

# Negotiations... A game of Give and Take or Win/Win?

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# Negotiations



- What are negotiations anyway?
  - *formal discussions in which people or groups try to reach an agreement, especially in a business or political situation*
- In other words...
  - *the ultimate goal of mutual satisfaction, both sides win – or there's no real deal.*

# Negotiation – Two Models



- **Competitive Bargaining**

- Also known as ***positional bargaining***

- *Both parties grapple competitively (haggle) through successive positions on all issues including price, they end up with the ultimate compromise... something they both can live with, usually nether party is really satisfied.*

- *You end up feeling...compromised.*

- *It's...**give and take***

# Competitive Bargaining



- *Arguing over positions produces unwise agreements*
- *Arguing over positions is inefficient*
- *Arguing over positions endangers and ongoing relationship (becomes a contest of wills)*
- *Anger and resentment is often a result*

# Positional Bargaining – Two Styles



## **Soft**

- Participants are friends
- The goal is agreement
- Make concessions to cultivate relationships
- Be soft on the people and the problems
- Trust others
- Change your position easily
- Make offers

## **Hard**

- Participants are adversaries
- The goal is victory
- Demand concessions as a condition of relationship
- Be hard on people and the problems
- Distrust Others
- Dig into your position
- Make threats

# Positional Bargaining – Two Styles



## Soft

- Disclose your bottom line
- Accept one-sided losses to reach agreement
- Search for the single answer: the one *they* will accept
- Insist on agreement
- Try to avoid a contest of wills
- Yield to pressure

## Hard

- Mislead your bottom line
- Demand one-sided gains as the price of agreement
- Search for the single answer: the one *you* will accept
- Insist on your position
- Try to win a contest of wills
- Apply pressure

# Negotiation – Two Models



- Cooperative Bargaining
  - Also known as **principled negotiation**, developed by the Harvard Negotiation Project (Fisher & Ury, 2<sup>nd</sup> Ed. 1991)
  - Both parties decide issues on their merits **not** through a haggling process and looks for mutual gains whenever possible – its hard on the merits and soft on the people; don't harm relationships
  - Uses no tricks and no posturing
  - It's... **Win/Win**



# Cooperative Bargaining



- *Concentrates on the underlying concerns of both parties*
- *Participants are problem solvers*
- *Focuses on interests, not positions*
- *Invent options for mutual gain (creativity)*
- *Develop multiple options to choose from*
- *Insist on using objective criteria*

# Cooperative Bargaining – *Principled Negotiation*



- *Focuses on basic interests, mutually satisfying options, and fair standards – typically results in a **wise** agreement.*
- *Permits a gradual consensus on a joint decision **efficiently** resulting in an **amicable** agreement.*

# The Method



- Separate the ***People*** from the Problem
- Focus on ***Interests***, Not Positions
- Invent ***Options*** for Mutual Gain
- Insist on Using Objective ***Criteria***

# Separate the *People* from the Problem



- Negotiators are people first
- Every negotiator has two kinds of interests; in the substance and in the relationship
- Separate the relationship from the substance; deal directly with the people problem
- Perception – conflict lies not in objective reality, but in people’s heads.

# Separate the *People* from the Problem



- Don't deduce a person's intentions from your fears
- Don't blame them for your problem
- Discuss each other's perceptions
- Look for opportunities to act inconsistently with their perceptions
- Give them a stake in the outcome by making sure they participate in the process

# ***Emotions***



- First recognize and understand emotions, ***theirs*** and ***yours***.
- Acknowledge emotions as legitimate
- Allow the other side to let off steam
- Don't react to emotional outbursts

# ***Communication***

- Without communication there is no negotiation!
- Negotiation is communicating back and forth until you reach a joint decision
- ***Communication is never easy!***



# Problems in Communication



- Negotiators may not be talking to each other – they may be talking to third parties to get them to take their side
- The other party may not be hearing you – ***actively listening***
- Misunderstanding or misinterpreting what the other party is saying

# ***Remedies***



- ***Actively listen*** and restate what is being said
- ***Speak to be understood*** – seek understanding
- ***Speak about yourself*** – not them; use “I” and “we”, not “you” and “your”
- ***Speak for a purpose*** –sometimes less is more!
- ***Build a working relationship***

# Focus on *Interests*, Not Positions



- Not focusing on positions results in wise solutions
- Define the problem
- Focus on compatible interests, not conflicting ones
- Realize both parties have multiple interests

# Focus on *Interests*, Not Positions



- The most powerful interests are basic human needs
  - Security
  - Economic well being
  - A sense of belonging
  - Recognition
  - Control over one's life



# Invent *Options* for Mutual Gain



- Four major obstacles to inventing many options:
  - Premature judgment
  - Searching for the single answer
  - Each side sees the situation as either/or – either I win/or you do
  - Concern with only your own immediate interests

# Inventing Creative Options



- Separate inventing options from judging them
- Come up with as many options as possible “brainstorm”
- Search for mutual gains
- Invent ways to make their decisions easy – put yourself in their shoes

# Insist on Using Objective *Criteria*



- Market Value
- Precedent
- Scientific Judgment
- Professional Standards
- Efficiency
- Costs
- Previous Court Cases
- Moral Standards
- Equal Treatment
- Tradition
- Reciprocity
- etc

# Negotiating with Objective Criteria



- Jointly apply objective criteria to each issue
- Reason, and be open to reason
- Never yield to pressure

# What do you do if the other side has a stronger bargaining position?



- **Protect yourself** from making an agreement you should reject
- **Make the most out of the assets that you do have** so the agreement you reach will satisfy your interests as well as possible
- Develop your ***BATNA- best alternative to a negotiated agreement***

# ***So, what is BATNA?***



- It is coming up with all the alternatives (***imaginative solutions***) you can think of in the event no agreement is reached
- Choosing the most promising and converting them into practical alternatives
- Selecting the alternative that seems best



The Better your BATNA, the  
Greater your Power



So... what if they use tricky bargaining tactics?



Tricky bargaining tactics include lies, psychological abuse, and pressure tactics.

They may be illegal, unethical, or unpleasant.

They are used to help 'win' in a contest of will.

# Tricky Bargaining Tactics



- Deliberate deception – phony facts
- Ambiguous authority – perceived
- Misrepresentations of their intentions
- Not giving full disclosure
- Psychological warfare – stressful situations, personal attacks, good guy-bad guy routine, threats

# Tricky Bargaining Tactics



- Positional pressure tactics
  - Refusal to negotiate
  - Extreme demands
  - Escalating demands
  - Lock-in tactics
  - Hardhearted partner
  - Calculated delay
  - “Take it or leave it”



# Don't be a Victim



- From the very beginning...
  - Let them know you will only negotiate in “good faith”
  - Set ground rules and expectations for both parties
  - Decide what recourse will be taken if either party does not adhere to the rules

# The Heart of Negotiation



- Mastering basic skills and adopting a logical approach
- Skills include
  - *Leverage*
  - *Information*
  - *Credibility*
  - *Judgment*



# Skills



- Leverage – *the ability to cope with (and exploit) an unlevel playing field*
- Information – *the ability to ferret out (and protect) vital facts*

# Skills

- Credibility – *the ability to be believable yourself and to spot the other side's bluff*
- Judgment – *the ability to strike the right balance between competing for position and compromise*



# Creating a Negotiation Plan



- *PREPARE, PREPARE, PREPARE*
  - ***Thorough preparation is the most important prerequisite to effective negotiation.***
  - *It improves the likelihood of a win/win negotiation that will produce a quality contractual arrangement.*

# Negotiation Team



- Determine who will be on the team – and who will lead the negotiations
  - Procurement Officer
  - End user
  - Project Manager
  - Technical member(s)
  - Financial member
  - Legal Counsel



# Identify Negotiation Issues and Objectives



- Know your ultimate goal!
- Identify key issues and your position on those issues
- Know what issues are must haves and those that would be “nice to have” – rank **minimum**, **target** and **maximum**
- Know which issues are potential “deal breakers”
- Identify those that may be used as “trade-offs”
- Identify those that you may want to avoid

# Identify Negotiation Issues and Objectives



- **Research** the other party
- Identify their key issues and potential position on those issues
- Determine the goal/position of the other party
- Ask, what is their most reasonable position based on available information?

# Develop Pre-Negotiation and Preparation Worksheets



- Worksheets help with research and documenting critical factors affecting the outcome of the negotiation
- See examples





# Determine Your Overall Negotiation Approach or *Strategy*

- Determine who will lead negotiations
- Plan the order of issues to be addressed
  - Start with least important
  - Address issues according to the anticipated ease of reaching agreement
- Identify potential concessions
  - Concessions you will be willing to make
  - Concessions you expect from the other party

# Negotiation Position



- Minimum Position = Least Desirable
- Target Position = Acceptable
- Maximum Position – Most Desirable

# Plan Bargaining *Tactics*



- What are bargaining tactics?
  - Ways of dealing with particular problems at specific points within the negotiation
  - Any effort to use knowledge of, or your assumptions about the negotiation process to gain an advantage

# ***Tactics or Tricks?***



- ***The Printed Contract*** – *“It’s just a standard contract” ... or is it?*
  - Does it change your terms and conditions?
  - What is in the “fine print”?
  - Should the other party draft your contract?
  - Remember... ***Read and Understand it!***
  - **Any contract document can be changed**

# ***Tactics or Tricks?***



- ***The Higher Authority*** – usually used at the end of a long, tiring negotiation
  - Once you think negotiations are ready to close, the other party says “Now let’s see if the CEO will agree”
  - Used to try to get further concessions, you may end up negotiating all over again, trying to get you into a weaker position

# *The Higher Authority*



- You can ward this off by requiring that you will only hold negotiations when the person who can make decisions is in attendance – ***Counter with...***
- ***Turn the tables*** – say “that’s a great idea, I will check with my boss, too”
- ***Set a deadline*** – “I need an answer before the end of the day
- ***Call the other party’s bluff – name the tactic*** – say “You’re not really going to pull Higher Authority on me, are you?”

# ***Tactics or Tricks?***



- ***Splitting the difference*** – also called “nibbling” – the other party is trying to eat away at your half
- ***Counter with*** – Okay, but lets look at the whole package, we need to split the difference on...”
- ***Refuse to play*** – ask “are you really going to nibble on my half?”

# ***Tactics or Tricks?***



- ***Good Guy/ Bad Guy*** – one takes your position and the other argues, criticizes, and makes things difficult. The good guy gets you to disclose your position while the bad guy keeps hounding you and proposing agreements that work to their advantage

# Good Guy/Bad Guy



- ***Counter with***

- ***Refuse to negotiate*** - if you're outnumbered
- ***Separate them*** – it will help you keep balance, deal only with one of them
- ***Get your own Bad Guy***
- ***Take a break*** – tell them you'll come back when **they** are in agreement

# ***Tactics or Tricks?***



- ***Excessive Demands*** – they are hoping you will compromise with them to their advantage
  - ***Do your homework*** – know realistic values before negotiations begin
  - ***Create alternatives*** – that will work to your advantage
  - ***Ask them*** – “aren’t you getting tired of making big demands?”
  - ***Walk away*** – create the appearance of withdrawing

# ***Tactics or Tricks?***



- ***Take it or leave it*** – “It’s my way or the highway”
- ***Counter with*** –
  - “Well you’re leaving no room for negotiations, so we’ll have to discontinue with negotiations”
  - Let them know you will be forced to go to the next company, but **make sure there is another company!**

# ***Prepare the Negotiation Plan – (Prep Worksheet)***



- Draft a plan based on requirements, background, issues, objectives and positions
- Review the plan
- Present the plan to the team
- Encourage input from team members
- Revise plan if necessary

# Present Plan to Management



- Need to get management's support
  - **Management Briefing** – gives you an opportunity to get guidance and management's observations on the strengths and weaknesses of the negotiation plan.
    - **It can take several forms** - informal oral presentation, formal oral presentation, a written document
    - **Need to have an approved written negotiation plan**

# Management's Role



- Approve or reject the plan
- Identify management's limits on negotiation – what happens if changes occur to issues during negotiation?
  - Is negotiation team empowered to negotiate any position as long as it is considered fair and reasonable?
  - Are there specific limits?
  - Are you limited to pre-negotiation positions approved by management?

The approved plan *is marked "confidential"*.

# Negotiation Plan Preparation Worksheet



***SEE EXAMPLE***



# During Negotiations



- Create negotiation document as you are negotiating
  - List all parties who are in attendance
  - List Project Title, Date, and place of negotiations
  - List issues
  - Underneath issue list “Resolution” and note that “Both Parties Agree”
  - Use LCD Projector so all parties can see as document is being created.
  - Have all parties sign in agreement once negotiations are complete



***Questions ?***



***LET THE FUN BEGIN!***



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