



Best Practices in Negotiations

Objectives

1. Appreciate the extent to which negotiation is both an art and a science.
 2. Explore the 10 best practices that all negotiators can follow to achieve a successful negotiation.

Negotiation is an integral part of daily life and the opportunities to negotiate surround us. While some people may look like born negotiators, negotiation is fundamentally a skill involving analysis and communication that everyone can learn. The purpose of this book is to provide students of negotiation with an overview of the field of negotiation, perspective on the breadth and depth of the subprocesses of negotiation, and an appreciation for the art and science of negotiation. In this final chapter we reflect on negotiation at a broad level by providing 10 best practices for negotiators who wish to continue to improve their negotiation skills (see Table 12.1).

1. Be Prepared

We cannot overemphasize the importance of preparation, and we strongly encourage all negotiators to prepare properly for their negotiations (see Chapter 4). Preparation does not have to be a time-consuming or arduous activity, but it should be right at the top of the best practices list of every negotiator. Negotiators who are better prepared have numerous

TABLE 12.1 | 10 Best Practices for Negotiators

1. Be prepared.
 2. Diagnose the fundamental structure of the negotiation.
 3. Work the BATNA.
 4. Be willing to walk away.
 5. Master paradoxes.
 6. Remember the intangibles.
 7. Actively manage coalitions.
 8. Savor and protect your reputation.
 9. Remember that rationality and fairness are relative.
 10. Continue to learn from the experience.

advantages, including the ability to analyze the other party's offers more effectively and efficiently, to understand the nuances of the concession-making process, and to achieve their negotiation goals. Preparation should occur *before* the negotiation begins so that the time spent negotiating is more productive. Good preparation means understanding one's own goals and interests as well as possible and being able to articulate them to the other party skillfully. It also includes being ready to understand the other party's communication in order to find an agreement that meets the needs of both parties. Few negotiations are going to conclude successfully without both parties achieving at least some of their goals, and solid work up front to identify your needs and to understand the needs of the other party is a critical step to increasing the odds of success.

Good preparation also means setting aspirations for negotiation outcomes that are high but achievable. Negotiators who set their sights too low are virtually guaranteed to reach an agreement that is suboptimal, while those who set them too high are more likely to stalemate and end the negotiation in frustration. Negotiators also need to plan their opening statements and positions carefully so they are especially well prepared at the start of negotiations. It is important to avoid preplanning the complete negotiation sequence, however, because while negotiations do follow broad stages, they also ebb and flow at irregular rates. Overplanning the tactics for each negotiation stage in advance of the negotiation is not a good use of preparation time. It is far better that negotiators prepare by understanding their own strengths and weaknesses, their needs and interests, the situation, and the other party as well as possible so that they can adjust promptly and effectively as the negotiation proceeds.

2. Diagnose the Fundamental Structure of the Negotiation

Negotiators should make a conscious decision about whether they are facing a fundamentally distributive negotiation, an integrative negotiation, or a blend of the two, and choose their strategies and tactics accordingly. Using strategies and tactics that are mismatched will lead to suboptimal negotiation outcomes. For instance, using overly distributive tactics in a fundamentally integrative situation will likely result in reaching agreements that leave integrative potential untapped because negotiators tend not to readily share the information needed to succeed in integrative negotiations when confronted with distributive tactics. In these situations, money and opportunity are often left on the table.

Similarly, using integrative tactics in a distributive situation may not lead to optimal outcomes either. For instance, one of the authors of this book was recently shopping for a new car and the salesman spent a great deal of time and effort asking questions about the author's family and assuring him that he was working hard to get the highest possible value for his trade-in. Unfortunately, the salesman met the author's requests for clarification about the list price of the car and information about recently advertised manufacturer incentives with silence or by changing the topic of conversation. This was a purely distributive situation for the author, who was not fooled by the salesman's attempt to bargain "integratively." The author bought a car from a different dealer who was able to provide the requested information in a straightforward manner—and whose price was \$1,500 lower than the first dealer for the same car!

Negotiators also need to remember that many negotiations will consist of a blend of integrative and distributive elements and that there will be distributive and integrative phases

to these negotiations. It is especially important to be careful when transitioning between these phases within the broader negotiation because missteps in these transitions can confuse the other party and lead to impasse.

Finally, there are also times when accommodation, avoidance, and compromise may be appropriate strategies (see Chapter 1). Strong negotiators will identify these situations and adopt appropriate strategies and tactics.

3. Identify and Work the BATNA

One of the most important sources of power in a negotiation is the alternatives available to a negotiator if an agreement is not reached. One alternative, the best alternative to a negotiated agreement (BATNA), is especially important because this is the option that likely will be chosen should an agreement not be reached. Negotiators need to be vigilant about their BATNA. They need to know what their BATNA is relative to a possible agreement and consciously work to improve the BATNA so as to improve the deal. Negotiators without a strong BATNA may find it difficult to achieve a good agreement because the other party may try to push them aggressively, and hence they may be forced to accept a settlement that is later seen as unsatisfying.

For instance, purchasers who need to buy items from sole suppliers are acutely aware of how the lack of a positive BATNA makes it difficult to achieve positive negotiation outcomes. Even in this situation, however, negotiators can work to improve their BATNA in the long term. For instance, organizations in a sole-supplier relationship have often vertically integrated their production and started to build comparable components inside the company, or they have redesigned their products so they are less vulnerable to the sole supplier. These are clearly long-term options and would not be available in a current negotiation. However, it may be possible to refer to these plans when negotiating with a sole supplier in order to remind them that you will not be dependent forever.

Negotiators also need to be aware of the other negotiator's BATNA and to identify how it compares to what you are offering. Negotiators have more power in a negotiation when their potential terms of agreement are significantly better than what the other negotiator can obtain with his or her BATNA. On the other hand, when the difference between your terms and the other negotiator's BATNA is small, then negotiators have less room to maneuver. There are three things negotiators should do with respect to the other negotiator's BATNA: (1) monitor it carefully in order to understand and retain your competitive advantage over the other negotiator's alternatives; (2) remind the other negotiator of the advantages your offer has relative to her BATNA; and (3) in a subtle way, suggest that the other negotiator's BATNA may not be as strong as he or she thinks it is (this can be done in a positive way by stressing your strengths or in a negative way by highlighting competitors' weaknesses).

4. Be Willing to Walk Away

The goal of most negotiations is achieving a valued outcome, not reaching an agreement *per se*. Strong negotiators remember this and are willing to walk away from a negotiation when no agreement is better than a poor agreement or when the process is so offensive that

the deal isn't worth the work. While this advice sounds easy enough to take in principle, in practice, negotiators can become so focused on reaching an agreement that they lose sight of the real goal, which is to reach a good outcome (and not necessarily an agreement). Negotiators can ensure that they don't take their eyes off the goal by making regular comparisons with the targets they set during the planning stage and by comparing their progress during their negotiation against their walkaway and BATNA. While negotiators are often optimistic about goal achievement at the outset, they may need to reevaluate these goals during the negotiation. It is important to continue to compare progress in the current negotiation with the target, walkaway, and BATNA and to be willing to walk away from the current negotiation if their walkaway or BATNA becomes the truly better choice.

5. Master the Key Paradoxes of Negotiation

Excellent negotiators understand that negotiation embodies a set of paradoxes—seemingly contradictory elements that actually occur together. We discuss five common paradoxes that negotiators face. The challenge for negotiators in handling these paradoxes is to strive for *balance* in these situations. There is a natural tension in choosing between one or the other alternative in the paradox, but the best way to manage paradox is to achieve a balance between the opposing forces. Strong negotiators know how to manage this tension.

Claiming Value versus Creating Value

All negotiations have a value-*claiming* stage, where parties decide who gets how much of what, but many negotiations also have a value-*creation* stage, where parties work together to expand the resources under negotiation. The skills and strategies appropriate to each stage are quite different; in general terms, distributive skills are called for in the value-claiming stage and integrative skills are useful in value creation. Typically, the value-creation stage will precede the value-claiming stage, and a challenge for negotiators is to balance the emphasis on the two stages and the transition from creating to claiming value. There is no signpost to mark this transition, however, and negotiators need to manage it tactfully to avoid undermining the open brainstorming and option-inventing relationship that has developed during value creation. One approach to manage this transition is to publicly label it. For instance, negotiators could say something like, “It looks like we have a good foundation of ideas and alternatives to work from. How can we move on to decide what is a fair distribution of the expected outcomes?” In addition, research shows that most negotiators are overly biased toward thinking that a negotiation is more about claiming value rather than creating value, so managing this paradox will likely require an overemphasis on discussing the creating value dynamics.

Sticking by Your Principles versus Being Resilient to the Flow

The pace and flow of negotiations can move from an intense haggle over financial issues to an equally intense debate over deeply held principles about what is right or fair or just. These transitions often create a second paradox for negotiators. On the one hand, effective negotiation requires flexible thinking and an understanding that an assessment of a situation may need to be adjusted as new information comes to light; achieving any deal will

probably require both parties to make concessions. On the other hand, core principles are not something to back away from easily in the service of doing a deal. Effective negotiators are thoughtful about the distinction between issues of principle, where firmness is essential, and other issues where compromise or accommodation are the best route to a mutually acceptable outcome.

Sticking with the Strategy versus Opportunistic Pursuit of New Options

New information will frequently come to light during a negotiation, and negotiators need to manage the paradox between sticking with their prepared strategy and pursuing a new opportunity that arises during the process. This is a challenging paradox for negotiators to manage because new “opportunities” may in fact be Trojan horses harboring unpleasant surprises. On the other hand, circumstances do change and legitimate one-time, seize-the-moment deals do occur. The challenge for negotiators is to distinguish phantom opportunities from real ones; developing the capacity to recognize the distinction is another hallmark of the experienced negotiator.

Strong preparation is critical to being able to manage the “strategy versus opportunism” paradox. Negotiators who have prepared well for the negotiation and who understand the circumstances are well positioned to make this judgment. We also suggest that negotiators pay close attention to their intuition. If a deal doesn’t feel right, if it seems too good to be true, then it probably *is* too good to be true and is not a viable opportunity. If negotiators feel uneasy about the direction the negotiation is taking, then it is best to take a break and consult with others about the circumstances. Often explaining the “opportunity” to a colleague, friend, or constituent will help distinguish real opportunities from Trojan horses.

We are not suggesting that negotiators become overly cautious, however. Frequently, there are genuinely good opportunities that occur during a negotiation, legitimately caused by changes in business strategy, market opportunities, excess inventory, or a short-term cash flow challenge. Negotiators who have prepared well will be able to take full advantage of real opportunities when they arise and reduce the risk presented by Trojan horses.

Honest and Open versus Closed and Opaque

Negotiators face the *dilemma of honesty*: how open and honest should I be with the other party? Negotiators who are completely open and tell the other party everything expose themselves to the risk that the other party will take advantage of them. In fact, research suggests that too much knowledge about the other party’s needs can actually lead to suboptimal negotiation outcomes. On the other hand, being completely closed will not only have a negative effect on your reputation (discussed later), but it is also an ineffective negotiation strategy because you don’t disclose enough information to create the groundwork for agreement. The challenge of this paradox is deciding how much information to reveal and how much to conceal—both for pragmatic and ethical reasons.

Strong negotiators have considered this paradox and understand their comfort zone, which will likely vary depending on the other party. We suggest that negotiators should remember that negotiation is an ongoing process. As the negotiators make positive progress, they should be building trust and hopefully feeling more comfortable about revealing more information to the other party. That said, there is some information that should probably not

be revealed (e.g., the bottom line in a distributive negotiation) regardless of how well the negotiation is progressing.

Trust versus Distrust

As a mirror image of the dilemma of honesty, negotiators also face the *dilemma of trust*: how much to trust what the other party tells them. Negotiators who believe everything the other party tells them make themselves vulnerable to being taken advantage of by the other party. On the other hand, negotiators who do not believe anything the other party tells them will have a very difficult time reaching an agreement. As with the dilemma of honesty, we suggest that negotiators remember that negotiation is a process that evolves over time. First, as we noted, trust can be built by being honest and sharing information with the other side, which hopefully will lead to reciprocal trust and credible disclosure by the other side. Moreover, there will be individual differences in trust. Some negotiators will start off by being more trusting, but become less trusting if information comes to light showing that the other party is not trustworthy. Other negotiators will be more comfortable having the other party earn their trust and will be more skeptical early in negotiations. There is no right or wrong approach to managing this dilemma. Strong negotiators are aware of this dilemma, however, and consciously monitor how they are managing this challenge.

6. Remember the Intangibles

It is important that negotiators remember the intangible factors while negotiating and remain aware of their potential effects. Intangibles frequently affect negotiation in a negative way, and they often operate out of the negotiator's awareness. As noted in Chapter 1, intangibles are deep psychological factors that motivate negotiators and they include winning, avoiding loss, looking tough or strong to others, not looking weak, being fair, and so on. For instance, if the other party is vying with his archrival at the next desk for a promotion, he may be especially difficult when negotiating with you in front of his boss in order to look tough and impress his boss. It is unlikely that the other negotiator will tell you this is what he is doing, and in fact he may not even be aware of it himself. The best way to identify the existence of intangible factors is to try to see what is not there. In other words, if your careful preparation and analysis of the situation reveals no tangible explanation for the other negotiator's behavior—adamant advocacy of a certain point, refusal to yield another one, or behavior that just doesn't make sense—then it is time to start looking for the intangibles driving his behavior.

For example, several years ago one of the authors of this book was helping a friend buy a new car, and the price offered from the dealer was \$2,000 less than any other dealer in town. The only catch was that the car had to be sold that day. On the surface this looked like a trick (see "Strategy versus Opportunism"), but there was no obvious tangible factor that explained this special price. The friend had never purchased from the dealer before, the car was new and fully covered by a good warranty, and the friend had price shopped at several dealers and knew this price was substantially lower. As they continued to discuss the potential deal, the salesman became more and more agitated. Sweat was literally falling from his brow. The friend decided to purchase the car, and as soon as he signed, the salesman was

simultaneously relieved and excited. He asked for a moment to telephone his wife to share with her some good news. It turned out that the salesman had just won a complicated incentive package offered by the dealer which included a two-week all expenses paid Caribbean vacation for his family of four. The incentive package required that a total of 10 vehicles, one from each category of vehicle at the dealership, be sold in a month. The salesman, who specialized in selling trucks, felt immense pressure when the friend hesitated because he had given the friend a huge discount on a sports car to close the deal.

The intangible factor of trying to win the vacation package explained the salesman's agitated behavior in the preceding example. The buyer learned of this only when the salesman could no longer contain his excitement and shared the good news with his family. Often, negotiators do not learn what intangible factors are influencing the other negotiator unless the other chooses to disclose them. Negotiators can see evidence of their existence, however, by looking for changes in the other negotiator's behavior from one negotiation to another, as well as by gathering information about the other party before negotiation begins. For instance, if you find out that the other party has a new boss that she doesn't like and she is subsequently more difficult to deal with in the negotiation, the intangible of the new boss may be to blame.

There are at least two more ways to discover intangibles that might be affecting the other. One way to surface the other party's intangibles is to ask questions. These questions should try to get the other party to reveal why he or she is sticking so strongly to a given point. It is important to remember that strong emotions and/or values are the root of many intangibles, so surfacing intangibles may result in the discussion of various fears and anxieties. The question-asking process should also be gentle and informal; if the questioning is aggressive, it may only make the other defensive, adding another intangible to the mix and stifling effective negotiations! A second way is to take an observer or listener with you to the negotiation. Listeners may be able to read the other's emotional tone or nonverbal behavior, focus on roadblock issues, or try to take the other's perspective and put themselves in the other's shoes (role reversal). A caucus with this listener may then help refocus the discussion so as to surface the intangibles and develop a new line of questions or offers.

Negotiators also need to remember that intangible factors influence their own behavior (and that it is not uncommon for us to not recognize what is making us angry, defensive, or zealously committed to some idea). Are you being particularly difficult with the other party because he does not respect you, are you trying to teach a subordinate a lesson, or do you want to win this negotiation to look better than another manager? Without passing judgment on the legitimacy of these goals, we strongly urge negotiators to be aware of the effect of intangible factors on their own aspirations and behavior. Often talking to another person—a sympathetic listener—can help the negotiator figure these out. Strong negotiators are aware of how both tangible and intangible factors influence negotiation, and they weigh both factors when evaluating a negotiation outcome.

7. Actively Manage Coalitions

Coalitions can have very significant effects on the negotiation process and outcome. Negotiators should recognize three types of coalitions and their potential effects: (1) coalitions against you; (2) coalitions that support you; and (3) loose, undefined coalitions that may materialize either for or against you. Strong negotiators assess the presence and strength of

coalitions and work to capture the strength of the coalition for their benefit. If this is not possible, negotiators need to work to prevent the other party from capturing a loose coalition for their purposes. When negotiators are part of a coalition, communicating with the coalition is critical to ensuring that the power of the coalition is aligned with their goals. Similarly, negotiators who are agents or representatives of a coalition must take special care to manage this process.

Successfully concluding negotiations when a coalition is aligned against a negotiator is an extremely challenging task. It is important to recognize when coalitions are aligned against you and to work consciously to counter their influence. Frequently this will involve a divide-and-conquer strategy, where negotiators try to increase dissent within the coalition by searching for ways to breed instability.

Coalitions occur in many formal negotiations, such as environmental assessments and reaching policy decisions in an industry association. Coalitions may also have a strong influence in less formal settings, such as work teams and families, where different subgroups of people may not have the same interests. Managing coalitions is especially important when negotiators need to rely on other people to implement an agreement. It may be possible for negotiators to forge an agreement when the majority of people influenced are not in favor, but implementing the outcomes of that agreement will be very challenging. Strong negotiators need to monitor and manage coalitions proactively, and while this may take considerable time throughout the negotiation process, it will likely lead to large payoffs at the implementation stage.

8. Savor and Protect Your Reputation

Reputations are like eggs—fragile, important to build, easy to break, and very hard to rebuild once broken. Reputations travel fast, and people often know more about you than you think that they do. Starting negotiations with a positive reputation is essential, and negotiators should be vigilant in protecting their reputations. Negotiators who have a reputation for breaking their word and not negotiating honestly will have a much more difficult time negotiating in the future than those who have a reputation for being honest and fair. Consider the following contrasting reputations: “tough but fair” versus “tough and underhanded.” Negotiators prepare differently for others with these contrasting reputations. Negotiating with a tough but fair negotiator means preparing for potentially difficult negotiations while being aware that the other party will push hard for her perspective but will also be rational and fair in her behavior. Negotiating with a tough but underhanded other party means that negotiators will need to verify what the other says, be vigilant for dirty tricks, and be more guarded about sharing information.

How are you perceived as a negotiator? What is your reputation with others at this point? What reputation would you like to have? Think about the negotiators you respect the most and their reputation. What is it about their behavior that you admire? Also think about the negotiators who have a bad reputation. What would it take for them to change your image of them?

Rather than leaving reputation to chance, negotiators can work to shape and enhance their reputation by acting in a consistent and fair manner. Consistency provides the other party with a clear set of predictable expectations about how you will behave, which leads to a stable reputation. Fairness sends the message that you are principled and reasonable. Strong negotiators also periodically seek feedback from others about the way they are perceived and use that information to strengthen their credibility and trustworthiness in the marketplace.

Bibliography

9. Remember That Rationality and Fairness Are Relative

Research on negotiator perception and cognition is quite clear (Chapter 5): people tend to view the world in a self-serving manner and define the rational thing to do or a fair outcome or process in a way that benefits themselves. First, negotiators need to be aware of this tendency in both themselves and the other party. Negotiators can do three things to manage these perceptions proactively. First, they can question their own perceptions of fairness and ground them in clear principles. Second, they can find external benchmarks and examples that suggest fair outcomes. Finally, negotiators can illuminate definitions of fairness held by the other party and engage in a dialogue to reach consensus on which standards of fairness apply in a given situation.

Moreover, negotiators are often in the position to collectively define what is right or fair as a part of the negotiation process. In most situations, neither side holds the keys to what is absolutely right, rational, or fair. Reasonable people can disagree, and often the most important outcome that negotiators can achieve is a common, agreed-upon perspective, definition of the facts, agreement on the right way to see a problem, or standard for determining what is a fair outcome or process. Be prepared to negotiate these principles as strongly as you prepare for a discussion of the issues.

10. Continue to Learn from Your Experience

Negotiation epitomizes lifelong learning. The best negotiators continue to learn from the experience—they know there are so many different variables and nuances when negotiating that no two negotiations are identical. These differences mean that for negotiators to remain sharp, they need to continue to practice the art and science of negotiation regularly. In addition, the best negotiators take a moment to analyze each negotiation after it has concluded, to review what happened and what they learned. We recommend a three-step process:

- Plan a personal reflection time after each negotiation.
- Periodically take a lesson from a trainer or coach.
- Keep a personal diary on strengths and weaknesses and develop a plan to work on weaknesses.

This analysis does not have to be extensive or time consuming. It should happen after every important negotiation, however, and it should focus on *what* and *why* questions: what happened during this negotiation, why did it occur, and what can I learn? Negotiators who take the time to pause and reflect on their negotiations will find that they continue to refine their skills and that they remain sharp and focused for their future negotiations.

Moreover, even the best athletes—in almost any sport—have one or more coaches on their staff and stop to take a lesson, when necessary. Negotiators have access to seminars to enhance their skills, books to read, and coaches who can help refine their skills. This book should be seen as one step along the way to sharpening and refining your negotiation skills, and we encourage you to continue to learn about the art and science of negotiation. We wish you the best of luck in all of your future negotiations!