

**NEGOTIATION**

**Negotiation**

*"Negotiation is the process whereby interested parties resolve disputes, agree upon courses of action, bargain for individual or collective advantage, and/ or attempt to craft outcomes which serve their mutual interests".*

It is usually regarded as a form of **alternative dispute resolution**.

The first step in negotiation is to determine whether the situation is in fact a negotiation. The essential qualities of negotiation are: the existence of two parties who share an important objective but have some significant difference(s).

The purpose of the negotiating conference is to seek to compromise the difference(s).

The outcome of the negotiating conference may be a compromise satisfactory to both sides, a standoff (failure to reach a satisfactory compromise) or a standoff with an agreement to try again at a later time. Negotiation differs from "influencing" and "group decision making."

**Approaches to Negotiation**

Given the above definition, one can see negotiation occurring in business, non-profit organizations, government branches, legal proceedings, among nations and in personal situations such as marriage, parenting and others.

**The advocate's approach**

<b>Comparison Among Group Activities</b>		
<b>Activity</b>	<b>Objectives in Common?</b>	<b>Conflict Between Participants</b>
Decision Making	Yes	No
Influencing	Must be proven by influencer	Influencer must show there is none
Negotiating	Yes	Yes. Parties seek compromise

In the advocacy approach, a skilled negotiator usually serves as advocate for one party to the negotiation and attempts to obtain the most favorable outcomes possible for that party. In this process the negotiator attempts to determine the minimum outcome(s) the other party is (or parties are) willing to accept, then adjusts their demands accordingly. A "successful" negotiation in the advocacy approach is when the negotiator is able to obtain all or most of the outcomes their party desires, but without driving the other party to permanently break off negotiations, unless the BATNA is acceptable.

**Best alternative to a negotiated agreement (BATNA)**

In negotiation theory, the best alternative to a negotiated agreement or BATNA is the course of action that will be taken by a party if the current negotiations fail and an agreement cannot be reached.

If the current negotiations are giving you less value than your BATNA, there is no point in proceeding. Prior to the start of negotiations, the parties should have ascertained their own individual BATNAs.

BATNA was developed by negotiation researchers Roger Fisher and Bill Ury of the Harvard Program on Negotiation (PON), in their series of books on Principled Negotiation that started with *Getting to YES*. Nobel Laureate John Forbes Nash has included such ideas in his early undergraduate research.

For example, if I have a written offer from CarMax to buy my car for \$100 dollars, then my BATNA when dealing with other potential purchasers would be \$100 since I can get \$100 for my car even without reaching an agreement with such alternative purchaser.

A party should generally never accept a worse resolution than its BATNA. Care should be taken, however, to ensure that deals are accurately valued, taking into account all considerations (such as relationship value, time value of money, likelihood that the other party will live up to their side of the bargain, etc.) These other considerations are very difficult to value, since they are often based on uncertain considerations, rather than easily measurable and quantifiable factors.

Examples of other offers that might or might not be better than the BATNA in the example above might be:

An offer of \$90 by a close relative (is the goodwill generated worth \$10 or more?)

An offer of \$125 in 45 days (what are the chances of this future commitment falling through, and would my prior BATNA (\$100) still be available if it did?)

An offer from another dealer to offset \$150 against the price of a new car (do I want to buy a new car right now, the offered car in particular? Also, is the probably minuscule reduction in monthly payments worth \$100 to me today?)

Traditional negotiating is sometimes called win-lose because of the assumption of a fixed "pie", that one person's gain results in another person's loss. Another view is that in negotiation both parties are equals by definition and that the best possible outcome is reached when both parties agree to it. If the two parties were not equals, the stronger party would dictate the outcome and there would be no negotiation at all.

### **The win/win negotiator's approach**

During the early part of the 20th century, scholars such as Mary Parker Follett developed ideas suggesting that agreement often can be reached if parties look not at their stated positions but rather at their underlying interests and needs. During the 1960s, Gerard I. Nierenberg recognized the powerful role of negotiation in resolving disputes in personal, business and international relations. He published a bestselling book called *The Art of Negotiation*, which has become a staple negotiation publication. He believes that the philosophies of the negotiators determine the direction a negotiation takes. His *Everybody Wins* philosophy assures that all parties benefit from the negotiation process which also yields more successful outcomes than the adversarial —winner takes all approach.

In the Seventies, practitioners and researchers began to develop win-win approaches to negotiation. The publication of *Getting to YES* by Harvard's Roger Fisher and William Ury, was a revolution in the field of negotiation. It became an international bestseller and continues to influence generations of negotiators around the world. The ideas of the book are simple and important -- such as "looking behind positions for interests" and "inventing options before deciding." The book's approach, referred to as Principled Negotiation, is also sometimes called mutual gains bargaining. The mutual gains approach has been effectively applied in environmental situations (see Lawrence Susskind and Adil Najam) as well as labor relations where the parties (e.g. management and a labor union) frame the negotiation as "problem solving" and Chester L. Karrass.

There are a tremendous number of other scholars who have contributed to the field of negotiation, including Sara Cobb at George Mason University, Len Riskin at the University of Missouri, Howard Raiffa

at Harvard, Robert McKersie and Lawrence Susskind at MIT, and Adil Najam and Jeswald Salacuse at The Fletcher School of Law and Diplomacy. Each in their own right is a leader in the field.

### Negotiation as a process

A negotiation process can be divided into six steps in three phases:

#### Phase 1: Before the Negotiation

- **Step 1: Preparing and Planning:** In this step, first you should determine what you must have and what you are willing to give (bargaining chips). Gather facts about the other party, learn about the other party's negotiating style and anticipate other side's position and prioritize issues. To ensure smooth negotiation, one should also prepare alternatives proposals and establish BATNA (the Best Alternative To a Negotiated Agreement). Estimate the other party's needs, bargaining chips and BATNA. The most ideal case is to get as much as you can. You may advocate "win-win" but don't count on your opponent to be so helpful. Your opponent may try to intimidate you by creating time limits, shouting and casting doubt on your motives. For more details and suggestions on the process of negotiating, consult Negotiation/Conflict Resolution.

#### Phase 2: During the Negotiation

- **Step 2: Setting the Tone:** You should never speak first because the other party might offer you more than you would have asked for.
- **Step 3: Exploring Underlying Needs:** It is also important to actively listen for facts and reasons behind other party's position and explore underlying needs of the other party. If conflict exists, try to develop creative alternatives. If you are in a difficult situation, don't say anything. Take time out. Remember, you will not give anything away if you don't say anything.
- **Step 4: Selecting, Refining, and Crafting an Agreement:** It is a step in which both parties present the starting proposal. They should listen for new ideas, think creatively to handle conflict and gain power and create cooperative environment.
- **Step 5: Reviewing and Recapping the Agreement:** This is the step in which both parties formalize agreement in a written contract or letter of intent.

#### Phase 3: After the Negotiation

- **Step 6: Reviewing the Negotiation:** Reviewing the negotiation helps one to learn the lessons on how to achieve a better outcome. Therefore, one should take the time to review each element and ask oneself, "what went well?" and "what could be improved next time"

### Tactics

There are many tactics used by skilled negotiators, including:

- Analyzing the negotiation or conflict management style of your counterpart
- Setting pre-conditions before the meeting
- Volunteering to keep the minutes of the meeting

- Presenting demands
- Declining to speak first
- Deadlines
- Good guy/bad guy
- Limited authority
- Caucusing
- Walking out
- Concession patterns
- High-ball/low-ball
- Intimidation
- Getting it in your hands
- Fait accompli (what's done is done)
- Take it or leave it
- Rejecting an offer