumentative Discourse, which the two of us started in 1996, it was our aim to develop such an extended version of the pragma-dialectical theory of argumentation. This extended pragma-dialectical theory will be presented in the near future in a monograph with the same title as the project (van Eemeren, to be published). This Chapter provides a preview of the monograph and serves at the same time as an introduction to the discussions of strategic maneuvering in the essays collected in this volume.

2. Dialectical and rhetorical perspectives on argumentation

In Antiquity, the dialectical approach and the rhetorical approach to argumentative discourse were in a fundamental sense connected with each other and in some way or other they have remained connected for a long time. Already since Aristotle this connection went together with a distinct division of labor between dialectic and rhetoric, albeit that in later times the division between the two did not always remain the same.

Aristotle’s teacher Plato had seen dialectic as a means for finding the truth and had looked down on the rhetorical practice of the Sophists, favoring instead a kind of rhetoric closer to dialectic. In his turn, Aristotle (1960 ed.) developed
dialektic in the *Topics* into a system of regulated dialogues for refuting a claim, starting from the other party’s concessions. For him, rhetoric is the mirror image or counterpart (*antistrophos*) of dialectic. In the *Rhetoric* Aristotle (1991 ed.) assimilated the opposing views of Plato and the Sophists (Plato, *Phaedrus*, ed. 1914; Murphy & Katula, 1972/1994: Ch. 2), and provided, by his “argumentative” definition of rhetoric as an ability or capacity (*dynamis*) in each case to see the available means of persuasion, the conceptual basis for a good deal of what would be considered rhetoric in later times.

Cicero integrated in *De oratore* the stylistic and literary aspects of the Isocratean tradition, which had developed beside the Aristotelian perspective, into the Aristotelian framework. Up to the seventeenth century this Ciceronian rhetoric, which involved also dialectical elements such as *disputatio in utramque partem* (speaking on both sides of an issue), dominated the western tradition, although after its rediscovery in the fifteenth century Quintilian’s (1920 ed.) *Institutio oratoria* became the major classical authority on rhetoric in education (Kennedy, 1994: 158, 181).


Meanwhile, however, in medieval times a development had taken place that proved to be fatal for the “cohabitation” of dialectic and rhetoric: Dialectic had achieved a preponderant importance at the expense of rhetoric, which was reduced to a doctrine of *elocutio* and *actio* after the study of *inventio* and *dispositio* were moved to dialectic. With Ramus, this development culminated in a strict separation between dialectic and rhetoric, with dialectic being incorporated in logic and rhetoric devoted exclusively to style (Meerhoff, 1988). In spite of these precursory symptoms of a widening gap between rhetoric and dialectic, according to Toulmin (2001), the division did not grow “ideological” until after the Scientific Revolution. Then dialectic and rhetoric became two separate and mutually isolated paradigms, each conforming to a different conception of argumentation and generally considered incompatible.

While rhetoric has survived in a somewhat different shape, in particular in the United States, as a field of study and a source for scholars in communication,
language and literature in the humanities (Gaonkar, 1990), dialectic almost disappeared from sight with the formalization of logic in the nineteenth century. Although the dialectical approach to argumentation has been taken up again in the second part of the twentieth century by “formal dialecticians” and “pragma-dialecticians” and the rhetorical approach continued to have a substantial following (Simons, 1990), we observe a yawning conceptual and communicative gap between argumentation theorists opting for a dialectical approach (Barth & Krabbe, 1982) and protagonists of a rhetorical approach (Leeman, 1992). This gap hinders the development of a full-fledged theory of argumentation and it is, in our view, unnecessary (cf. Wenzel, 1990).

3. Strategic maneuvering combining the aims for critical reasonableness and artful effectiveness

We want to overcome the sharp and infertile division between the dialectical approach and the rhetorical approach to argumentative discourse by showing – more or less in line with Agricola – that if they are defined in a liberal way the two approaches can, in fact, be seen as complementary (cf. Krabbe, 2002; Leff, 2002). In pragma-dialectics, “dialectic” is defined pragmatically as a method for dealing systematically with critical exchanges in verbal communication and interaction to move from conjecture and opinion to more secure (descriptive, evaluative, or inciting) standpoints. Rhetoric can, as far as it is immediately relevant to our current purposes, best be defined as the theoretical study of the various kinds of persuasion techniques that can be effective in argumentative practice.

Starting from these definitions, there is no theoretical reason to assume from the outset that the rhetorical norm of artful effectiveness is necessarily in contradiction with the dialectical ideal of critical reasonableness. In practice, argumentative moves that are rhetorically strong in the sense that they are effective in persuading a critical audience will more often than not be in accordance with the dialectical norms applying to the discussion stage in which these moves are made (O’Keefe, 2009). Viewed from both a theoretical and a practical perspective, there is a sound basis for trying to overcome the ideological division between dialectic and rhetoric that has obstructed a constructive reconciliation of the dialectical and the rhetorical dimension of the study of argumentation.

The gap between dialectic and rhetoric can in our view be bridged by introducing the theoretical notion of “strategic maneuvering” to do justice to the fact that engaging in argumentative discourse always means being at the same time out for critical reasonableness and artful effectiveness (van Eemeren & Houtlosser, 2002). In the way we use this term strategic maneuvering refers to the continual ef-
forts made in principle by all parties in argumentative discourse to reconcile their simultaneous pursuit of rhetorical aims of effectiveness with maintaining dialectical standards of reasonableness (van Rees, 2009; cf. Jacobs, 2007; Tindale, 2009).

Each of the four stages in the process of resolving a difference of opinion by means of a critical discussion is characterized by having a specific dialectical objective. Because, as a matter of course, the parties involved in the difference want to realize these dialectical objectives to the best advantage of the position they have adopted in the discussion, every dialectical objective has its rhetorical analogue. In all discussion stages the rhetorical goals of the participants will be dependent on – and therefore run parallel with – the dialectical goals. As a consequence, the specification of the rhetorical aims the participants in the discourse are presumed to have must in this perspective take place according to dialectical stage. This is the methodological reason why in the study of strategic maneuvering that we propose rhetorical insights are systematically integrated in a dialectical – in this case, a pragma-dialectical – framework of analysis.

4. Three inseparable aspects of strategic maneuvering

Strategic maneuvering manifests itself in argumentative discourse in the choices that are made from the “topical potential” available at a certain stage in the discourse, in audience-directed “adjustments” of the argumentative moves that are made, and in the purposive use of linguistic (or other) “devices” in presenting these moves. Although these three aspects of strategic maneuvering, which run parallel with classical areas of interest (topics, audience orientation and stylistics), can be distinguished analytically, as a rule they will occur together (and work together) in actual argumentative practice (cf. Tindale, 2004).

As regards choosing from the topical potential, a party’s strategic maneuvering in the confrontation stage aims for making the most effective choice among the potential issues for discussion – thus utilizing the “disagreement space” available in the dialectical context in such a way that the confrontation is defined in accordance with that party’s preferences. In the opening stage, each party’s strategic maneuvering is directed at creating the most advantageous (procedural and material) starting point, for instance by calling to mind, or eliciting, helpful “concessions” from the other party. In the argumentation stage, starting from the “status topes” associated with the type of standpoint at issue, each party that acts as protagonist chooses a strategic line of defense that involves a selection from the available loci that suits that party best and each party that acts as antagonist chooses the line of attack that seems most effective in light of the dialectical situation. In the concluding stage, each party will direct all its efforts toward achieving the
conclusion of the discourse desired by that party, for instance by pointing out what the consequence is of accepting a certain complex of arguments. In examining topical choices in the various stages systematically, we start from (modern interpretations of) classical ideas concerning topoi and stasis theory (cf. Rigotti, 2006; Kauffeld, 2002).

As regards audience-directed adjustments, the moves a party makes must in each stage of the discourse be adapted to “audience demand” in such a way that they are expected to be optimally acceptable to the other party in view of that party’s views and preferences, taking into account that argumentative moves that are considered appropriate by some people may not be considered appropriate by others. In general, adaptation to audience demand will consist in each stage in an attempt to create the required “communion,” relying on “endoxa,” specific “concessions” and “contextual commitments” where this is possible. In the confrontation stage, this second aspect of strategic maneuvering may manifest itself, for example, in the avoidance of contradictions between the parties that appear unsolvable. Perelman and Olbrechts-Tyteca (1958/1969) point out that one way of avoiding such unsolvable contradictions is to communicate disagreement with respect to values as disagreement over facts, because disagreements over facts are generally easier to accommodate.

As a rule, Perelman and Olbrechts-Tyteca observe, each party’s efforts are directed at “assigning [...] the status enjoying the widest agreement to the elements on which he is basing his argument” (1969: 179). This explains, for instance, why in the opening stage the status of a widely shared value judgement may be conferred on personal feelings and impressions, and the status of a fact on subjective values. In the argumentation stage, strategic adaptation to audience demand may be achieved by quoting arguments the other party is known to agree with or by referring to argumentative principles that party may be expected to adhere to. In examining audience adaptation in the various discussion stages systematically, we start first of all from the preparatory conditions for performing the types of speech acts by which the various argumentative moves are made that play a constructive part in resolving a difference of opinion on the merits. These conditions indicate, among other things, which requirements must be satisfied with regard to the addressee for a correct performance of these speech acts, so that audience adaptation can be realized in one important respect by indicating their fulfilment.

As regards the third aspect of strategic maneuvering, utilizing presentational devices, the phrasing of the moves a party makes and all other ways of styling must in all stages of the discourse be systematically attuned to achieving the effect on the other party that is aimed for in making these moves. We agree with Perelman and Olbrechts-Tyteca that all argumentative discourse presupposes “a choice consisting not only of the selection of elements to be used, but also of the
technique for their presentation” (1969: 119). This means, among other things, that each party will exploit the Gricean maxims of Manner in a specific and deliberate way in the discourse. As Anscombe and Ducrot observe, “Signifier, pour un énoncé, c’est orienter” (1983:i), which means, as Anscombe puts it, “diriger le discours dans une certaine direction” (1994:30).

Among the means of expression that can be used, par excellence, as presentational devices are the various “figures” (of speech and thought) known from classical (dialectic and) rhetoric (Fahnestock, 1999, 2005, 2009). Perelman and Olbrechts-Tyteca regard a figure as argumentative if it brings about a change of perspective (1969: 169), which applies, depending on the stage the discussion has reached, for instance, to praeteritio, conciliatio, rhetorical questions, and metalepsis (cf. Reboul, 1989; Rocci, 2009; Snoeck Henkemans, 2009). In examining presentational choices in the various stages systematically, we start from (dialectical and) rhetorical stylistics (see Fahnestock, 1999, 2005, 2009).

A party can only be said to carry out a full-fledged “argumentative strategy” if the strategic maneuvering of that party in the discourse converges consistently both “vertically” and “horizontally.” Vertical convergence means that the characteristics of the strategic maneuvering with respect to choosing from topical potential, adapting to audience demand, and utilizing presentational devices reinforce each other. Horizontal convergence means that the characteristics of the first strategic maneuver and the next strategic maneuvers that are made in the discourse reinforce each other. Argumentative strategies in our sense are (vertically and horizontally) coordinated series of strategic maneuvers aimed at influencing the result of a particular dialectical stage, and the discussion as a whole, methodically in a certain direction which manifest themselves at a certain stage of the discourse in a systematic and simultaneous exploitation of the available opportunities. Besides general argumentative strategies pertaining to the discussion as a whole there are specific confrontation strategies, opening strategies, argumentation strategies and concluding strategies.

5. Strategic maneuvering in different kinds of argumentative activity types

In the various spheres of life, varying from the public sphere to the technical sphere and the private or personal sphere, argumentative discourse takes place in different kinds of “activity types,” which are – depending on the sphere we are talking about – to a greater or lesser degree institutionalized, so that certain argumentative practices have become conventionalized. Unlike theoretical constructs such as the ideal model of a critical discussion, which are purely based
on analytic considerations regarding the most problem-valid way of implementing a discursive task, activity types and their associated speech events are empirical concepts that can be identified and characterized on the basis of a careful study of a certain domain of argumentative practice (van Eemeren & Houtlosser, 2005). Within such a domain – prominent examples are the legal (Feteris, 2009), the political (Ieșcu-Fairclough, 2009; Zarefsky, 2009), the medical (Schulz & Rubinelli, 2008; Goodnight, 2009) and the scientific or scholarly domain (van Eemeren & Garssen, Eds. 2008) – certain clusters of argumentative activity types can be distinguished that are manifestations of typical argumentative practices in that kind of domain.

Due to the different rationales – the “point” – of the various (clusters of) activity types and the ensuing goals and requirements, the conventional preconditions for argumentative discourse differ to some extent according to argumentative activity type and these differences have an effect on the strategic maneuvering in the activity type concerned. There will be certain constraints on the kind of strategic maneuvering that is allowed or deemed acceptable and certain opportunities for strategic maneuvering may arise in the one activity type that are not available in the other. By way of illustration we shall describe for some prominent clusters of activity types, “adjudication,” “mediation,” “negotiation,” and “public debate” the preconditions pertinent to the conduct of strategic maneuvering, and draw a comparison between them in order to make clear that the strategic maneuvering will be affected in different ways depending on the constraints and opportunities going with the argumentative activity type in which it takes place.

Adjudication aims for the termination of a dispute by a third party rather than the resolution of a difference of opinion by the parties themselves. Although the cluster of adjudication is broader, it is commonly understood as taking a difference of opinion that has become a dispute to a public court, where a judge, after having heard both sides, will make a reasoned decision in favor of either one of the parties. The judge determines who is wrong and who is right according to a set of rules. As a closer analysis shows, most of these rules are tantamount to specifications of rules for critical discussion aimed at guaranteeing that the dispute is terminated in a reasonable way. There are, for instance, special rules concerning the division of the burden of proof, the data that can be considered as a common starting point and the kinds of proof that count as acceptable. In adjudication, the parties readjust their discussion roles from trying to persuade each other to trying to convince the adjudicator.

Mediation refers to a cluster of (for a large part argumentative) activity types that start from a difference of opinion that has become a disagreement that the parties concerned cannot resolve by themselves, so that they have to take refuge to a third party that acts as a neutral facilitator of the discussion process and guides
the parties in their cooperative (and sometimes less than cooperative) search for a solution. Unlike an adjudicator, the mediator does not have the power to terminate the disagreement. Irrespective of whether the disagreement concerns custody of the children of a divorced couple or the price that has to be paid for the reparation of a car, the mediator aims at helping the parties to come to an arrangement that is satisfactory to both parties.

Negotiation refers to a cluster of (sometimes argumentative) activity types that start from a conflict of interests rather than merely a difference of opinion. These activity types may vary from peace negotiations to bargaining. Unlike in adjudication and mediation, in negotiations the disputants are focussed on each other rather than on a presumably neutral third party. Negotiations prototypically aim for a compromise. Usually, the compromise will consist of the maximum amount of agreement that can be reached on the basis of the concessions that both parties are willing to make. A series of more or less conventionalized interest-related activity types have developed that are aimed at reaching an outcome in which the interests of both sides are met to an extent that is mutually acceptable.

Public debate refers to a multi-varied cluster of (emphatically argumentative) activity types that start from a mixed difference of opinion between the debaters about one or more issues on which the views of the listening (or television-watching) audience diverge. Although some public debates may have a more clearly defined format than others, they are in principle not fully conventionalized. In public debates the contestants generally have clear starting points that are in crucial respects different from each other. At all times they take the listening audience into account up to the point that this audience is their primary addressee and sometimes even their only “real” addressee. More often then not their argumentation is therefore aimed at convincing the audience rather than their debate partner(s). It is the audience that determines the outcome of the debate, albeit that this outcome may be different for different members of the audience. The activity types belonging to the cluster of public debate are particularly interesting from our extended pragma-dialectical perspective because its conventionalization, as far as it goes, affects both the dialectical and the rhetorical dimension of argumentative discourse.
Examples of clusters of argumentative activity types characterized with the help of the model of a critical discussion

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<td>settlement of dispute by sustained decision 3rd party (no return to initial situation)</td>
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<td>Mediation</td>
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<td>implicitly enforced regulative rules; no explicitly recognized concessions</td>
<td>argumentation conveyed in would-be spontaneous conversational exchanges</td>
<td>conclusion of disagreement by mediated arrangement parties or provisional return to initial situation</td>
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<tr>
<td>Negotiation</td>
<td>conflict of interests; decision up to the parties</td>
<td>semi-explicit constitutive rules of the game; changeable sets of explicit concessions</td>
<td>argumentation incorporated in exchanges of offers, counter-offers and other commissives</td>
<td>end of conflict by compromise parties, mutually accepted agreement or return to initial situation</td>
</tr>
<tr>
<td>Public debate</td>
<td>divergence of mixed views; decision up to a non-interactive audience</td>
<td>largely implicit intersubjective rules; explicit and implicit concessions on both sides</td>
<td>argumentation defending standpoints in critical exchanges</td>
<td>resolution of difference to some members audience or maintenance initial situation</td>
</tr>
</tbody>
</table>

Starting from this comparative inventory of preconditions for argumentative discourse applying to these four clusters of activity types, its can be shown how these preconditions discipline the conduct of strategic maneuvering in the activity types belonging to a certain cluster. However, in order to give a more precise specification, we need to concentrate on the peculiarities of specific activity types instead of on the cluster of activity types as a whole. It is at the level of the individual activity types that the preconditions for (sound) strategic maneuvering manifest themselves most clearly and specifically (see Andone, 2009; Mohammed, 2009; Tonnard, 2009).
6. Parameters in determining the strategic function of argumentative maneuvers

In analyzing the strategic function of the maneuvering that is carried out by making a particular argumentative move the following parameters need to be considered (van Eemeren & Houtlosser, 2009):

1. the results that can be achieved by the maneuvering;
2. the routes that can be taken to achieve these results;
3. the constraints imposed by the institutional context;
4. the commitments defining the argumentative situation.

Ad 1. Theoretical insight into the various components of the analytic overview ensuing from reconstructing a piece of argumentative discourse pragma-dialectically as a critical discussion provides an analytic tool for substantiating the first parameter. Because each discussion stage has its own distinctive constitutive components, insight into an analytic overview enables us to track down systematically which kinds of results can be aimed for in each category of strategic maneuvering. The outcomes that can be reached in a particular discussion stage consist of the various options for filling out the various components of the analytic overview applying to the stage concerned. In the confrontation stage, for instance, which aims at defining the difference of opinion, the results can be a “non-mixed single,” a “mixed single,” a “non-mixed multiple” or a “mixed multiple” difference, depending on the number of propositions involved in the difference of opinion and the positions assumed by the parties with regard to these propositions. In the same vein, the results that can be reached in the other stages can be determined. In the argumentation stage, for instance, reconstruction leads to a specific outcome regarding the arguments that have been advanced, the premises that have been left unexpressed, the types of argument schemes that have been applied, the kinds of criticism that have been leveled, and the structure of the argumentation as a whole.

Ad 2. The theoretical notion of a dialectical profile provides an analytic tool for substantiating the second parameter. Dialectical profiles represent the sequential patterns of the “analytically relevant” moves that the participants in a critical discussion can make to achieve an outcome of a particular discussion stage (van Eemeren & Grootendorst, 2004; cf. Walton & Krabbe, 1995). The profile of the “explicitization procedure for unexpressed premises,” for instance, defines the procedural ways in which a premise that is left implicit in the argumentation stage can be made explicit. It represents the possible “routes” the participants can take in the process that starts with the “production” of a supposedly incomplete argument and ends with an agreement about the unexpressed premise that is to
be attributed to the protagonist. Because, in practice, the route that is actually followed is also determined by the interaction between the parties, it is not fully predictable in which way exactly the participants will go through the procedure: What next step they can take depends on the earlier steps they have made but also on the steps that are made by the other party. Nevertheless, the set of alternatives to choose from is finite and indicated in the dialectical profile.

Ad 3. An analytic tool for substantiating the third parameter consists of the notion of argumentative activity types. As we already explained in the previous section, argumentative activity types are more or less institutionalized entities of verbal interaction that can be distinguished and characterized by empirical observation of the communicative practices in the various domains of discourse. They manifest themselves in a great many culturally established variants, some of which have a clearly articulated format, such as Plea Bargaining at a court of law, a Presidential Debate at election time and Prime Minister’s Question Time in parliament, whereas some other activity types, such as informal memos, internet discussion forums or coffee klatch, are generally characterized by a lack of precise format restrictions. Argumentative discourse typically takes place in the context of a rather precisely or only loosely defined activity type, or a communicative and interactional context that can be interpreted as such, which is subjected to conventional preconditions instrumental in shaping the argumentative practice concerned. Depending on the activity type and the conventional preconditions prevailing in that activity type, different constraints (and opportunities) apply with regard to the strategic maneuvering that can be carried out.

Ad 4. The commitment sets the arguers have developed by the argumentative moves they have made at the point in the discussion the analyst is focusing on constitute an analytic tool for substantiating the fourth parameter. When taken together the commitments acquired by the parties involved in the discourse determine the “argumentative situation” the arguers are in at a specific juncture in the dialectical profile portraying the relevant part of the discussion. At the point where he is expected to provide argumentation, for instance, an arguer may be in an argumentative situation in which he and his discussion partner are committed to some clearly delineated starting points they have accepted earlier so that they are bound to act in accordance with these starting points. This is not to say that the commitment sets that determine the argumentative situation the arguers are in are merely restrictions on their strategic maneuvering in the continuation of the discussion: These commitment sets also open up opportunities for the arguers to use the other party’s commitments to the advantage of their own cause. In a pragma-dialectical view of argumentative discourse such an opportune use of commitments is endorsed by the fact that, in principle, commitments only count
as genuine if both parties agree on the taking on of these commitments, so that ideally all commitments that are exploited are in a sense shared commitments.

The parameters we have just discussed allow for taking account of a finite set of considerations that are pertinent to determining the strategic function of the maneuvering that takes place in making a certain argumentative move in a specific case of argumentative discourse. When taken together, they constitute a useful basis for analyzing the maneuvering in each of the four categories of strategic maneuvering. As a matter of course, the analysis starts from the way in which the strategic maneuvering manifests itself in the discourse, i.e., in a particular choice that is made from the available topical potential, a particular way in which the opportunities for audience-directed adjustment are used, and a particular way in which the presentational possibilities are exploited. Although in strategic maneuvering these three aspects always go together, and are intrinsically connected, in argumentative practice often one particular aspect is more prominently manifested than the other aspects. The strategic maneuvering may, for instance, come primarily to the fore in the topical choice that is made, say by the emphatic use of an argument from authority (ex autoritate), or in the way audience adaptation is realized, say by emphatically adopting some of the other party’s arguments (conciliatio) for defending one’s own standpoint, or in the use of striking presentational techniques, say by an emphatic repetition of the standpoint (repetitio). This is why it is, in our view, for the sake of recognition recommendable to refer to the mode of strategic maneuvering at issue in first instance by naming its most conspicuous manifestation in either of the three aspects, “maneuvering by argument from authority,” “maneuvering by conciliation(n),” “maneuvering by repetition,” and so forth. Subsequently, the four parameters we discussed can be used to analyze the strategic function the particular mode of maneuvering referred to may have in the case of the maneuvering concerned. In due course, when a classification of modes of strategic maneuvering has been developed, these modes may be replaced in the analysis by “types” and can be given the names that are most appropriate to the types in the taxonomy.

7. Fallacies as derailments of strategic maneuvering

Although in strategic maneuvering aiming for dialectical objectives and trying to reach rhetorical aims can go well together, this – of course – does not automatically mean that in practice there is always a perfect balance between pursuing the two objectives. If a party allows his commitment to a critical exchange of argumentative moves to be overruled by the aim of persuading the opponent, so that his moves are no longer in agreement with the critical norms, we say that
the strategic maneuvering has got “derailed” (van Eemeren & Houtlosser, 2003). Such derailments occur when a rule for critical discussion has been violated in the discourse. In that case, realizing the rhetorical aim has gained the upper hand at the expense of achieving the dialectical objective. Because derailments of strategic maneuvering always involve a violation of a rule for critical discussion, they are, as has been explained in standard pragma-dialectics, on a par with the wrong moves in argumentative discourse designated as fallacies (van Eemeren & Grootendorst, 1992). Viewed from this perspective, fallacies are violations of critical discussion rules that come about as derailments of strategic maneuvering.

The difference between legitimate manifestations of strategic maneuvering and manifestations that are fallacious is that in the latter case at the point in the discourse where they occur certain soundness conditions have not been met that apply to the use of the mode of strategic maneuvering concerned in the activity type and argumentative situation in which the maneuvering takes place. In principle, each mode of strategic maneuvering has as it were its own continuum (or in some cases its distinguishing classification) of sound and fallacious acting and the boundaries between the two are not in every case crystal clear. In the end, fallacy judgments are contextual judgments that depend more often than not on the specific circumstances of situated argumentative acting.

The criteria for determining whether or not a certain norm for critical discussion has been violated may be dependent on the institutional conventions regarding how argumentative discourse is disciplined prevailing in the argumentative activity type in which the strategic maneuvering takes place – in a law case, for instance, somewhat different criteria will apply to making an appeal to authority than in a public debate, so that making an appeal to authority by referring to a certain section of the law or to precedent may be a perfectly legitimate move in the argumentation stage of the adjudication process whereas making such an appeal in a scientific discussion may not be regarded an appropriate move. This predicament should, of course, not lead us to the hasty conclusion that there are no clear criteria for determining whether strategic maneuvering has gone astray, or that all such criteria are always context-dependent, but only to the conclusion that, depending on the institutional requirements, these criteria may vary to some extent from the one activity type to the other, leaving room for the possibility that in the one activity type the criteria are somewhat different, more precise, more specific or more elaborate, than in the other.

This account of the fallacies as derailments of strategic maneuvering explains why it may, as a matter of course, not be immediately apparent to all concerned that a fallacy has been committed, so that fallacies can sometimes pass unnoticed (van Eemeren & Houtlosser, 2008). First of all, fallacies generally have sound counterparts that are manifestations of the same mode of strategic maneuvering;
they are not “completely different animals” that are immediately recognizable as such, so that one can be easily fooled. Second, as Jackson (1995) has pointed out, it is an “assumption of reasonableness” in argumentative discourse that each party will normally uphold a commitment to the rules of critical discussion, so that the presumption of reasonableness is conferred on every discussion move, also when it happens to be a discussion move that is in fact fallacious. Third, the criteria for determining whether a certain move is fallacious may vary to some extent from context to context, so that one may easily be confused about what exactly the relevant criteria are, especially when the strategic maneuvering takes place in an argumentative activity type one is not really familiar with.

Echoing the logical Standard Definition of a fallacy, which was revealed and criticized by Hamblin (1970), we might say – in post-Hamblin pragma-dialectical terms – that fallacious strategic maneuvering is strategic maneuvering that *seems* to comply with the critical discussion rules, *but does not*. Because, as Aristotle (1965 ed.) already demonstrated in *On Sophistical Refutations*, none of the parties will be very keen on portraying themselves as being unreasonable, deviations from the rules for critical discussion are often also hard to detect. To realize a purpose that is potentially at odds with observing a particular discussion rule, rather than resorting to completely different means, they will be inclined to stick to the dialectical means for achieving their objective that are considered reasonable and “stretch” the use of these means in such a way that they are able to realize their purpose (cf. Kienpointner, 2006, 2009).

8. **Strategic maneuvering by appealing to an authority**

In argumentative activity types the conduct of argumentative discourse can be disciplined in various ways. As a case in point, we discuss the demarcation of non-fallacious and fallacious moves in one particular mode of strategic maneuvering in the argumentative activity type of an informal deliberation. The mode of strategic maneuvering we have in mind is defending a standpoint by advancing an “argument from authority,” a subtype of the type of argumentation known as “symptomatic argumentation,” which is also called “sign argumentation.” Symptomatic (or sign) argumentation is based on an argument scheme that presents the acceptability of the premise (argument) as a sign of the acceptability of the conclusion (standpoint) by establishing a relationship of concomitance between having the property mentioned in the premise and having the property mentioned in the conclusion (“Paul certainly loves cheese; he is a Dutchman, you know”). In the case of an argument from authority the transition of acceptance is brought about by introducing in the premise an external source that has a certain kind of
knowledge or expertise and then appealing to this source to justify a conclusion dependent on such knowledge or expertise. This happens, for instance, in “The competence for learning a language is innate – Noam Chomsky, the outstanding linguist, says so.”

Like using other arguments from sign, using an argument from authority is potentially a sound mode of strategic maneuvering. In a great many cases we are fully justified in supporting our claims by referring to an authority who is supposed to know – in argumentative reality this is in fact often the only sensible thing we can do. If the source we are referring to is indeed a good source to rely on in the case concerned, was to be taken seriously when he made the statement referred to, and is quoted correctly, an appeal to authority can be unproblematic and may even be conclusive. In argumentative practice, however, strategic maneuvering by means of arguments from authority can also derail. In a particular case an appeal to an authority may not be justified because one or more of the ‘critical questions’ that serve as the criteria for checking if the authority is used legitimately and correctly in the argumentative activity type concerned cannot be answered satisfactorily so that the argument violates the pragma-dialectical Argument Scheme Rule and must be considered an argumentum ad verecundiam.

To mark the important distinction between non-fallacious and fallacious strategic maneuvering as clearly as possible, we use the traditional – often Latinized – names of the fallacies, such as argumentum ad verecundiam, exclusively for the incorrect and fallacious cases.

In different argumentative activity types different criteria may apply for complying with the soundness norm pertaining to the argument-from-authority variant of the Argument Scheme Rule. Imagine that we are playing a game of scrabble. At a certain moment you may claim to have compiled a word, but I doubt that the combination of letters you have laid out really constitutes an English word. In the informal deliberation we are now having about this you use an argument from authority to defend your claim: “This is an English word, because it is in the dictionary.” Whether your appeal to authority is in this case a legitimate strategic maneuver depends in the first place on the agreement that exists or that the players – you and I – have made prior to playing the game as to the testing procedure that is to be followed for making out whether or not a would-be English word is to count as an English word. If there was an agreement that in case of doubt we let the dictionary decide, and you cite the dictionary correctly, then there is nothing wrong with your argumentative move – the move would even be a strong one, unless we had also agreed in advance that the Concise Oxford Dictionary would be the ultimate judge while you are referring to Webster’s. If, on the other hand, the agreement was that a combination of letters would get recognition as an English word only if the word and its meaning are known to all players, your appeal to
the authority of the dictionary would clearly be irrelevant, and therefore falla-
cious. If, finally, nothing was agreed upon in advance concerning how to decide
in such cases, no rule for critical discussion has as yet been violated, but the use
of the argument from authority may very well introduce a new topic of discussion
concerning its legitimacy.

In a great many argumentative activity types it is not completely up to the
participants to decide on the soundness criteria that are to be applied. These cri-
teria are often *expressis verbis* or silently imposed on the participants by the in-
stitutional context the argumentative activity type is part of. Then they belong to
the conventional preconditions for argumentative discourse future participants
have become familiar with by way of education or during socialization. It is not
hard to imagine that similar preconditions apply to other modes of strategic ma-
neuvering carried out in the same activity type or in other activity types. In our
opinion, it is our task as argumentation theorists to describe not only the general
soundness conditions of different modes of strategic maneuvering but also the
specific soundness conditions applying to these modes of strategic maneuvering
in the variety of argumentative activity types and subtypes that can be found in
argumentative reality.

9. Strategic maneuvering by pointing out an inconsistency

As a second case of disciplining argumentative conduct, we discuss the demarca-
tion of non-fallacious and fallacious instances of a mode of strategic maneuvering
used in the opening stage of a critical discussion in which the one party attacks
the other party by pointing out a logical or pragmatic inconsistency between one
of that party’s starting points and a starting point that party assumed on a differ-
ent occasion (van Eemeren & Houtlosser, 2004). Pointing out such an inconsis-
tency can be a perfectly legitimate – and even very strong – strategic maneuver,
but it can also derail and result in a *tu quoque* fallacy.

When considering inconsistencies between starting points we must dis-
tinguish between two kinds of (explicit or implicit) starting points: *procedural*
starting points and *material* starting points. Ideally, both kinds of starting points
should be fully clear to the participants in an argumentative discourse, so that the
parties involved not only know how the discussion is going to be conducted but
also what propositions they can safely bring to bear once the discussion has come
off the ground. In order to conduct a proper critical discussion, the parties must
agree in the opening stage (if only implicitly) about the division of the burden of
proof, the discussion rules and the propositions that may be unconditionally used
in the argumentation stage to defend the standpoints at issue. In argumentative
practice, in certain institutional contexts agreements about particular procedural and material starting points are presupposed. As far as procedural starting points are concerned, this goes, for instance, for activity (sub)types such as parliamentary debate. As far as material starting points are concerned, in a Dutch criminal law case admissions made by the accused in the interrogation preceding the actual trial provide a clear example: They can be used in court to establish conclusions weighing against or in favor of the accused, as the case may be.

In informal activity types there are usually no explicit agreements as to the material starting points. Generally, the parties use certain propositions as their starting points without asking for the other party’s consent, but taking this consent, rightly or wrongly, for granted. All the same, there are a lot of cases in which it is first negotiated in a sub-discussion whether or not particular propositions may serve as a common starting point. Viewed dialectically, the parties are under no obligation to provide a reason for not admitting a proposition as a common starting point (van Eemeren & Grootendorst, 2004: Ch. 6). Viewed rhetorically, however, it may be better if they do: It is generally regarded of no use to start a discussion with people who refuse to commit themselves to any common starting point or, without giving any further explanation, to a specific starting point. Giving reasons for a refusal to admit a proposition as a common starting point can be a perfectly sound way of strategic maneuvering, but it can also derail into a fallacy, e.g., the fallacy of *tu quoque*. In the *tu quoque* case, the reason-giving amounts to saying that the protagonist’s proposal to treat a proposition as a starting point is not acceptable because the proposition is inconsistent with something the protagonist has said or implied (by what he said or did) on a different occasion.

When discussing the soundness criteria that make it possible to decide whether or not an antagonist maneuvers in an admissible way when refusing to admit a proposition as a starting point because of a proclaimed inconsistency between the proposed proposition and the protagonist’s (verbal or non-verbal) behavior on a different occasion, we observe that the soundness conditions hinge on three points: (1) how is inconsistency to be defined so that it is possible to determine whether two propositions are logically or pragmatically inconsistent (a point of definition), (2) how can an accusation by the antagonist be incorporated that pertains to an inconsistency between the proposition presently proposed as a starting point and something that was earlier *done* (a matter of scope), and (3) what is in practice to be understood by “on a different occasion,” so that it can be determined in a specific case whether pointing at an inconsistency from a dialectical perspective makes sense (a quasi-empirical issue). All three issues need to be addressed.
10. Conclusion

Summing up my expose, in analyzing the strategic function of a piece of maneuvering in argumentative discourse we have to take into account, first, which results can be achieved by making the argumentative move that is made, so that it can be explained what kind of outcome may be aimed for by this kind of strategic maneuvering. The spectrum of relevant options open to be filled out in the analytic overview can be of help in this endeavor. Second, we have to take into account which reasonable options are available when making the argumentative move so that it can be explained what route is taken by carrying out this particular kind of strategic maneuvering. The dialectical profile for the moves that are analytically relevant at this juncture in the discussion can be of help in this endeavor. Third, we have to take into account the institutional constraints imposed on the argumentative discourse that is carried out, so that it can be explained what the conventional preconditions are that the strategic maneuvering must meet. An understanding of the kind of activity type in which, or communicative and interactional background against which, the strategic maneuvering takes place can be of help in this endeavor. Fourth, we have to take into account what is the actual state of affairs in the discourse when the strategic maneuvering takes place, so that it can be explained to which situational demands exactly the strategic maneuvering must respond. An understanding of the commitment sets of the arguers that define the argumentative situation can be of help in this endeavor. If these four parameters are duly considered in analyzing the maneuvering that manifests itself in the discourse at the point the analyst is focusing on, it can be explained more easily and with a stronger foundation which strategic function a particular mode of maneuvering, characterized by a specific combination of topical choice, audience orientation and presentational design, may fulfill in the discourse.

By outlining a theoretical perspective on argumentative discourse that integrates rhetorical insight concerning the effectiveness of argumentative discourse in the standard pragma-dialectical framework pertaining to the reasonableness of argumentative discourse (van Eemeren & Houtlosser, 2002), we have developed an extended version of the pragma-dialectical theory of argumentation. This extended pragma-dialectical theory makes it possible to take the strategic design of the discourse into consideration in the analysis of argumentative discourse so that the reconstruction can be further refined and better accounted for. Because the strategic function of argumentative moves can now be taken into account, the extended theory also allows for a more accurate and realistic treatment of the fallacies in the evaluation of argumentative discourse. This treatment explains the potential persuasiveness of the fallacies as well as their treacherous character. In this