

# Negotiation

Negotiation is bargaining -- it is the process of discussion and give-and-take between two or more disputants, who seek to find a solution to a common problem. This overview essay discusses basic strategies and tactics of negotiation.

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What is Negotiation?

In simplest terms, negotiation is a discussion between two or more disputants who are trying to work out a solution to their problem.[1] This interpersonal or inter-group process can occur at a personal level, as well as at a corporate or international (diplomatic) level.

Negotiations typically take place because the parties wish to create something new that neither could do on his or her own, or to resolve a problem or dispute between them.[2] The parties acknowledge that there is some conflict

of interest between them and think they can use some form of influence to get a better deal, rather than simply taking what the other side will voluntarily give them.[3] They prefer to search for agreement rather than fight openly, give in, or break off contact.[4]

When parties negotiate, they usually expect give and take. While they have interlocking goals that they cannot accomplish independently, they usually do not want or need exactly the same thing.[5] This interdependence can be either [win-lose](#) or [win-win](#) in nature, and the type of negotiation that is appropriate will vary accordingly. The disputants will either attempt to force the other side to comply with their demands, to modify the opposing position and move toward compromise, or to invent a solution that meets the objectives of all sides. The nature of their interdependence will have a major impact on the nature of their relationship, the way negotiations are conducted, and the outcomes of these negotiations.[6]

Mutual adjustment is one of the key causes of the changes that occur during a negotiation. Both parties know that they can influence the other's outcomes and that the other side can influence theirs. The effective negotiator attempts to understand how people will adjust and readjust their positions during negotiations, based on what the other party does and is expected to do.[7] The parties have to exchange information and



NATO Secretary General, Jaap de Hoop Scheffer (third from right) and High Representative for Common Foreign and Security Policy, Dr. Javier Solana (far left) meet on March 10, 2004. This is an official [NATO](#) photograph, obtained from <http://www.nato.int/multi/photos/2004/m040310a.htm>.

make an effort to influence each other. As negotiations evolve, each side proposes changes to the other party's position and makes changes to its own. This process of give-and-take and making concessions is necessary if a settlement is to be reached. If one party makes several proposals that are rejected, and the other party makes no alternate proposal, the first party may break off negotiations.[8] Parties typically will not want to concede too much if they do not sense that those with whom they are negotiating are willing to [compromise](#).

The parties must work toward a solution that takes into account each person's requirements and hopefully optimizes the outcomes for both. As they try to find their way toward agreement, the parties focus on *interests*, *issues*, and *positions*, and use [cooperative](#) and/or [competitive](#) processes to come to an agreement.

#### Approaches to Negotiation

Negotiation theorists make several overlapping distinctions about approaches to negotiation. Fisher, Ury, and Patton distinguish between [positional bargaining](#), which is competitive, and [interest-based bargaining](#) or principled negotiation, which is primarily cooperative. But they also make the distinction between soft, hard, and principled negotiation, the latter of which is neither soft, nor hard, but based on cooperative principles which look out for oneself as well as one's opponent.[9]



Additional insights into **negotiation** are offered by Beyond Intractability project participants.

Morton Deutsch also makes the distinction between [competitive](#) and [cooperative](#) approaches.[10] According to Deutsch, the most important factors that determine whether an individual will approach a conflict cooperatively or competitively are the nature of the dispute and the goals each side seeks to achieve. Often the two sides' goals are linked together, or *interdependent*. The parties' interaction will be shaped by whether this interdependence is *positive* or *negative*, according to Deutsch:

- Goals with *positive interdependence* are tied together in such a way that the chance of one side attaining its' goal is *increased* by the other side's attaining its goal.[11] Positively interdependent goals normally result in cooperative approaches to negotiation, because any participant can "attain his goal if, and only if, the others with whom he is linked can attain their goals." [12]
- On the other hand, *negative interdependence* means the chance of one side attaining its goal is *decreased* by the other's success.[13] Negatively interdependent goals force competitive situations, because the only way for one side to achieve its goals and "win" is for the other side to "lose."

Although Fisher, Ury, and Patton argue that almost any dispute can be resolved with interest-based bargaining (i.e., a cooperative approach), other theorists believe the two approaches should be used together. Lax and Sebenius, for example, argue that negotiations typically involve ["creating" and "claiming" value](#). First, the negotiators work cooperatively to create value (that is, "enlarge the pie,") but then they must use competitive processes to claim value (that is, "divide up the pie").[14]

However, a tension exists between creating and claiming value. This is because the competitive strategies used to claim value tend to undermine cooperation, while a cooperative approach makes one vulnerable to competitive bargaining tactics.[15] The tension that exists between cooperation and competition in negotiation is known as "The Negotiator's Dilemma:"[16]

- If both sides cooperate, they will both have good outcomes.
- If one cooperates and the other competes, the cooperator will get a terrible outcome and the competitor will get a great outcome.
- If both compete, they will both have mediocre outcomes.

- In the face of uncertainty about what strategy the other side will adopt, each side's best choice is to compete.
- However, if they both compete, both sides end up worse off.[17]

In real life, parties can communicate and commit themselves to a cooperative approach. They can also adopt norms of fair and cooperative behavior and focus on their future relationship. This fosters a cooperative approach between both parties and helps them to find joint gains.

### **Planning for Negotiations**

Effective planning is crucial to meeting negotiation objectives. If the parties are to reach a stable agreement, specific events must take place before the parties ever come to the table.

1. Parties must [frame](#) the problem, and recognize that they have a common problem that they share an interest in solving. Frames are the conceptions that parties have of the situation and its risks. They allow the parties to begin to develop a shared definition of the issues involved, and the process needed to resolve them.[18] When the frames of both parties match, they are more likely to focus on common issues and have a common definition of the situation. However, when the frames do not match, communication between the parties is likely to be more difficult. Unless the different outlooks on the problem begin to overlap, it is unlikely that negotiations will be successful.[19] If negotiators understand what frame they are operating from and what frame the other is operating from, they may be able to shift the conversation and develop common definitions. The way in which parties define the problem can shape the rest of the planning process.
2. In the early stages of framing, negotiators must also determine their goals, anticipate what they want to achieve, and prepare for the negotiation process. They must define the issues to be discussed and analyze the conflict situation. In many cases, negotiators can appeal to research or consult with experts to help them develop a complete list of the issues at stake. Next, parties should assemble all the issues that have been defined into a comprehensive list. The combined list of issues and priorities from each side determines the negotiation agenda.
3. Negotiators often exchange and negotiate the list of issues to be discussed in advance. Consultation between negotiators prior to actual negotiation allows them to agree on the agenda of issues to be discussed, as well as the location of the negotiations, the time and duration of the sessions, the parties to be involved in the negotiations, and techniques to pursue if negotiation fails. Negotiators should also agree on principles that will guide the drafting of a settlement, the procedures to be used in negotiations, and the formula by which a general agreement is to be reached.[20] Discussions about these procedural issues are often crucial for the success of substantive negotiations. If parties cannot agree on negotiation procedures and proposed items for the agenda, they may very well decide to abandon the negotiations altogether.
4. After assembling issues on an agenda, the negotiators must prioritize their goals and evaluate the possible tradeoffs among them.[21] Negotiators must be aware of their goals and positions and must identify the concerns, desires, and fears that underlie their substantive goals. They must determine which issues are most important, as well as whether the various issues are linked or separate. In addition, negotiators should be aware of the underlying interests and goals of the other side. Because the linkages between parties' goals often define the issue to be settled, these goals must be determined carefully. If one party wants more than the other party is capable or willing to give, the disputants must either change their goals or end the negotiation.
5. Once they have determined the relative importance of the issues, parties need to decide the order in which issues should be discussed. Many [sequencing](#) options are possible: going from easy to hard, hard to easy, or tackling everything together. Different situations suggest different answers to that question, and different negotiators and mediators prefer one approach over the others.
6. Negotiators that are operating on behalf of a constituency should consult with their constituents as well as with the other side to ensure that the constituents' needs and priorities are included in the negotiations.[22]
7. The next step is for negotiators to define specific targets with respect to the key issues on the

- agenda. Parties should try to figure out the best resolution they can expect, what counts as a fair and reasonable deal, and what is a minimally acceptable deal.[23] They should also be aware of the strongest points in their position and recognize the strongest points in the other side's position. This enables parties to become aware of the range of possible outcomes (see [ZOPA](#)) and to be flexible in what they will accept. It also improves the likelihood that they will arrive at a mutually satisfactory outcome.
8. Because negotiations typically involve more than one issue, it is helpful for negotiators to anticipate different ways of packaging issues. They can balance the issues they regard as most important by being more flexible about items they deem less important.[24] They should also decide which items they can abandon and use as leverage to get what they really want with respect to the most important issues.
  9. Planning for negotiation also involves the development of supporting arguments. Negotiators must be able to present [supporting facts](#) and arguments, anticipate how the other side will respond to these arguments, and respond to the other party's claims with counter-arguments. This includes locating facts to support one's point of view, determining what sorts of arguments have been given in similar negotiations in the past, anticipating the arguments the other side is likely to make, and [presenting facts](#) in the most convincing way possible.[25]
  10. Finally, planning involves assessing the other party's priorities and interests and trying to get a better idea of what that party is likely to want. Negotiators should gather background information about the other party's current needs, resources, and interests. This can be done through preliminary interviews or consultations with those who have done business with the other party in the past. In addition, negotiators need to understand the other party's objectives. Professional negotiators will often exchange information about targets or initial proposals before negotiations begin. Third, negotiators should be aware of the other party's negotiation style, reputation, and the strategy and tactics they commonly use. They should investigate that party's past behavior in related settings, determine his or her organizational position, and find out whom he or she admires and whose advice carries weight.[26] An individual's past negotiation behavior is a good indication of how he or she will behave in the future. Fourth, negotiators should understand the other party's alternatives. If the other negotiator has strong alternatives, he or she will probably be willing to set high objectives and be willing to push hard for these objectives during negotiation.

### Sources of Power in Negotiation

Negotiation is a process of communication in which the parties aim to "send a message" to the other side and influence each other.[27] Thus, [power](#) in negotiation lies in the ability to favorably affect someone else's decision. Some assume that because [threats](#) of physical force exert influence, the ability to make such threats is the essence of negotiating power. But making threats is a costly and dangerous way of trying to exert influence.

There is also a widespread belief that the best way to start a negotiation is with an extreme position. The idea is that negotiators should let others know they are in charge by taking a hard line, and should then soften their position later if appropriate.[28] However, this may not be the most effective tactic. The more extreme the opening positions are, and the smaller the concessions, the more time and effort it often takes to move toward agreement.[29] And as each side tries to use force to make the other change its position, [anger](#) and resentment result, putting a heavy strain on the [relationship](#) between the parties. Thus, it is a mistake to try to use force or threats before one has exhausted the other elements of negotiating power. Threatening to impose harsh consequences without having first made a firm and clear offer is actually likely to reduce a negotiator's level of power.[30]

The ability to exert influence depends upon the combined total of a variety of factors. First, having a good alternative to negotiation contributes substantially to a negotiator's power. A negotiator with very strong alternatives does not need the negotiation in order to achieve at least a satisfactory outcome.[31] In their 1981 bestseller, *Getting to Yes*,[32] Roger Fisher and William Ury coined the term "[BATNA](#)" (best alternative to a negotiated agreement) to refer to this type of negotiating power. When parties have many options other than negotiation, they have more leverage in making demands. Therefore, parties should

develop a strong understanding of their alternatives before participating in negotiations. Making one's BATNA as strong as possible, and then making that BATNA known to one's opponent, can strengthen one's negotiating position.

Second, a skilled negotiator who knows about the people and interests involved as well as the relevant facts is better able to influence the decisions of others.[33] The abilities to listen, to [empathize](#), and to communicate clearly and effectively are crucial in negotiating effective agreements. Likewise, an awareness of various negotiating styles and [cultural differences](#) can be a huge asset. A good working relationship also increases a negotiator's level of power. Such relationships are characterized by [trust](#) and the ability to [communicate effectively](#) and easily. If a negotiator establishes a reputation for candor and honesty, his or her capacity to exert influence is enhanced. A negotiator who understands the point of view from which the other party is operating is more likely to communicate persuasively, with minimal misunderstanding.[34]

In addition, while facts and ideas are important in changing another person's opinions and perceptions, the effectiveness of [persuasion](#) depends on how these facts and ideas are selected and presented. To be persuasive, negotiators must consider the content of the message, the structure of the message, and the delivery style. First, negotiators must make the offer attractive to the other party and emphasize those features of the offer that the other party is likely to find appealing.[35] Negotiators should also try to formulate a proposal, however minor, to which the other party can agree. This will put the other negotiator into the mindset of saying "yes" and will increase the likelihood that he or she will agree with a second, more significant proposal or statement. These yesable propositions can also help to reduce tension and hostility and create minor points of agreement.[36]

In addition, negotiators should try to make their messages consistent with their opponent's values. Thus negotiators can enhance their chances of success by jointly developing objective criteria and standards of [legitimacy](#), and then shaping proposed solutions so that they meet these joint standards.[37] which may include appeals to [principles of fairness](#) and expert opinions. Negotiators should try to demonstrate by following the suggested course of action, that the other party will be acting in accordance with his own values or some higher code of conduct. Agreements about general principles can be an important first step in the negotiation process.

One final way to influence the other side is to invent a good solution to the problem. This typically involves devising an ingenious solution that addresses the interests of both sides. [Brainstorming](#) can be used to help generate such solutions in advance and increase a negotiator's chances of affecting the outcome in a favorable way.[38] Introducing new opportunities for joint gain may also help to create a situation that is [ripe](#) for settlement. Each side recognizes that it has much to gain through collaboration, and that if both sides work together, they can reap rewards. Rather than seeking "power over" the other side, negotiators in this way exercise "power with" one another.[39]

### Obstacles to Negotiation

In intractable conflicts, removing the obstacles to negotiation is the critical first step in moving toward negotiated agreements. Sometimes people fail to negotiate because they do not recognize that they are in a bargaining position. They may fail to identify a good opportunity for negotiation, and may use other options that do not allow them to manage their problems as effectively.[40] Or, they may recognize the need for bargaining but may bargain poorly because they do not fully understand the process and lack good negotiating skills.

In cases of intractable conflict, parties often will not recognize each other, talk with each other, or commit themselves to the process of negotiation.[41] They may even feel committed, as a matter of principle, to not negotiate with an adversary. In such cases, getting parties to participate in negotiations is a very challenging process. In addition, both parties must be ready to negotiate if the process is to succeed. If efforts to negotiate are initiated too early, before both sides are ready, they are likely to fail. Then the

conflict may not be open to negotiation again for a long time.

Before they will negotiate, parties must be aware of their alternatives to a negotiated settlement (their [BATNA](#)). They must believe that a negotiated solution would be preferable to continuing the current situation, that a fair settlement can be reached, and that the balance of forces permits such an agreement.[42] William Zartman refers to this as the belief that there is a "Way Out." [43] Weaker parties must feel assured that they will not be overpowered in a negotiation, and parties must trust that their needs and interests will be fairly considered in the negotiation process.

In many cases, conflicts become "[ripe](#)" for negotiation when both sides realize that they cannot get what they want through a power struggle and that they have reached a [hurting stalemate](#). [44] If the parties believe that their ideal solution is not available and that foreseeable settlement is better than the other available alternatives, the parties have a "[Zone of Possible Agreement](#)" ([ZOPA](#)). This means that a potential agreement exists that would benefit both sides more than their alternatives do.

However, it may take some time to determine whether a ZOPA exists. The parties must first explore their various interests, options, and alternatives. If the disputants can identify their ZOPA, there is a good chance that they will come to an agreement. But if they cannot, negotiation is very unlikely to succeed. In addition, each side must believe that the other side is willing to [compromise](#). If the parties regard each other with suspicion and [mistrust](#), they may conclude that the other side is not committed to the negotiation process and may withdraw. [45]

When there is little [trust](#) between the negotiators, making concessions is not easy. First, there is the *dilemma of honesty*. [46] On one hand, telling the other party everything about your situation may give that person an opportunity to take advantage of you. However, not telling the other person anything may lead to a [stalemate](#). The *dilemma of trust* concerns how much you should believe of what the other party tells you. If you believe everything this person says, then he or she could take advantage of you. But if you believe nothing this other person says, then reaching an agreement will be very difficult. The search for an optimal solution is greatly aided if parties trust each other and believe that they are being treated honestly and fairly. [47]

In many cases, the negotiators' relationship becomes entangled with the substantive issues under discussion. [48] Any misunderstanding that arises between them will reinforce their [prejudices](#) and arouse their emotions. When conflict [escalates](#), negotiations may take on an atmosphere of [anger](#), frustration, [distrust](#), and hostility. If parties believe that the fulfillment of their basic needs is threatened, they may begin to blame each other and may break off communication. As the issue becomes more personalized, perceived differences are magnified and cooperation becomes unlikely. If each side gets locked into its initial position and attempts to force the other side to comply with various demands, this hostility may prevent negotiators from reaching agreement or making headway toward a settlement. [49] In addition, parties may maintain their commitment to a course of action even when that commitment constitutes irrational behavior on their part (see [entrapment](#)). Once they have adopted a confrontational approach, negotiators may seek confirming evidence for that choice and ignore contradictory evidence. [50] In an effort to [save face](#), they may refuse to go back on previous commitments or to revise their position.

To combat perceptual bias and hostility, negotiators should attempt to gain a better understanding of the other party's perspective and try to see the situation as the other side sees it. [51] In some cases, parties can discuss each other's perceptions, making a point to refrain from blaming the other. In addition, they can look for opportunities to act in a manner that is inconsistent with the other side's perceptions. Such [de-escalating gestures](#) can help to combat the negative stereotypes that may interfere with fruitful negotiations. In ideal circumstances, negotiators also [establish personal relationships](#) that facilitate effective communication. This helps negotiators to [focus on commonalities](#) and find points of common interest.

Finally, if the "right" people are not involved in negotiations, the process is not likely to succeed. First, all of the interested and affected parties must be represented. Second, negotiators must truly represent and

have the trust of those they are representing. If a party is left out of the process, they may become angry and argue that their interests have not been taken into account. Agreements can be successfully implemented only if the relevant parties and interests have been represented in the negotiations,[52] in part because parties who participate in the negotiation process have a greater stake in the outcome. Similarly, if constituents do not recognize a negotiator as their legitimate representative, they may try to block implementation of the agreement. Negotiators must therefore be sure to consult with their constituents and to ensure that they adequately deal with constituents' concerns.

These concerns are related to what Guy and Heidi Burgess call the "[scale-up](#)" problem of getting constituency groups to embrace the agreements that negotiators create. In many cases, participation in the negotiation process helps negotiators to recognize the [legitimacy](#) of the other side's interests, positions, and needs. This transformative experience may lead negotiators to develop a sense of respect for the adversary, which their constituents do not share. As a result, negotiators may make concessions that their constituents do not approve of, and they may be unable to get the constituents to agree to the final settlement. This can lead to last-minute breakdown of negotiated agreements.

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[1] "Negotiation," International Online Training Program on Intractable Conflict, Conflict Research Consortium, University of Colorado, [available at: <http://www.colorado.edu/conflict/peace/treatment/negotn.htm>]

[2] Roy J. Lewicki, David M. Saunders and John W. Minton, *Negotiation, 3<sup>rd</sup> Edition* (San Francisco: Irwin McGraw-Hill, 1999), 5.

[3] *Ibid.*, 7.

[4] E. Wertheim, "Negotiations and Resolving Conflicts: An Overview," College of Business Administration, Northeastern University, [available at: [http://webarchive.iiasa.ac.at/Research/DAS/interneg/training/conflict\\_overview.html](http://webarchive.iiasa.ac.at/Research/DAS/interneg/training/conflict_overview.html)]

[5] Lewicki, Saunders, and Minton, 8.

[6] *Ibid.*, 9.

[7] *Ibid.*, 10-11.

[8] *Ibid.*, 13.

[9] Roger Fisher, William Ury, *Getting to Yes: Negotiating Agreement Without Giving In*, 2<sup>nd</sup> edition, ed. Bruce Patton, (New York: Penguin Books, 1991).

[10] Morton Deutsch, "Cooperation and Competition," in *The Handbook of Conflict Resolution: Theory and Practice*, eds. Morton Deutsch and Peter Coleman (San Francisco: Jossey-Bass Publishers, 200), 22.

[11] Morton Deutsch, "Cooperation and Competition," in *The Handbook of Conflict Resolution: Theory and Practice*, eds. Morton Deutsch and Peter Coleman (San Francisco: Jossey-Bass Publishers, 200), 22.

[12] Morton Deutsch, *The Resolution of Conflict: Constructive and Destructive Processes* (New Haven: Yale University Press, 1973), 20.

This section of Deutsch's earlier work on constructive and destructive conflict resolution processes is closely paralleled by the later chapter in *The Handbook of Conflict Resolution: Theory and Practice*, which offers a summarized version of his older work.

[13] Morton Deutsch, "Cooperation and Competition," in *The Handbook of Conflict Resolution: Theory and Practice*, eds. Morton Deutsch and Peter Coleman (San Francisco: Jossey-Bass Publishers, 2000), 22.

[14] David A. Lax and K. Sebenius, "Interests: The Measure of Negotiation," pp. 161-180 in *Negotiation Theory and Practice*, eds. J. William Breslin and Jeffrey Z. Rubin, (Cambridge: Program on Negotiation Books, 1991), 161.

[15] Ibid.

[16] David Lax and James K. Sebenius, *The Manager as Negotiator: Bargaining for Cooperation and Competitive Gain* (New York: The Free Press, 1986), 29.

[17] This is the "payoff structure" of the prisoner's dilemma game, which is used to investigate how people choose between cooperating and competing in different situations.

[18] Lewicki, Saunders, and Minton, 29-30.

[19] Harold S. Saunders, "We Need a Larger Theory of Negotiation: The Importance of Pre-Negotiating Phases," pp. 57-70 in *Negotiation Theory and Practice*, eds. J. William Breslin and Jeffrey Z. Rubin, (Cambridge: Program on Negotiation Books, 1991), 64.

[20] Saunders, 68.

[21] Lewicki, Saunders, and Minton, 41.

[22] Lewicki, Saunders, and Minton, 56.

[23] Wertheim, [available at:  
[http://webarchive.iiasa.ac.at/Research/DAS/interneg/training/conflict\\_overview.html](http://webarchive.iiasa.ac.at/Research/DAS/interneg/training/conflict_overview.html)]

[24] Lewicki, Saunders, and Minton, 61.

[25] Ibid., 62.

[26] Lax and Sebenius, 77.

[27] Roger Fisher, "Negotiating Power: Getting and Using Influence," pp. 127-140 in *Negotiation Theory and Practice*, eds. J. William Breslin and Jeffrey Z. Rubin, (Cambridge: Program on Negotiation Books, 1991), 128.

[28] Ibid., 129.

[29] Fisher and Ury, 6.

[30] Fisher, 138.

[31] Lewicki, Saunders, and Minton, 46.

[32] The original book was published in 1981. In 1991, Fisher and Ury published a 2<sup>nd</sup> Edition of *Getting to Yes*. The updated edition was edited by Bruce Patton, and incorporates Fisher and Ury's responses to criticisms of the first edition.

[33] Fisher, 130.

[34] Ibid., 131.

[35] Lewicki, Saunders, and Minton, 189.

[36] Wertheim, [available at:  
[http://webarchive.iiasa.ac.at/Research/DAS/interneg/training/conflict\\_overview.html](http://webarchive.iiasa.ac.at/Research/DAS/interneg/training/conflict_overview.html)]

[37] Fisher, 133.

[38] Ibid.

[39] See essay on Power.

[40] Lewicki, Saunders, and Minton, 5.

[41] Saunders, 59.

[42] Ibid., 65.

[43] This is explained further in William Zartman's essay on Promoting Ripeness in this system.

[44] Rubin, 10.

[45] Saunders, 67.

[46] Lewicki, Saunders, and Minton, 12.

[47] Ibid., 13.

[48] Fisher and Ury, 20.

[49] Wertheim, [available at:  
[http://webarchive.iiasa.ac.at/Research/DAS/interneg/training/conflict\\_overview.html](http://webarchive.iiasa.ac.at/Research/DAS/interneg/training/conflict_overview.html)]

[50] Lewicki, Saunders, and Minton, 157.

[51] Fisher and Ury, 23.

[52] Rubin, 8.