• Overview
  o Brief Introduction
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  o Outline
• Paul Chadha
  o Brief Introduction
    • Grew up in the Chicago-land area, Proviso East HS, in Maywood
    • Served 6 years in the US Air Force and USAFR
    • Undergrad, DePaul University; Law, Northwestern University
    • Worked as an associate at Seyfarth Shaw and Baker & McKenzie
    • Past 9 years at Accenture, currently serving as the Global Legal Lead for the company’s International Development arm
    • Adjunct Professor of Law at Northwestern since the ‘05-’06 academic year: International Business Law & Negotiations
    • Founder / President of the Awassa Children’s Project, a solar-powered, state-of-the-art orphanage and school in Ethiopia
    • Dad
• Purposes of the Workshop

  o This workshop is designed to help improve skills in negotiation, joint decision making, and joint problem solving. More specifically, the aims are:

  • To give you an organized theoretical framework with which to analyze problems of negotiation – one that will help you to keep learning from your experiences.

  • To enable you to experiment actively with a variety of negotiating techniques and your own negotiating styles.

  • To help you become more sensitive to ethical issues in negotiation.

  • To give you some experience with different contexts of negotiation, from legal to diplomatic, from bilateral to multilateral.

  • To improve the workshop for all participants by soliciting detailed feedback from you.
Outline

• Core Negotiation Skills
• Interests vs. positions
• Objective Criteria
• Develop Options – Multiple Simultaneous Offers
• BATNA
• Long-term relationships
• Ego-Centric Bias
• Cultural Differences
• Alternative Dispute Resolution
• 10 Negotiation Tactics: How to Recognize and Address
Core Negotiations Skills
What is Negotiation?
The method by which two or more parties resolve issues or conflict.

<table>
<thead>
<tr>
<th>Soft Negotiation</th>
<th>Hard Negotiation</th>
<th>Principled Negotiation</th>
</tr>
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<tbody>
<tr>
<td>✓ Avoids conflict</td>
<td>✓ Battle of wills</td>
<td>✓ Mutual gain</td>
</tr>
<tr>
<td>✓ Makes concessions</td>
<td>✓ Extreme positions taken</td>
<td>✓ No posturing or tricks</td>
</tr>
<tr>
<td>✓ Too soft in negotiation</td>
<td>✓ Manipulative</td>
<td>✓ Hard on the merits of the situation but soft on people</td>
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<tr>
<td>✓ Resentment feelings</td>
<td>✓ Aggressive approach</td>
<td>✓ Thinking of long-term relationship</td>
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<tr>
<td>✓ Exploited feelings</td>
<td>✓ Not thinking of long-term relations</td>
<td>✓ Emphasizes interests</td>
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<tr>
<td>✓ Wants a quick solution to avoid difficult situation</td>
<td>✓ Wants a quick victory</td>
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NOTE: All negotiations come from one of three sources
I. Rights  II. Power  or III. Interests
Personal Self Awareness

(Emotions, stresses, reactions)
Awareness of the process

(How is the other trying to influence the situation? How are things being discussed? Is “time” an influence?)
Analytical Skill

(What are my key interests? Theirs? BATNA? Multiple Simultaneous Offer)
Behavioral Skill

(What do I want to say now? Are there actions I need to do now? Diagram something? Share some piece of information? Walk out? Take a break?)
Interests vs. Positions

When negotiating, the key is to be able to tell the difference between positions and interests - both yours and the parties' with whom you are negotiating.

TIP: Asking “why” is a great way to help determine interests.

Positions
“I want a salary raise!”

Two kids fighting over an orange, mom splits it in half.

Interests
To cover the rising cost of day care.
One kid wanted to eat the pulp, the other kid wanted the rind for cooking.
Objective Criteria

When interests are directly opposed, the parties should use objective criteria to resolve their differences. Decisions based on reasonable standards makes it easier for the parties to agree and preserve the relationship.

Step One: develop objective criteria; usually there are lots of different criteria which could be used. The parties must agree which criteria is best for their situation. Criteria should be both legitimate and practical. Scientific findings, professional standards, or legal precedent are possible sources of objective criteria. One way to test for objectivity is to ask if both sides would agree to be bound by those standards. Rather than agreeing in substantive criteria, the parties may create a fair procedure for resolving their dispute. For example, children may fairly divide a piece of cake by having one child cut it, and the other choose their piece.

Keep in mind the following when using objective criteria.

1. Each issue should be approached as a shared search for objective criteria. Ask for the reasoning behind the other party's suggestions. Using the other parties' reasoning to support your own position can be a powerful way to negotiate.

2. Each party must keep an open mind. They must be reasonable, and be willing to reconsider their positions when there is reason to.
Develop Options – Multiple Simultaneous Offers

Techniques for generating creative options:

✓ The parties should come together informally and brainstorm for possible solutions to the problem. Wild and creative proposals are encouraged. Brainstorming sessions can be made more creative and productive by encouraging the parties to shift between four types of thinking: stating the problem, analyzing the problem, considering general approaches, and considering specific actions.

✓ Parties may suggest partial solutions to the problem. Only after a variety of proposals have been made should the group turn to evaluating the ideas.

✓ When the parties' interests differ, they should seek options in which those differences can be made compatible or even complementary. The key to reconciling different interests is to "look for items that are of low cost to you and high benefit to them, and vice versa."

✓ Each side should try to make proposals that are appealing to the other side, and that the other side would find easy to agree to.

Obstacles to generating creative options for problem solving:

✓ Parties may decide prematurely on an option and so fail to consider alternatives;

✓ The parties may be intent on narrowing their options to find the single answer;

✓ The parties may define the problem in win-lose terms, assuming that the only options are for one side to win and the other to lose; or

✓ A party may decide that it is up to the other side to come up with a solution to the problem.

TIP: Consider multiple Simultaneous Offers
B.A.T.N.A.
Best Alternative to a Negotiated Agreement
A.K.A. your fall back position not your “bottom line”.

BATNA is THE alternative to what a negotiated agreement would be otherwise. It is the only standard which can protect you both from accepting terms that are too unfavorable and from rejecting terms it would be in your interest to accept.

When a negotiator has a strong BATNA, they also have more power because they possess an attractive alternative that they could resort to if an acceptable agreement is not achieved. When creating a BATNA, a negotiator should:

✓ Brainstorm a list of all available alternatives that might be considered should the negotiation fail to render a favorable agreement;
✓ Choose the most promising alternatives and expand them into practical and attainable alternatives; and
✓ Identify the best of the alternatives and keep it in reserve as a fall-back during the negotiation.

TIP: Don’t disclose your BATNA.
Long-term relationships

A long term relationship will have to outlast the current negotiation, which may mean that you may have to make more concessions or be less aggressive in order to allow the relationship to move forward.

- In a one-time deal, you negotiate on a specific set of priorities and you may do so quite aggressively, not looking to how you are perceived or what this negotiation bodes for the future.

- Financial Institutions are continuously negotiating with customers in an effort to build long term relationships rather than focusing on the short term period.

- No matter what the deal terms are, people will remember how you arrived at the deal.
Ego-Centric Bias

You will always view yourself and your interests / positions more favorably than the other side views them.

Overcoming the Egocentric Bias:

✓ Messaging must be crystal clear, even ‘over the top’.
✓ You are not always right.
✓ Put yourself in their shoes.
Cultural Differences / Diversity

➢ Cultural Differences:
  ➢ Direct or Indirect Communications (US vs. Japan)
  ➢ Formal or Informal Style (Ethiopian Land Negotiation)
  ➢ Time Sensitivities (US, fast, fast, fast vs. South Americans)
  ➢ High vs. Low Emotion
10 Negotiation Tactics: How to Recognize and Address
10 Negotiation Tactics: How to Recognize and Address Them

• Emphasize a principle-based approach to negotiations, one which focuses on interests, options, and standards of legitimacy to reach a positive outcome for both parties.

• Watch out for others who may work from a position-based model, which focuses on strength and leverage: They work to get what they “want” and to “win” certain terms, often using negotiation tactics to pressure you to concede to their demands.

• When you recognize these tactics you can overcome barriers to the negotiation process and remain principled, objective and unconditionally constructive during the negotiations. Below are 10 commonly-used negotiation “tactics” and suggestions for how to address them.
10 Negotiation Tactics: How to Recognize and Address Them

1. “You have agreed to that before.”

• This tactic challenges the best negotiators. Because many times you have dealt with the party previously, the other side claims you should agree to a particular concession because you “have done this before.” They often pick previously acceptable positions in your worst deals. If you concede to this tactic, however, the new agreement will be full of your best mistakes.

• Solution: Emphasize each deal’s uniqueness. Listen, document, and research the positions. Explain (1) that each deal has favorable and sometimes unfavorable parts, all of which have been negotiated in light of that particular deal; and (2) that both parties should examine all aspects to see how they may relate to this particular transaction.
2. “Your competitors have agreed to that.”

- This tactic—similar to “The Greater Fool” theory—is popular in competitive negotiations. One side tries to play one party off against another, then inaccurately state the competitive position. Even if accurate, the assertion may lack the correct context. For example, a competitor without intellectual property is more likely to agree to give up those rights because they are relinquishing nothing.

- Solution: Listen, document and research the claim. Don’t accept the statement on its face. Ask questions to understand the context of the claim. And remember that regardless of what others might or might not do, you must assess each position based on its principles and standards.

- What Does The Greater Fool Theory Mean?

This investment theory states that it is possible to make money by buying securities, whether overvalued or not, by selling them later at a profit because there will always be someone (a bigger or greater fool) who is willing to pay the higher price. See housing bubble.
10 Negotiation Tactics: How to Recognize and Address Them

3. “I know Joe’s unreasonable, but if you agree to this, I can keep him off your back.”

• This is the “good guy/bad guy” routine—when one negotiator takes a hard line, leaves the room and another follows as “peacemaker.”

• Solution: Don’t be too eager to please or avoid confrontation by conceding a point and accepting the peacemaker’s deal. Do not react without examining all issues on their merits. Listen, then agree to go away and think.
10 Negotiation Tactics: How to Recognize and Address Them

4. “Just one more thing.”

- This tactic aims to take advantage of enthusiasm and speed to bring in a few “extras” at the end, such as price reductions or increased service levels. This often arises when you learn of a concern raised by other side’s senior leadership or board or other party with “final” authority to which no one was aware.

- Solution: View the entire contract as a package. Consider fully how any extra request impacts each aspect of the deal. Avoid making concessions just to “get it over with” as that typically encourages further requests. Consider “returning the favor” and indicate that any changes now require the same high-level approvals. This may either stop the process or actually surface a real issue.
10 Negotiation Tactics: How to Recognize and Address Them

5. “Sorry for the delay, we will get back to you.”

• This “defer and delay” or “wear-down” tactic aims to frustrate. When the other side begins dragging out the process by failing to decide issues or resurrecting those you thought were closed you often make mistakes.

• Solution: Act as if time isn’t an issue for you either. Communicating that “time is of the essence” will often lead the other side (consciously or not) to use it as leverage and stretch things out to gain advantage.
10 Negotiation Tactics: How to Recognize and Address Them

6. “You need to agree to this before 8:00 am tomorrow or no deal.”

- This tactic—time ultimatums—aims to exhaust and rush negotiating teams. Sometimes they are real—e.g. a key board meeting to approve the deal—but they can also be artificial, e.g. delivering a negotiation package and demanding two-day feedback. The skill is to judge which is which.

- Solution: Agree on reasonable ground rules for the negotiations schedule, remembering that both parties need adequate preparation time to conduct meaningful negotiations. Agree to the ground rules in advance of the negotiation if possible. This will be an issue that you should be prepared to address with partners you’re working with at the firm.
10 Negotiation Tactics: How to Recognize and Address Them

7. “You and your team are inexperienced and stupid” and other “zingers”.

- This tactic—the personal attack—diverts attention from real issues and aims to put the negotiator on the defensive, insult or embarrass them.

- Solution: Depersonalize the situation by remaining calm and shifting focus back to a substantive issue. Responding in kind is a mistake; remain principle-based, constructive and objective. Calling for a brief recess can be helpful.
8. “I’m going to take this up with your boss.”

- This tactic—the threat of premature escalation—aims to intimidate the negotiating team. Often parties try to unilaterally escalate issues by “going around” the negotiating team, sometimes without any advance notice to the team, and usually without the proper context.

- Solution: Similar to timing, establish clear ground rules for issue escalation, and identify each party’s participants—they should hold similar positions. Jointly develop a list of the issues and a clear statement of each party’s positions.
10 Negotiation Tactics: How to Recognize and Address Them

9. “You must follow our process. No exceptions. All communications go through me.”

- This tactic is common in managed negotiation processes. When third-party advisors or negotiators are “injected” into the process and attempt to establish a unilateral set of ground rules for how to handle the negotiating processes.

- Solution: Understand the ground rules before the process begins. If you do not agree with them, politely challenge them or bow out. For example, try to build in one-on-one time with the actual party impacted by the negotiation.
10 Negotiation Tactics: How to Recognize and Address Them

10. “Your lawyer’s inflexibility is killing the deal.”

• This tactic, “divide and conquer”, aims to create team discord. It pits the “client” against the attorneys — by claiming he or she is unreasonable or “hard to do business with” — thereby pressuring him or her to make concessions.

• Solution: Have a negotiation game plan setting out your position on important issues before entering negotiations. The team must stick to the game plan and show, at all times, that your positions are the shared view of the team.

11. Beware of the “Range”!
Conclusion

• Communication and planning is vital to defending against these types of tactics and strategies. Don’t make important decisions under artificial pressure.

• References / Resources:
  o Getting To Yes
  o The Mind and Heart of the Negotiator
QUESTIONS