A Survey of Negotiations

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A Survey of Negotiations: Its Evolution, Techniques and Success Stories
Agenda

- The changing face of negotiations:
  - Negotiation styles have changed over the past 50 years.

- Proven do’s and don’ts.

- A survey of some of the greats:
  - Communication skills are key to success.
Negotiations

- Negotiating is a means of achieving one’s goals in every relationship regardless of the circumstances.

- Critical points:
  - A process, not an end in itself.
  - Must have a objective goal to achieve.
  - Interpersonal skills required.
Nothing New

- 10,000 years ago:
  - The Ice Age ends.
  - Farming begins.
  - First societies – now we need to get along.

- Most basic instincts – “fight or flight”:
  - Is the ability to negotiate innate?
  - No neuro-chemical trigger to negotiate.
  - Humans don’t like conflict.

Negotiation must be learned
Evolution of Negotiations

- **Primal negotiations**: 4,000+ years ago
  - Rivals between peoples and groups.
  - Thin line between negotiations and armed conflict.

- **Strategic negotiations**: 16th century
  - Conscious and intentional planning.
  - The understanding of motives.

- **Rationalist negotiations**: 18th century – Western Culture
  - For every problem, there is a truthful, justified answer.
  - Relationships matter – people are rational.

- **Modern techno-rational negotiations**: mid 20th century
  - Negotiations are a science.
  - Game theory: rationale choice paradigm.

- **Post-modern rationally-irrationally negotiations**: present
  - Rational “will” includes irrationally thinking.
  - Can’t ignore the “human” element.

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1 *REFERENCE: Natural history of Negotiations and Meditation, by Robert Benjamin*
Changing Face of Negotiations

- Scientific methods of conflict management and negotiations:
  - How do negotiations fit into “fight or flight”?  
  - Neuroscience.  
  - Cognitive psychology.

- Change to a “rationale model.”

- Increasing complexity of issues, programs, language:
  - Must have a basic knowledge of product and terminology.

- Increasing number of people on negotiating teams.

- Several practitioners/educators influenced the shape of negotiations.

Negotiations have become more complex and more sophisticated
Influencers

- Gerard Nierenberg:
  - The father of negotiations – The Negotiation Institute, 1966
  - Book: 1968, *The Art of Negotiating*
  - Principle: identify the needs of the other party as well as one’s own needs in order to create more alternatives, by doing so – “Everyone Wins.”

- Chester Karrass:
  - Chairman of largest negotiating training organization in the world.
  - Principle: strong negotiating skills are the key to success.
  - Strength of your agreements, understanding and relationship mean the difference between success and failure.
  - Traits: planning skill, ability to think clearly under stress, general practical intelligence, verbal ability, product knowledge, personal integrity, ability to perceive and exploit power, confidence, high tolerance for ambiguity.
Influencers

- Herb Cohen:
  - Practicing consultant/negotiator:
    - NFL Players strike, GM litigation, START talks
  - Three crucial variables:
    - Power: the ability to get things done – can come from expertise, legitimacy, empathy, precedence, persistence, attitude, persuasion, unity of effort.
    - Time: side with the most time generally has an advantage. Patience pays. Don’t ignore deadlines but don’t follow them blindly.
    - Information: the more you know, the better your position. Do your research BEFORE negotiations begins.
  - Negotiations are NOT a competitive sport. If treated so, yield is short-term gains; not long-term gains.
  - Primary premise: treating one’s counterpart as an opponent rather than as a partner in a collaborative process decreases the likelihood of reaching an agreement that contains the fundamental element of commitment.
Influencers

- Roger Fisher and William Ury:
  - William Ury: co-founded International Negotiations Network, mediator in Kentucky coal mine strikes, ethnic and civil wars.
  - Five propositions:
    - Separate the people from the position.
    - Focus on interests, not positions.
    - Invent options for mutual gain.
    - Insist on using objective criteria.
    - Know your BATNA – “Best Alternative to Negotiated Agreement.”
**3D Negotiations¹**

*The Latest Forward Thinking*

- **David Lax and James Sebenius:**
  - David Lax: Managing Principal of Lax Sebenius LLC
    Co-founded Harvard Business School’s Strategic Negotiations course. Clients have included Guinness and Grand Metropolitan, Schlumberger, Verizon, etc.
  - James Sebenius: Gordon Donaldson Professorship of Business Administration at Harvard Business School. Co-founded Negotiation Roundtable. Member Council on Foreign Relations. Clients have included American Express, GTE, Shell, National Science Foundation as well as others.
  - Premise:
    - Negotiations is not one dimensional, i.e., what happens at the table.
    - It is three dimensional – tactics, deal design, setup.

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¹ *REFERENCE: 3D Negotiation by David A. Lax and James K. Sebenuis (Boston, MA: Harvard Business School Press, 2006)*

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3D Negotiations

3D Negotiation is an approach to working with our customers and suppliers in order to grow and execute our business

- Tactics
- Deal design
- Setup

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Nickname</th>
<th>Where</th>
<th>Focus</th>
<th>Sample Moves</th>
</tr>
</thead>
<tbody>
<tr>
<td>First</td>
<td>Tactics</td>
<td>“At the Table”</td>
<td>People, Processes</td>
<td>Improve communication, build trust, counter hardball ploys, bridge cross-cultural divides</td>
</tr>
<tr>
<td>Second</td>
<td>Deal Design</td>
<td>“On the Drawing Board”</td>
<td>Value, Substance, Outcome</td>
<td>Invent and structure agreements that create greater value, meet objectives better, are more sustainable</td>
</tr>
<tr>
<td>Third</td>
<td>Setup</td>
<td>“Away from the table”</td>
<td>Architecture</td>
<td>Ensure most favorable scope (right parties, interests, no-deal options), sequence and basic process choices</td>
</tr>
</tbody>
</table>

REFERENCE: 3D Negotiation by David A. Lax and James K. Sebenius (Boston, MA: Harvard Business School Press, 2006)

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3D Negotiations Process

Visualize/Commit

- Define the Deal Objective
- Who are the key stakeholders?
- What are their interests?
- What are their “no-deal” positions?
- Who are the other parties that can affect the outcome?
- Who are the decision makers vs. influencers vs. potential blockers vs. implementers

Prioritize/Characterize

- Conduct Stakeholder Analysis
- What are potential barriers to the deal?
- What are possible solutions to the barriers?

Conduct Barrier Analysis

- What are potential barriers to the deal?
- What are possible solutions to the barriers?

Improve/Achieve

- Define Strategy
- How do we structure a deal to create or maximize stakeholder value, nullify “no-deal” positions?
- Who do we need to engage and in what sequence?
- What are our potential “moves” or “plays”? In what order should they be made?
- What negotiation tactics will we use?

- Execute Strategy
- Engage stakeholders to remove barriers, create allies
- Execute negotiating tactics
- Make the deal

Business capture, contract changes, performance issues, R&O management

REFERENCE: 3D Negotiation by David A. Lax and James K. Sebenius (Boston, MA: Harvard Business School Press, 2006)

3D Negotiation is a registered trademark of Lax Sebenius LLC.
Classic Do’s and Don’ts

- Plan and prepare, plan and prepare, plan and prepare:
  - What do we want, long and short term? Same for the other party.
  - Create a plan and an agenda.
  - Knowledge is power! Do your homework.
  - Who, what, when and where?
  - Practice: mock negotiations are a great tool.

- It is all about integrity and trust:
  - Don’t play games.
  - Treat your counterpart as a partner, not an opponent.
  - Don’t lie! (That includes “bending the truth”).
  - Offer and expect commitment.

- Leave the drama at the door!
  - Don’t continue to negotiate when you lose control of your emotions or become irrational.
  - Personal relationships are critical – know your counterpart personally.
  - Select your team carefully, not everyone is meant to be at a negotiating table.
Classic Do’s and Don’ts

- Communicate, communicate, communicate:
  - That includes listening – that is how you learn.
  - 70/30 rule: listen 70 percent of the time, speak 30 percent of the time.
  - Use open-ended questions, not ones that can be answered by “yes or no.”
  - Silence is a great tool.
  - Be articulate – don’t mumble.
  - Remember not everyone is in your generation – don’t use slang:
    - Different generations have different concepts of negotiations.

- Control the negotiation process:
  - Don’t go down ratholes that have no bearing on the negotiations.
  - Manage your time – don’t spend excessive time on trivial matters.

- Don’t let time drive the negotiations if at all possible.

- Use documents to substantiate your position:
  - Make sure you can justify your position.
  - An engineer stating he knows best is not good enough!

- Don’t try to talk about something you don’t know about – get the expert.

- Make sure in the end that both parties have the same understanding of what you have agreed to – in detail and jointly document it!
The American Way

- Americans have a unique manner of negotiations, good and bad:
  - Relatively new to international negotiations, since World War II.
  - Importance of international negotiating skills is increasing exponentially.

- The Good:
  - Optimistic by nature.
  - Commitment to finding the "win-win" solution.
  - Not afraid to make a mistake.
  - Look at negotiations from a personal point of view, not family:
    - How will this reflect on my family? (not an American perspective).

- The Bad:
  - Absolutely NO patience.
  - Deficient in language skills – prone to error.
  - Low level of knowledge about other countries.
  - Self-centered: U.S. is the center of the universe.
  - Underestimate the importance of cultural differences.
  - Focus more on the deal rather than the relationship.

REFERENCE: The American View of Negotiation, by John D. Stempel
Historically Speaking

The Munich Agreement – a Dark Spot in the History of Negotiations

- 1938 negotiations between Germany, France, U.K. and Italy.

- Agreement (Sept. 30, 1938): concede the Sudetenland portion of Czechoslovakia to Germany in return for Germany to cease its European expansion.

- Neville Chamberlain, U.K.’s Prime Minister, attributed to using appeasement as a method of negotiations – avoiding war by making concessions.

- Webster’s definition of appeasement: “to buy off by concessions at the sacrifice of principles.

- Footnote: Czechoslovakia was not at the negotiating table.

- Results: Hitler’s Germany invaded Poland on Sept. 1, 1939.

What principles of good negotiations were violated?
Abraham Lincoln

- Who: 16th President of the United States
- Issue: Abolition of slavery, end to the Civil War
Lincoln and the Civil War

- Presided over the most critical, emotional and challenging issues in the history of the United States.
  - The end to the Civil War and the abolition of slavery — two diametrically opposed issues.

- Clearly had a mission and a purpose:\footnote{REFERENCE: James Camp, Forbes Magazine, Four Negotiating Skills We Can Learn From Lincoln, Dec. 10, 2012}
  - Reunite the United States.
  - Abolish slavery — and set a precedence for the rest of the world.

- Focused and rose above the mental clutter\footnote{REFERENCE: Doris Kearns Goodwin, A Team of Rivals, 2005}.

- Created vision in those who lacked it — Thaddeus Stevens\footnote{REFERENCE: Doris Kearns Goodwin, A Team of Rivals, 2005}.

- Made his opponents feel comfortable\footnote{REFERENCE: Doris Kearns Goodwin, A Team of Rivals, 2005}.

- Won over his rivals:\footnote{REFERENCE: Doris Kearns Goodwin, A Team of Rivals, 2005}
  - Attorney General Edward Bates
  - Secretary of Treasury Salmon P. Chase
  - Secretary of State William H. Seward
JFK and the Cuban Missile Crisis

- John F. Kennedy
  - Who: 35th President of the United States

- Issue: Cuban Missile Crisis

- At stake:
  - Preservation of the world
  - Egos — who was the true superpower?

- What did we learn?
  - Buying enough time—the military blockade was in fact the first and foremost way to buy time.
  - Explored options to avoid war.
  - Looked at the interests of the other party – Jupiter missiles in Turkey.

1 REFERENCE: Mark Thompson, Battelnd Website, “50 Years Later: The Lessons of the Cuban Missile Crisis, Oct. 22, 2012,”

Bottom line: “Never negotiate from fear; and never fear to negotiate.” A skillful negotiator can engage in dialogue without making any concessions on fact or with regard to his or her interests.1
Conclusion

- Negotiations have evolved significantly over time, moving from a real-time physical intimidating exercise to one of intense planning and mental finesse.

- Long-term methodical planning needs to be accomplished ahead of negotiations defining the long-term objectives of all parties involved.

- It is more than mutual concessions or worse appeasement. We must realize that negotiations are a rational process but with a natural tendency to have irrational moments which must be appropriately managed.

- Listen!

- Above all, build trust and negotiate with integrity!
Learn More

Websites:
- www.negotiatingedge.com
- www.negotiatingskills.com
- www.herbcohenonline.com
- www.negotiate.com
- www.negotiation.com

Books:
- 2006, *3D Negotiation, Powerful Tools to Change the Game in Your Most Important Deals*, David Lax and James Sebenius
- 2006, *Team of Rivals*, Doris Kearns Goodwin