

The National Bestseller



Second Edition with  
Answers to Ten Questions People Ask

# GETTING TO YES

Negotiating Agreement  
Without Giving In

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# V TEN QUESTIONS PEOPLE ASK ABOUT *GETTING TO YES*

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## Ten Questions People Ask About *Getting to YES*

### Questions About Fairness and "Principled" Negotiation

#### Question 1: "Does positional bargaining *ever* make sense?"

Positional bargaining is easy, so it is not surprising that people often do it. It requires no preparation, it is universally understood (sometimes you can even do it with fingers when you and the other side do not share a common language), and in some contexts it is entrenched and expected. In contrast, looking behind positions for interests, inventing options for mutual gain, and finding and using objective criteria take hard work and, when the other side seems recalcitrant, emotional restraint and maturity.

In virtually every case, the outcome will be better for both sides with principled negotiation. The issue is whether it is worth the extra effort. Here are some questions to consider:

How important is it to avoid an arbitrary outcome? If, like the house builder in Chapter 5, you are negotiating over how deep to build your home's foundations, you will not want to haggle over arbitrary positions no matter how much easier it might be to reach agreement. Even if you are negotiating for a one-of-a-kind antique chamber pot, where objective standards will be hard to find, exploring the dealer's interests and looking for creative options is probably a good idea. Still, one factor to consider in choosing a negotiating approach is how much you care about finding an answer to the problem that makes sense on the merits.

The stakes would be much higher if you were negotiating over the foundations for an office building than those for a tool shed. They will also be higher if this transaction will set a precedent for future transactions.

**How complex are the issues?** The more complex the subject matter, the more unwise it is to engage in positional bargaining. Complexity calls for careful analysis of interests that are shared or that can be creatively dovetailed, and then for brainstorming. Both will be easier to the extent the parties see themselves as engaged in joint problem-solving.

**How important is it to maintain a good working relationship?** If the other side is a valued customer or client, maintaining your ongoing relationship may be more important to you than the outcome of any one deal. This does not mean you should be less persistent in pursuing your interests, but it does suggest avoiding tactics such as threats or ultimatums that involve a high risk of damage to the relationship. Negotiation on the merits helps avoid a choice between giving in or angering the other side.

In single-issue negotiations among strangers where the transaction costs of exploring interests would be high and where each side is protected by competitive opportunities, simple haggling over positions may work fine. But if the discussion starts to bog down, be prepared to change gears. Start clarifying the underlying interests.

You should also consider the effect of this negotiation on your relationship with others. Is this negotiation likely to affect your reputation as a negotiator and, consequently, how others approach negotiating with you? If so, what effect would you like it to have?

**What are the other side's expectations, and how hard would they be to change?** In many labor-management and other contexts, the parties have a long history of hard-fought and almost ritualistic positional bargaining. Each side sees the other as "the enemy" and the situation as zero-sum, ignoring the enormous shared costs of strikes, lockouts, and bad feelings. In these situations it is not easy to establish joint problem-solving, yet it may be correspondingly more important. Even parties that would like to change often

find it hard in practice to shed old habits: to listen instead of attacking, to brainstorm instead of quarreling, and to explore interests before making a commitment. Some parties locked into adversarial ruts seem unable to consider alternative approaches until they reach the brink of mutual annihilation, and some not even then. In such contexts you will want to set a realistic timetable for change that may span several complete negotiations. It took General Motors and the United Auto Workers four contracts to change the fundamental structure of their negotiations, and there remain constituents on each side who are not yet comfortable with the new regime.

**Where are you in the negotiation?** Bargaining over positions tends to inhibit looking for joint gains. In many negotiations, the parties end up with outcomes that "leave a lot of gold on the table." Bargaining over positions does the least harm if it comes *after* you have identified each other's interests, invented options for mutual gain, and discussed relevant standards of fairness.

### **Question 2: "What if the other side believes in a different standard of fairness?"**

In most negotiations there will be no one "right" or "fairest" answer; people will advance different standards by which to judge what is fair. Yet using external standards improves on haggling in three ways: An outcome informed even by conflicting standards of fairness and community practice is likely to be wiser than an arbitrary result. Using standards reduces the costs of "backing down"—it is easier to agree to follow a principle or independent standard than to give in to the other side's positional demand. And finally, unlike arbitrary positions, some standards are more persuasive than others.

In a negotiation between a young lawyer and a Wall Street law firm over salary, for example, it would be absurd for the hiring partner to say, "I don't suppose you think you are any smarter than I am, so we'll offer you the same salary I made when I started out forty years ago—\$4,000." The young lawyer would



point out the impact of inflation over the intervening years and suggest using current salaries. If the partner proposed using the current salaries for young lawyers in Dayton or Des Moines, the young lawyer would point out that the average salary for young lawyers in similarly prestigious Manhattan firms was a more appropriate standard.

Usually one standard will be more persuasive than another to the extent that it is more directly on point, more widely accepted, and more immediately relevant in terms of time, place, and circumstance.

**Agreement on the "best" standard is not necessary.** Differences in values, culture, experience, and perceptions may well lead parties to disagree about the relative merits of different standards. If it were necessary to agree on which standard was "best," settling a negotiation might not be possible. But agreement on criteria is not necessary. Criteria are just one tool that may help the parties find an agreement better for both than no agreement. Using external standards often helps narrow the range of disagreement and may help expand the area of potential agreement. When standards have been refined to the point that it is difficult to argue persuasively that one standard is more applicable than another, the parties can explore tradeoffs or resort to fair procedures to settle the remaining differences. They can flip a coin, use an arbitrator, or even split the difference.

### **Question 3: "Should I be fair if I don't have to be?"**

*Getting to YES* is not a sermon on the morality of right and wrong; it is a book on how to do well in a negotiation. We do not suggest that you should be good for the sake of being good (nor do we discourage it).<sup>\*</sup> We do not suggest that you give in to the first

<sup>\*</sup>We do think that, in addition to providing a good all-around method for getting what you want in a negotiation, principled negotiation can help make the world a better place. It promotes understanding among people, whether they be parent and child, worker and manager, or Arab and Israeli. Focusing on interests and

offer that is arguably within the realm of fairness. Nor do we suggest that you never ask for more than what a judge or jury might think is fair. We argue only that using independent standards to discuss the fairness of a proposal is an idea that can help you get what you deserve and protect you from getting taken.

If you want more than you can justify as fair and find that you are regularly able to persuade others to give it to you, you may not find some of the suggestions in this book all that useful. But the negotiators we meet more often fear getting *less* than they should in a negotiation, or damaging a relationship if they press firmly for what they do deserve. The ideas in this book are meant to show you how to get what you are entitled to while still getting along with the other side.

Nevertheless, sometimes you may have an opportunity to get more than you think would be fair. Should you take it? In our opinion, not without careful thought. More is at stake than just a choice about your moral self-definition. (That too probably deserves careful thought, but advising in that realm is not our purpose here.) Presented with the opportunity to get more than you think is fair, you should weigh the possible benefits against the potential costs of accepting the windfall:

**How much is the difference worth to you?** What is the most that you could justify to yourself as fair? Just how important to you is the excess above that standard? Weigh this benefit against the risk of incurring some of the costs listed below, and then consider whether there might not be better options. (For example, could the proposed transaction be structured so that the other

creative options helps increase satisfaction and minimize waste. Relying on standards of fairness and seeking to meet the interests of *both* sides helps produce agreements that are durable, set good precedents, and build lasting relationships. The more a problem-solving approach to negotiation becomes the norm in dealing with differences among individuals and nations, the lower will be the costs of conflict. And beyond such social benefits, you may find that using this approach serves values of caring and justice in a way that is personally satisfying.

side sees themselves as doing you a favor rather than getting ripped off?)

It would also be wise to consider how certain you are of these potential benefits. Might you be overlooking something? Is the other side really so blind? Many negotiators are overly optimistic in assuming that they are more clever than their counterparts.

**Will the unfair result be durable?** If the other side later concludes that an agreement is unfair, they may be unwilling to carry it out. What would it cost to try to enforce the agreement or to replace it? Courts may refuse to enforce an agreement found to be "unconscionable."

You should also consider where you are in the negotiation. There is no value in a superfavorable tentative agreement if the other side wakes up and repudiates it before it becomes final. And if the other side concludes from the incident that you are an untrustworthy lout out to take advantage of them, the cost may not be limited to this provision of this agreement.

**What damage might the unfair result cause to this or other relationships?** How likely is it that you will find yourself negotiating with this same party again? If you did, what might be the risks for you if they were "out for revenge"? How about your reputation with other people, especially your reputation for fair dealing? Might it be adversely affected more than would offset your immediate gain?

A well-established reputation for fair dealing can be an extraordinary asset. It opens up a large realm of creative agreements that would be impossible if others did not trust you. Such a reputation is much easier to destroy than to build.

**Will your conscience bother you?** Are you likely later to regret the agreement, believing that you took unfair advantage of someone? Consider the tourist who bought a beautiful Kashmir rug from the family who had labored for a full year to make it. He cleverly offered to pay in German marks, then offered worthless marks from the inflationary pre-WW II Weimar period. Only when he told the story to shocked friends back home did he begin to

think about what he had done to this family. In time, the very sight of his beautiful rug turned his stomach. Like this tourist, many people find that they care about more in life than money and "beating" the other side.

## Questions About Dealing with People

### Question 4: "What do I do if the people *are* the problem?"

Some people have interpreted the admonition "Separate the people from the problem" to mean sweep people problems under the rug. This is emphatically *not* what we mean. People problems often require more attention than substantive ones. The human propensity for defensive and reactive behavior is one reason so many negotiations fail when agreement would otherwise make sense. In negotiation you ignore people issues—how you are treating the other side—at your peril. Our basic advice is the same whether people problems are one concern or the main focus of your negotiation:

**Build a working relationship independent of agreement or disagreement.** The more seriously you disagree with someone, the more important it is that you be able to deal well with that disagreement. A good working relationship is one that can cope with differences. Such a relationship cannot be bought by making substantive concessions or by pretending that disagreements do not exist. Experience suggests that appeasement does not often work. Making an unjustified concession now is unlikely to make it easier to deal with future differences. You may think that next time it is their turn to make a concession; they are likely to believe that if they are stubborn enough, you will again give in. (Neville Chamberlain's agreement to German occupation of the Sudetenland and the lack of military response to Hitler's subsequent occupation of all of Czechoslovakia probably encouraged the Nazis to believe that an invasion of Poland would also not lead to war.)

Nor should you try to coerce a substantive concession by threatening the relationship. ("If you really cared for me, you would give in." "Unless you agree with me, our relationship is through.") Whether or not such a ploy succeeds for the moment in obtaining a concession, it will damage the relationship. It will tend to make it more difficult for the two sides to deal well with future differences.

Rather, substantive issues need to be *disentangled* from relationship and process issues. The content of a possible agreement needs to be separated from questions of how you talk about it and how you deal with the other side. Each set of issues needs to be negotiated on its own merits. The following list illustrates the distinction:

#### Substantive Issues

- Terms
- Conditions
- Prices
- Dates
- Numbers
- Liabilities

#### Relationship Issues

- Balance of emotion and reason
- Ease of communication
- Degree of trust and reliability
- Attitude of acceptance (or rejection)
- Relative emphasis on persuasion (or coercion)
- Degree of mutual understanding

People often assume that there is a trade-off between pursuing a good substantive outcome and pursuing a good relationship. We disagree. A good working relationship tends to make it easier to get good substantive outcomes (for both sides). Good substantive outcomes tend to make a good relationship even better.

Sometimes there may be good reasons to agree, even when you believe fairness would dictate otherwise. For example, if you already have an excellent working relationship, you may well decide to give in on an issue, confident that on some future occasion the other person will recognize that they "owe you one" and reciprocate the favor. Or you may reasonably decide that one or more issues are not worth fighting over, all things considered. Our point is that you should not give in for the purpose of trying to improve a relationship.

**Negotiate the relationship.** If, despite your efforts to establish a working relationship and to negotiate substantive differences on their merits, people problems still stand in the way, negotiate them—on *their* merits. Raise your concerns about the other side's behavior and discuss them as you would a substantive difference. Avoid judging them or impugning their motivations. Rather, explain your perceptions and feelings and inquire into theirs. Propose external standards or fair principles to determine how you should deal with each other and decline to give in to pressure tactics. Frame your discussion as looking forward, not back, and operate on the assumptions that the other side may not intend all the consequences you experience and that they can change their approach if they see the need.

As always in negotiation, you need to have thought through your BATNA. In some cases the other side may come to appreciate that your concerns are a *shared* problem only when they realize that your BATNA, in the event you fail to reach a solution satisfactory to you, is not very good for them.

**Distinguish how you treat them from how they treat you.** There is no need to emulate unconstructive behavior. Doing so may indeed "teach them a lesson," though often not the lesson we would like. In most cases responding in kind reinforces the behavior we dislike. It encourages the other side to feel that everyone behaves that way, and that it is the only way to protect themselves. Our behavior should be designed to model and encourage the behavior we would prefer and to avoid any reward



for the behavior we dislike, both without compromising our substantive interests.

**Deal rationally with apparent irrationality.** Much—perhaps most—behavior in the world is not very rational. As we say in Chapter 2, negotiators are people first. We often act impulsively or react without careful thought, especially when we are angry, afraid, or frustrated. And we all know people who seem just plain irrational no matter the situation. How do you cope with such behavior?

First, recognize that while people often do not negotiate rationally, it is worth trying to yourself. In a mental hospital, we do not want psychotic doctors. Likewise, in coping with the irrationality of other negotiators, you would like to be as purposive as possible.

Second, question your assumption that others are acting irrationally. Perhaps they see the situation differently. In most conflicts, each side believes that they are reasonably saying “no” to what they hear the other demanding. Perhaps they hear your well-padded opening position as unjustifiable on the merits; perhaps they value things differently; or there may be a communication failure.

Sometimes people do hold views that many of us think are objectively “irrational,” such as people who fear flying. Internally, however, these people are reacting rationally to the world *as they see it*. At some level, they believe that *this* plane will crash. If we believed that, we would not fly either. It is the perception that is skewed, not the response to that perception. Neither telling such people that they are wrong (with however many scientific studies) nor punishing them for their beliefs is likely to change how they feel. On the other hand, if you inquire empathetically, taking their feelings seriously and trying to trace their reasoning to its roots, it is sometimes possible to effect change. Working with them, you may discover a logical leap, a factual misperception, or a traumatic association from an earlier time that, once brought to light, can be examined and modified by the people themselves. In essence,

you are looking for the psychological interests behind their position, to help them find a way to meet more of their interests more effectively.

**Question 5: “Should I negotiate even with terrorists or someone like Hitler? When does it make sense *not* to negotiate?”**

However unsavory the other side, unless you have a better BATNA, the question you face is not whether to negotiate, but *how*.

**Negotiate with terrorists?** Yes. In fact, in the sense that you are trying to influence their decisions—and they are trying to influence yours—you are negotiating with them even if you are not talking with them. The question is whether to do so at a distance by actions and words (such as “We will never negotiate with terrorists!”) or whether to do so more directly. In general, the better the communication, the better your chance to exert influence. If questions of personal safety can be resolved, it makes sense to establish a dialogue with terrorists, whether they are holding hostages or threatening some act of violence. If you have a good case, you are more likely to influence them than they are to influence you. (The same arguments apply to dealing with negotiation “terrorists,” who try to use dirty tricks.)

Negotiation does not mean giving in. There are high costs in paying ransom or blackmail. Rewarding kidnapping encourages more kidnapping. Through communication it may be possible to convince terrorists (and possible future terrorists) that they will not receive a ransom. It may also be possible to learn of some legitimate interests they have and to work out an arrangement in which neither side gives in.

With the help of Algerian mediators, the United States and Iran were able to negotiate the release in January 1981 of the American diplomats who had been held for more than a year in the U.S. embassy in Tehran. The basis of the settlement was that *each side got no more than that to which they were entitled*: The



hostages would be released; Iran would pay its debts; when those amounts were settled, the balance of the funds seized by the United States would be returned to Iran; the United States would recognize the government of Iran and would not interfere in its internal affairs; and so on. It would have been difficult if not impossible to work out a settlement without negotiation. And despite the gross illegality of the seizure of the U.S. embassy, both sides benefited from the negotiations that finally took place in the fall of 1980.

It is sometimes said that officials should refuse to talk with political terrorists because to do so would confer status and reward their illegal action. It is true that for a high government official to meet with terrorists might well appear to enhance their importance to an extent that outweighed the potential gain. But contact at a professional level is quite different. Urban police negotiators have learned that direct personal dialogue with criminals who are holding hostages frequently results in the hostages being released and the criminals being taken into custody.

During the 1988 hijacking of Kuwait Airways Flight 422, extensive negotiations occurred with the hijackers but over increasingly small issues. The government of Kuwait said flatly at the beginning of the incident that they would not release Shiites convicted of terrorist acts who were held in jail in Kuwait, and they never retreated from that fundamental principle. But local authorities in Cyprus and Algeria negotiated incessantly over things like permission for the plane to land, requests for additional fuel, access to news media, and deliveries of food. For each transaction these authorities successfully obtained the release of more hostages. At the same time, they appealed—as fellow Muslims—to Islamic ideals of mercy and the Prophet Muhammed's admonitions against the taking of hostages. Eventually all the hostages were released. The hijackers were also allowed to leave Algeria, but their prolonged and embarrassing failure to achieve any of their announced goals no doubt contributed to a subsequent reduction in terrorist hijackings.

**Negotiate with someone like Hitler?** It depends on the alternative. Some interests you have may be worth fighting and even dying for. Many of us feel that ridding the world of fascism, standing up to territorial aggression, and putting a stop to genocide fall into that category. If such interests are at stake and cannot be met by less costly means, you should be prepared to fight if that will help, and—some will say—sometimes even if it won't.

On the other hand, war is a nasty business, too often romanticized. If you *can* achieve a substantial measure of your interests through nonviolent means, you should give that option serious consideration. Few wars are as one-sided as the United Nations liberation of Kuwait. Even there, a negotiated withdrawal of Iraqi forces from Kuwait might have avoided the oil fires in Kuwait, the environmental damage to the Persian Gulf, and the enormous human suffering caused by the war.

Most important, war offers no guarantee of results better than could be achieved by other means. As premier of the Soviet Union, Joseph Stalin was in many ways as objectionable to the world as Hitler had been. He committed a variety of territorial aggressions, engaged in genocide, and promoted a state-centered ideology that in practice looked a lot like National Socialism. But in an age of hydrogen bombs, conquering the Soviet Union as the Allies had conquered Germany was no longer a viable option. Nor did the principles at stake seem to justify mutual annihilation. Instead, the West waited, patient and steadfast in its moral opposition to Soviet communism, until it began to collapse of its own accord.

Even with someone like Hitler or Stalin, we should negotiate if negotiation holds the promise of achieving an outcome that, all things considered, meets our interests better than our BATNA. When a war does occur, in many cases it is actually a move within a negotiation. The violence is intended to change the other side's BATNA, or their perception of it, so that they will more readily agree to our terms for peace. In such cases thinking in negotiation

terms is vital, so that we do not neglect to craft and communicate our offer in ways that we can reasonably expect will be persuasive to the other side.

**Negotiate where people are acting out of religious conviction?**

Yes. Although people's religious convictions are unlikely to be changed through negotiation, the actions they take, even those based on their convictions, *may* be subject to influence. Such was the case with the Kuwait Airways hijacking. A key point, worth repeating, is that negotiating does not require compromising your principles. More often success is achieved by finding a solution that is arguably consistent with each side's principles.

Many situations only appear to be "religious" conflicts. The conflict in Northern Ireland between Protestants and Catholics, like the conflict in Lebanon between Christians and Muslims, is not over religion. In each case, religion serves as a handy boundary line for dividing one group from another. That cleavage is reinforced as it is used to divide where people live, where they work, who their friends are, and for whom they vote. Negotiation between such groups is highly desirable, as it improves the chance that they will be able to reach pragmatic accommodations that are to their mutual interest.

**When does it make sense *not* to negotiate?** Whether it makes sense to negotiate and how much effort to put into it depends on how satisfactory you find your BATNA and how likely you think it is that negotiation will produce better results. If your BATNA is fine and negotiation looks unpromising, there is no reason to invest much time in negotiation. On the other hand, if your BATNA is awful, you should be willing to invest a little more time—even where negotiation looks unpromising—to test whether something more satisfactory might be worked out.

To do this analysis, you need to have thought carefully about your BATNA and the other side's. You should not make the mistake of the bank that was negotiating with a bankrupt energy company. Legally, the bank was entitled to take over ownership of the entire company, but the judge in the case said that he wanted

the parties to settle. The bank offered to take 51 percent of the stock and reduce the interest on the loan, but the company (owned by management) stonewalled. Frustrated, the bank spent months trying to get the company to show an interest in negotiating. Understandably, the company refused—the company saw their BATNA as merely waiting for oil prices to rise. At that point they could pay off their loan and they would still own 100 percent of their company. The bank had failed to think clearly either about their own BATNA or the company's. The bank should have been negotiating with the *judge*, explaining how this situation was unfair and appealable. But the bank thought negotiating with the company was its only choice.

Governments often make the mistake of assuming that they have a better BATNA than they do—for example, when they imply that if "political" and "economic" means fail in a given situation, then there is always "the military option." There is *not* always a viable military option. (Consider most hostage situations, in which there is no military option that can realistically promise the hostages' safe retrieval. Raids like that of the Israeli military on the Ugandan airport at Entebbe—an airport designed and built by Israeli engineers—are exceptional and become more difficult with each success, as terrorists adapt to new tactics.) Whether or not we have a self-help option depends on the situation: Can the objective be achieved solely through our own efforts, or will someone on the other side have to make a decision? If the latter, then whose decision will we have to influence, what decision do we want, and how, if at all, could military force help influence that decision?

Don't assume that you have a BATNA better than negotiating, or that you don't. Think it through. Then decide whether negotiating makes sense.

**Question 6: "How should I adjust my negotiating approach to account for differences of personality, gender, culture, and so on?"**

In some ways people everywhere are similar to one another. We want to be loved, we care about the respect of other people and of ourselves, and we do not like to feel taken advantage of. In other ways, people—even those of similar background—are quite different. Some of us are outgoing, others shy; some verbal and logic-chopping, others more physical and emotive; some people are blunt, others more indirect and tactful; some relish conflict, others will do almost anything to avoid it. As negotiators, different people will have different interests and styles of communication. Different things may be persuasive to them, and they may have different ways of making decisions. How should we accommodate such similarities and differences in negotiating with different people? Here are some suggested guidelines:

**Get in step.** In any negotiation it is highly desirable to be sensitive to the values, perceptions, concerns, norms of behavior, and mood of those with whom you are dealing. Adapt your behavior accordingly. If you are negotiating with someone, it is that person whom you are trying to affect. The more successfully you can get in step with that person's way of thinking, the more likely you are to be able to work out an agreement. Some common differences that can make a difference in negotiation include the following:

- Pacing: fast or slow?
- Formality: high or low?
- Physical proximity while talking: close or distant?
- Oral or written agreements: which are more binding and inclusive?
- Bluntness of communication: direct or indirect?
- Time frame: short-term or longer?
- Scope of relationship: business-only or all-encompassing?
- The expected place of doing business: private or public?

- Who negotiates: equals in status or the most competent people for the task?
- Rigidity of commitments: written in stone or meant to be flexible?

**Adapt our general advice to the specific situation.** This is a book of general advice. It will not apply in the same way in every circumstance with every person. But the basic propositions are generally applicable. Absent a compelling reason to do otherwise, we advise crafting your specific approach to every negotiation around them. The best way to *implement* these general principles will depend on the specific context. Consider where you are, with whom you are dealing, customs of the industry, past experience with this negotiator, and so on, in crafting an approach to fit the situation.

**Pay attention to differences of belief and custom, but avoid stereotyping individuals.** Different groups and places have different customs and beliefs. Know and respect them, but beware of making assumptions about individuals.

The attitudes, interests, and other characteristics of an individual are often quite different from those of a group to which they may belong. For example, the "average" Japanese tends to favor more indirect methods of communication and negotiation, but individual Japanese span the full gamut of negotiating styles. One prominent minister in the Japanese government is famous for his brash "American-style" negotiating—which is not at all typical of many Americans. Some research suggests that women are more likely than men to gather information in a more open and less structured way, to be more sensitive to relationships, and to operate on a morality that is based proportionately more on caring and obligation to others and less on rules and individual rights. These same data, however, suggest that there are a great many individuals of each sex who tend the other way.\*

\*See, as a starting point, Carol Gilligan, *In a Different Voice* (Harvard University Press, 1982).



Making assumptions about someone based on their group characteristics is insulting, as well as factually risky. It denies that person his or her individuality. We do not assume that *our* beliefs and habits are dictated by the groups in which we happen to fit; to imply as much of others is demeaning. Each of us is affected by myriad aspects of our environment and upbringing, our culture and group identity, but in no individually predictable way.

**Question your assumptions; listen actively.** Whatever assumption you make about others—whether you assume they are just like you or totally different—question it. Be open to learning that they are quite unlike what you expected. The wide variations among cultures provide clues as to the kind of differences for which you should be looking, but remember that all of us have special interests and qualities that do not fit any standard mold.

## Questions About Tactics

**Question 7: "How do I decide things like 'Where should we meet?' 'Who should make the first offer?' and 'How high should I start?'"**

Before a doctor can answer such questions as what pill to take and what food to avoid, he or she will want to learn about the patient's symptoms and diagnose possible causes. Only then can the doctor develop a general strategy for better health. The same is true for specialists in negotiation. We have no all-purpose patent medicines. Good tactical advice requires knowledge of specific circumstances.

This can be illustrated by considering three specific examples:

**Where should we meet?** What are we worried about? If both parties tend to be extremely busy and subject to constant interruptions, seclusion may be the most important consideration. If the other person tends to feel insecure or in need of staff support, perhaps he would be more comfortable meeting in his office. You

may also want to meet in the other party's office if you would like to feel free to walk away. Are there charts, files, or technical experts that you might want to be able to consult during the negotiation? If you want to be free to use flip charts, a white board, or an overhead projector, you may want to meet in a conference room that has such facilities.

**Who should make the first offer?** It would be a mistake to assume that making an offer is always the best way to put a figure on the table. Usually you will want to explore interests, options, and criteria for a while before making an offer. Making an offer too soon can make the other side feel railroaded. Once both sides have a sense of the problem, an offer that makes an effort to reconcile the interests and standards that have been advanced is more likely to be received as a constructive step forward.

Whether or not you make an offer, you may want to try to "anchor" the discussion early around an approach or standard favorable to you. On the other hand, if you are ill prepared and have no idea what would be reasonable, you will probably be reluctant to put an idea or an offer on the table, perhaps hoping that the other side will go first and offer something generous. But you should be careful. It is extremely risky to measure the value of an item by the other side's first proposal or figure. If you know that little about an item's value, you should probably engage in more research before starting the negotiation.

The better prepared both parties are in a negotiation over price, the less difference it makes who makes the first offer. Rather than learning rules about who should make the first offer, it would be better to learn the rule of being well prepared with external measures of value.

**How high should I start?** Many people tend to measure success by how far the other party has moved. Even if the first figure is a wholly arbitrary assertion of "sticker price" or "retail value," buyers will often feel happy about getting something for less. They have not checked the market. They do not know what their best

alternative would cost, so they derive satisfaction from paying less than the first "asking price."

Under these circumstances, if you are selling, you would ordinarily start with the highest figure that you could justify without embarrassment. Another way to think of it is to start with the highest figure that you would try to persuade a neutral third party was fair. In putting forth such a figure you would first explain the reasoning and then give the number. (If they hear a number they don't like, they may not listen to the reasoning.)

Such an opening figure need not be advanced as a firm position. Indeed, the firmer you suggest early figures to be, the greater you damage your credibility as you move off them. It is safer and at least as effective to say something like "Well, one factor to consider would be what others are paying for comparable work. In New York, for example, they pay \$18 an hour. How does that sound?" Here you have put out a standard and a figure without committing to it at all.

**Strategy depends on preparation.** There are two generalizations about strategy worth passing along. First, in almost all cases, strategy is a function of preparation. If you are well prepared, a strategy will suggest itself. If you are well versed in the standards relevant to your negotiation, it will be obvious which ones to discuss and which ones the other side might raise. If you have thoroughly considered your interests, it will be clear which ones to mention early on and which ones to bring up later or not at all. And if you have formulated your BATNA in advance, you'll know when it's time to walk.

Second, a clever strategy cannot make up for lack of preparation. If you formulate a step-by-step strategy that is sure to knock their socks off, you will run into trouble when they come into the negotiation wearing sandals. Your strategy might depend on discussing relationship issues at the beginning, but they might want to talk about BATNAs. Because you can never be sure what their strategy will be, it is far better to know the terrain than to plan on taking one particular path through the woods.

**Question 8: "Concretely, how do I move from inventing options to making commitments?"**

We have offered a great deal of advice on how to develop wise, mutually satisfying options in negotiation and how to avoid or overcome a variety of people problems. The question remains, how do you reach closure on issues? We don't believe that there is any one best process, but here are some general principles worth considering:

**Think about closure from the beginning.** Before you even begin to negotiate, it makes sense to envision what a successful agreement might look like. This will help you figure out what issues will need to be dealt with in the negotiation and what it might take to resolve them. Imagine what it might be like to implement an agreement. What issues would need to be resolved? Then work backwards. Ask yourself how the other side might successfully explain and justify an agreement to their constituents. ("We will be in the top 10 percent of all electrical workers in Ontario." "We are paying less than the value given by two out of three appraisers.") Think about what it will take for you to do the same. Then ask yourself what kind of an agreement would allow you both to say such things. Finally, think about what it might take to persuade the other side—and you—to accept a proposed agreement, rather than continuing to negotiate.

Keep these questions in mind as your negotiation progresses, reshaping and filling in your vision as more information becomes available. Focusing on your goal in this way will help to keep your negotiation on a productive track.

**Consider crafting a framework agreement.** In negotiations that will produce a written agreement, it is usually a good idea to sketch the outlines of what an agreement might look like as part of your preparation. Such a "framework agreement" is a document in the form of an agreement, but with blank spaces for each term to be resolved by negotiation. The standard purchase-and-sale form that is available from any real-estate broker is an example of a detailed framework agreement. In other cases noth-

ing more than a list of headings may be appropriate. Working out a framework agreement, however detailed, will help insure that important issues are not overlooked during the negotiation. Such an agreement can serve as a starting point and an agenda for the negotiation, helping you to use your time efficiently.

Whether or not you start your negotiation with a framework agreement, it makes sense to draft possible terms of an agreement as you go. Working on a draft helps to keep discussions focused, tends to surface important issues that might otherwise be overlooked, and gives a sense of progress. Drafting as you go also provides a record of discussions, reducing the chance of later misunderstanding. If you are working with a framework agreement, drafting may involve no more than filling in the blanks as you discuss each term; or, if you have yet to reach consensus, it may involve drafting alternative provisions.

**Move toward commitment gradually.** As the negotiation proceeds and you discuss options and standards for each issue, you should be seeking a consensus proposal that reflects all the points made and meets each side's interests on that issue as well as possible. If you are as yet unable to reach consensus on a single option, try at least to narrow the range of options under consideration and then go on to another issue. Perhaps a better option or a trade-off possibility will occur later. ("All right. So perhaps something like \$28,000 or \$30,000 might make sense on salary. What about starting date?")

To encourage brainstorming, it is a good idea to agree explicitly that all commitments are tentative. This will allow you to have some sense of progress during your discussions, while avoiding the inhibiting effect of worrying that every option discussed may be heard as a commitment. Tentative commitments are fine and should not be changed without reason. But make clear that you are not firmly committing yourself to anything until you see the final package. At the top of a framework agreement, for example, you might write: "Tentative Draft—No Commitments."

The process of moving toward agreement is seldom linear. Be

prepared to move through the list of issues several times, going back and forth between looking at particular issues and the total package. Difficult issues may be revisited frequently or set aside until the end, depending on whether incremental progress seems possible. Along the way, avoid demands or locking in. Instead, offer options and ask for criticism. ("What would you think of an agreement along the lines of this draft? I am not sure I could sell it to my people, but it might be in the ballpark. Could something like this work for you? If not, what would be wrong with it?")

**Be persistent in pursuing your interests but not rigid in pursuing any particular solution.** One way to be firm without being positional is to separate your interests from ways to meet them. When a proposal is challenged, don't defend the proposal; rather explain again your underlying interests. Ask if the other side can think of a better way to meet those interests, as well as their own. If there appears to be an irresolvable conflict, ask if there is any reason why one side's interests should have priority over the other's.

Unless the other side makes a persuasive case for why your thinking is incomplete and should be changed, stick to your analysis. When and if you are persuaded, modify your thinking accordingly, presenting the logic first. ("Well, that's a good point. One way to measure that factor would be to . . .") If you have prepared well, you should have anticipated most arguments the other side might raise and thought through how you think they should affect the result.

Throughout, the goal is to avoid useless quarreling. Where disagreements persist, seek second-order agreement—agreement on where you disagree. Make sure that each side's interests and reasoning are clear. Seek differing assumptions and ways to test them. As always seek to reconcile conflicting interests with external standards or creative options. Seek to reconcile conflicting standards with criteria for evaluating which is more appropriate or with creative trade-offs. Be persistent.



**Make an offer.** At some point clarifying interests, inventing options, and analyzing standards produce diminishing returns. Once an issue or group of issues is well explored, you should be prepared to make an offer. An early offer might be limited to the pairing of a couple of key issues. ("I would agree to a June 30 closing if the down payment were not over \$50,000.") Later, such partial offers can be combined into a more comprehensive proposal.

Usually an offer should not come as a surprise. It should be a natural outgrowth of the discussion so far. It need not be a "take-it-or-leave-it" proposal, but neither should it be an opening position. It should be an offer that you think would make sense for both sides, given what has gone before. Many negotiations settle when a complete offer is made.

You should give some thought to how and where you convey an offer. If discussions have been carried on publicly or in large groups, you may want to seek a more private occasion for exploring final commitments. Most agreements are made in one-on-one meetings between the top negotiators for each side, although formal closure may come later in a more public forum.

If agreement makes sense but some issues remain stubbornly in dispute, look for fair procedures to facilitate closure. Splitting the difference between arbitrary figures produces an arbitrary result. But splitting the difference between figures that are each backed by legitimate and persuasive independent standards is one way to find a fair result. Another approach, where differences persist, is for one or both parties to invite a third party to talk with each side and, perhaps after repeated consultations, produce a final "last chance" recommendation.

**Be generous at the end.** When you sense you are finally close to an agreement, consider giving the other side something you know to be of value to them and still consistent with the basic logic of your proposal. Make clear that this is a final gesture; you do not want to raise expectations of further concessions. Such an

improved offer can sometimes break through any last-minute doubts and clinch the deal.

You want the other side to leave the negotiation feeling satisfied and fairly treated. That feeling can pay off handsomely in the implementation of an agreement as well as in future negotiations.

**Question 9: "How do I try out these ideas without taking too much risk?"**

Perhaps you are persuaded that this approach makes sense but are worried that you will not be able to execute it well enough to better the results of your current approach. What can you do to try out these ideas without taking too much risk?

**Start small.** Experiment in negotiations where the stakes are small, where you have a good BATNA, where favorable objective standards are available and seem relevant, and where the other side is likely to be amenable to this approach. Start with ideas that build on your current skills, then try out new ideas one at a time. As you gain experience and confidence, slowly raise the stakes by trying new techniques in more significant and challenging contexts. You don't have to try everything at once.

**Make an investment.** Some people play tennis all their lives but never get better. Those people are not willing to take a fresh look at what they do or to consider changing it. Good players recognize that getting better often means making an investment in new approaches. For a while they may get worse as they wrestle with new and unfamiliar techniques, but eventually they surpass their old plateau. The new techniques offer more long-term potential. You need to do the same with negotiation.

**Review your performance.** Schedule time to think about how you did after each significant negotiation. What worked? What did not? What might you have done differently? Consider keeping a negotiation journal or diary, which you can reread periodically.

**Prepare!** Negotiation power, as discussed below, is not something of which you have a certain quantity that can be applied anywhere for any purpose. It requires hard work in advance to bring your resources to bear on being persuasive in a particular situation. In other words, it requires preparation. There is no risk in being well prepared. It simply takes time. The better prepared you are, the more likely you are to use these ideas and to find them of value.

Plan how to build and maintain a good working relationship with the other side. Write out a list of your interests and the other side's. Then invent a list of options that might satisfy as many of these interests as possible. Look for a variety of external benchmarks or criteria that might persuade a reasonable third party of what should be done. Ask yourself what arguments you would like to be able to make, and then see if you can't find the facts and information you would need to make them. Also consider what benchmarks your counterpart might find persuasive in justifying an agreement to his or her constituents. If negotiators for the other side would find it difficult to justify terms to their constituents, agreement on those terms is unlikely. And consider what commitments you would like each side to make. Sketch out a possible framework agreement.

In some cases you may want to ask a friend to help you role-play an upcoming negotiation, either by playing the other side or by playing you (after coaching) while you play the other side. (Assuming the role of the other side and listening from the receiving end to your own arguments is a powerful technique for testing your case.) You may also want to seek coaching from friends, more experienced negotiators, or professional negotiation consultants.

In many ways, negotiation is like athletics: Some people have more natural talent, and like the best athletes, they may gain the most from preparation, practice, and coaching. Yet those with less natural talent have more need for preparation, practice, and

feedback, and much to gain by it. Whichever you are, there is much to learn, and hard work will pay off. It is up to you.

## Questions About Power

**Question 10: "Can the way I negotiate really make a difference if the other side is more powerful?" And "How do I enhance *my* negotiating power?"**

How you negotiate (and how you prepare to negotiate) can make an *enormous* difference, whatever the relative strengths of each party.

### Some things you can't get

Of course, no matter how skilled you are, there are limits to what you can get through negotiation. The best negotiator in the world will not be able to buy the White House. You should not expect success in negotiation unless you are able to make the other side an offer they find more attractive than their BATNA—their Best Alternative to a Negotiated Agreement. If that seems impossible, then negotiation doesn't make sense. Concentrate instead on improving your BATNA and perhaps changing theirs.

### How you negotiate makes a big difference.

In a situation where there *is* a chance for agreement, the way you negotiate can make the difference between coming to terms and not, or between an outcome that you find favorable and one that is merely acceptable. How you negotiate may determine whether the pie is expanded or merely divided, and whether you have a good relationship with the other side or a strained one. When the other side seems to hold all the cards, how you negotiate is absolutely critical. Suppose, for example, that you are negotiating for an exception to a rule or a job offer. Realistically, you may have little recourse if the other side denies your request and little

to offer if they grant it. In this situation, your negotiation skill is everything. However small the opportunity for success, the way in which you negotiate will determine whether you are able to take advantage of it.

**“Resources” are not the same as “negotiation power.”**

Negotiation power is the ability to persuade someone to do something. The United States is rich and has lots of nuclear bombs, but neither has been of much help in deterring terrorist actions or freeing hostages when they have been held in places like Beirut. Whether your resources give you negotiating power will depend on the context—on whom you are trying to persuade and what you want them to do.

**Don’t ask ‘Who’s more powerful?’**

Trying to estimate whether you or your counterparts are more “powerful” is risky. If you conclude that you are more powerful, you may relax and not prepare as well as you should. On the other hand, if you conclude that you are weaker than the other side, there is a risk that you will be discouraged and again not devote sufficient attention to how you might persuade them. Whatever you conclude will not help you figure out how best to proceed.

In fact, a great deal can be done to enhance your negotiation power even when the resource balance is one-sided. Of course there will be negotiations where, at least in the short term, the best cards are held by the other side. But in this increasingly interdependent world, there are almost always resources and potential allies that a skilled and persistent negotiator can exploit, at least to move the fulcrum, if not ultimately to tip the balance of power the other way. You won’t find out what’s possible unless you try.

Sometimes people seem to prefer feeling powerless and believing that there is nothing they can do to affect a situation. That belief helps them avoid feeling responsible or guilty about inaction. It also avoids the costs of trying to change the situation—making

an effort and risking failure, which might cause the person embarrassment. But while this feeling is understandable, it does not affect the reality of what the person might accomplish by effective negotiation. It is a self-defeating and self-fulfilling attitude.

The best rule of thumb is to be optimistic—to let your reach exceed your grasp. Without wasting a lot of resources on hopeless causes, recognize that many things are worth trying for even if you may not succeed. The more you try for, the more you are likely to get. Studies of negotiation consistently show a strong correlation between aspiration and result. Within reason, it pays to think positively.

**There are many sources of negotiation power.**

How do you enhance your negotiating power? This whole book is an attempt to answer that question. Negotiation power has many sources. One is having a good BATNA. Provided they believe you, it is persuasive to tell the other side that you have a better alternative. But each of the four elements of the method outlined in Part II of this book—people, interests, options, and objective criteria—is also a source of negotiation power. If the other side is strong in one area, you can try to develop strength in another. To these five we would now add a sixth, the power of commitment.

**There is power in developing a good working relationship between the people negotiating.** If you understand the other side and they understand you; if emotions are acknowledged and people are treated with respect even when they disagree; if there is clear, two-way communication with good listening; and if people problems are dealt with directly, not by demanding or offering concessions on substance, negotiations are likely to be smoother and more successful for both parties. In this sense, negotiation power is not a zero-sum phenomenon. More negotiation power for the other side does not necessarily mean less for you. The better your working relationship, the better able each of you is to influence the other.

Contrary to some conventional wisdom, you will often benefit



from the other side's increasing their ability to influence you. Two people with well-deserved reputations for being trustworthy are each better able to influence the other than are two people with reputations for dishonesty. That you can trust the other side increases their ability to influence you. But you also benefit. You can safely enter into agreements that will benefit both sides.

Good communication is an especially significant source of negotiating power. Crafting your message with punch, listening to the other side, and showing that you have heard can all increase your persuasiveness. John F. Kennedy was justly famous for his skill at the first of these, crafting a forceful message: "Let us never negotiate out of fear. But let us never fear to negotiate."<sup>\*</sup>

A message does not have to be unequivocal to be clear and effective. In many cases, helping the other side understand your thinking—even when you are of two minds about something—can reduce their fears, clear up misperceptions, and promote joint problem-solving. Consider the supplier who makes what she thinks is a competitive bid for a business supply contract. The purchaser likes the bid and the bidder but is worried that the bidder's firm, which is new to the market, may not be able to manage the volume needed to meet his peak requirements. If the purchaser says simply, "No, thank you," and then pays more to hire another firm, the bidder may assume that the purchaser disliked her bid. And the bidder would have no opportunity to persuade the purchaser that she could handle the needed volume. It would be better for both if, instead, the purchaser shared both his interest in the bid and his concerns.

Good listening can increase your negotiation power by increasing the information you have about the other side's interests or about possible options. Once you understand the other side's feelings and concerns, you can begin to address them, to explore areas of agreement and disagreement, and to develop useful ways

<sup>\*</sup>Inaugural Address, January 20, 1961.

to proceed in the future. Consider, for example, the elderly man whose doctors wanted to move him from his current hospital to one with specialized facilities. The doctors repeatedly explained how the specialized hospital would be better for him, but the man refused to budge. Knowing that the man was acting against his own best interests, the doctors dismissed his reasoning as irrational. One intern, however, took the man seriously and listened carefully to why he did not want to move. The patient told of how he had suffered repeated abandonments in his life and his fears that moving might result in another. The intern set about addressing this concern directly, and the man happily agreed to be moved.

Showing that you have heard the other side also increases your ability to persuade them. When the other side feels heard by you, they are more apt to listen to you. It is comparatively easy to listen when the other side is saying something that you agree with. It is harder to listen to things with which you disagree, but that is the very time it is most effective. Listen before you launch into a rebuttal. Inquire. Make sure you understand their view; and make sure they know you understand. Once the other side knows that you understand what they have said, they cannot dismiss your disagreement as simple lack of understanding.

**There is power in understanding interests.** The more clearly you understand the other side's concerns, the better able you will be to satisfy them at minimum cost to yourself. Look for intangible or hidden interests that may be important. With concrete interests like money, ask what lies behind them. ("For what will the money be used?") Sometimes even the most firmly stated and unacceptable position reflects an underlying interest that is compatible with your own.

Consider the businessman who was trying to buy a radio station. The majority owner was willing to sell his two-thirds of the station for a reasonable figure, but the one-third owner (and current manager of the station) was demanding what seemed an exorbitant price for her third. The businessman had raised his

offer several times to no avail, and he was beginning to consider abandoning the deal. Finally, the businessman inquired more deeply into the second owner's interests. He learned that the second owner had less interest in money than she did in continuing to manage a radio station of which she was a part owner. The businessman offered to buy only that portion of the owner's share he needed for tax reasons and to keep her on as manager. The second owner accepted this offer at a price that saved the businessman almost a million dollars. Understanding the seller's underlying interests had greatly enhanced the buyer's negotiating power.

**There is power in inventing an elegant option.** Successful brainstorming increases your ability to influence others. Once you understand the interests of each side, it is often possible—as in the radio-station example above—to invent a clever way of having those interests dovetail. Sometimes this can be done by devising an ingenious process option.

Consider the sealed-bid stamp auction. The auctioneer would like bidders to offer the most they might conceivably be willing to pay for the stamps in question. Each potential buyer, however, does not want to pay more than necessary. In a regular sealed-bid auction each bidder tries to offer slightly more than their best guess of what others will bid, which is often less than the bidder would be willing to pay. But in a stamp auction the rules state that the highest bidder gets the stamps at the price of the *second-highest* bid. Buyers can safely bid *exactly* as much as they would be willing to pay to get the stamps, because the auctioneer guarantees that *they will not have to pay it!* No bidder is left wishing that he or she had bid more, and the high bidder is happy to pay less than was offered. The auctioneer is happy knowing that the difference between the highest and second-highest bids is usually smaller than the overall increase in the level of bids under this system versus a regular sealed-bid auction.\*

\*A process similar to this can be used in all kinds of allocation decisions, even when the issue is as volatile as where to site a hazardous waste facility. See Howard

**There is power in using external standards of legitimacy.** You can use standards of legitimacy both as a sword to persuade others, and as a shield to help you resist pressure to give in arbitrarily. ("I would like to give you a discount, but this price is firm. It is what General Motors paid for the same item last week; here is the bill of sale.") Just as, by finding relevant precedent and principles a lawyer enhances his or her ability to persuade a judge, so a negotiator can enhance his or her negotiation power by finding precedents, principles, and other external criteria of fairness and by thinking of ways to present them forcefully and tellingly: "I am asking for no more and no less than you are paying others for comparable work." "We will pay what the house is worth if we can afford it. We are offering what the similar house nearby sold for last month. Unless you can give us a good reason why your house is worth more, our offer remains firm and unchanged." Convincing the other side that you are asking for no more than is fair is one of the most powerful arguments you can make.

**There is power in developing a good BATNA.** As we argue in Chapter 6, a fundamental way to increase your negotiation power is by improving your walk-away alternative. An attractive BATNA is a strong argument with which to persuade the other side of the need to offer more. ("The firm across the street has offered me 20 percent above what I am now earning. I would rather stay here. But with the cost of living, unless I can get a good raise soon, I will have to consider moving on. What do you think might be possible?")

In addition to improving your overall BATNA (what you will do if the negotiations fail to produce an agreement), you should also prepare your "micro-BATNA"—if no agreement is reached *at this meeting*, what is the best outcome? It helps to draft in advance a good exit line to use if a meeting is inconclusive.

Raiffa, *A Hypothetical Speech to a Hypothetical Audience About a Very Real Problem*, Program on Negotiation at Harvard Law School Working Paper No. 85-5.

("Thank you for sharing your views and for listening to mine. If I decide to go forward, I will get back to you, perhaps with a fresh proposal.")

Sometimes it is possible, quite legitimately, to worsen the other side's BATNA. For example, a father we know was trying to get his young son to mow the lawn. He offered a significant amount of money, but to no avail. Finally, the son inadvertently revealed his BATNA: "But Dad, I don't need to mow the lawn to get money. You, uh, leave your wallet on the dresser every weekend. . . ." The father quickly changed his son's BATNA by not leaving his wallet out and making clear that he disapproved of taking money without asking; the son started mowing the lawn. The tactic of worsening the other side's BATNA can be used to coerce or exploit, but it can also help insure a fair outcome. Efforts to improve one's own alternatives and to lower the other side's estimate of theirs are critical ways to enhance our negotiating power.

**There is power in making a carefully crafted commitment.** One additional source of persuasive power deserves attention: the power of making commitments. You can use a commitment to enhance your negotiating power in three ways: You can commit to what you will do, for example, by making a firm offer. You can, with care, make a negative commitment as to what you will not do. And you can clarify precisely what commitments you would like the other side to make.

*Clarify what you will do.* One way to enhance your negotiating power is to make a firm, well-timed offer. When you make a firm offer, you provide one option that you *will* accept, making it clear at the same time that you are not foreclosing discussion of other options. If you want to persuade someone to accept a job, don't just talk about it; make an offer. By making an offer you give up your chance to haggle for better terms. But you gain by simplifying the other side's choice and making it easier for them to commit. To reach agreement, all they have to say is "yes."

Making an offer of what you will do if they agree to the terms you are proposing is one way to overcome any fear the other side

may have of starting down a slippery slope. Without a clear offer, even a painful situation may seem preferable to accepting "a pig in a poke," especially if the other side fears that a favorable indication will encourage you to ask for more. In 1990, the U.N. Security Council sought to influence Iraq to withdraw from Kuwait by imposing sanctions. The Council's resolutions clearly stated that Iraq must withdraw, but did *not* state that upon withdrawal sanctions would end. If Saddam Hussein believed that sanctions would continue after Iraq withdrew from Kuwait, then those sanctions, though unpleasant, provided no incentive for Iraq to leave.

The more concrete the offer, the more persuasive. Thus a written offer may be more credible than an oral one. (A real-estate agent we know likes to have a client make an offer by stacking bundles of hundred-dollar bills on the table.) You may also want to make your offer a "fading opportunity" by indicating when and how it will expire. For example, President Reagan's inauguration in 1981 created a fading opportunity in the negotiations for the release of the American diplomatic hostages held in Iran. The Iranians did not want to have to start negotiating again with a new U.S. administration.

In some cases, you may also want to clarify what you will do if the other side does not accept your proposal. They may not realize the consequences of your BATNA for them. ("If we can't get heat in our apartment this evening, I will have to call the health department's emergency line. Are you aware that they charge landlords a \$250 fine when they respond and find a violation of the statute?")

*Consider committing to what you will not do.* Sometimes you can persuade the other side to accept an offer better than their BATNA by convincing them that you cannot or will not offer more ("Take it or leave it"). You not only make an offer; you tie your hands against changing it. As discussed in Chapter 1, locking into a position has significant costs; locking in early limits communication and runs the risk of damaging the relationship by



making the other side feel ignored or coerced. There is less risk in locking in after you have come to understand the other side's interests and have explored options for joint gains, and it will do less damage to your relationship with the other side if there are credible reasons independent of your will to explain and justify your rigidity.

At some point, it may be best to put a final offer on the table and mean it. Doing so tends to influence the other side by worsening their micro-BATNA. At this point if they say "no," they no longer have open the possibility of reaching a better agreement with you.

*Clarify what you want them to do.* It pays to think through the precise terms of the commitment you want the other side to make. This insures that your demand makes sense. "Susan, promise *never* to interrupt me again when I am on the telephone" could easily be disastrous if Susan took her promise literally in an emergency. You want to avoid a sloppy commitment that is overbroad, fails to bind the other side, leaves out crucial information, or is not operational.

Especially when you want the other side to *do* something, it makes sense to tell them exactly what it is you want them to do. Otherwise they may do nothing, not wanting to do more than they have to. In the fall of 1990, for example, the ability of the United States to influence Saddam Hussein was undercut by ambiguity about what would satisfy the U.S. At different times, the withdrawal of Iraqi troops from Kuwait, the destruction of Iraqi nuclear facilities, the dismantling of Iraq's military capability, and the overthrow of Saddam Hussein all seemed to be possible U.S. goals.

#### **Make the most of your potential power**

To make the most of your potential negotiating power, you should use each source of power in harmony with other sources. Negotiators sometimes look for their strongest source of power and try to use it alone. For example, if a negotiator has a strong BATNA,

he or she may confront the other side with it, threatening to walk away unless the last offer is accepted. This is likely to detract from the persuasive power of the negotiator's arguments about why the offer is fair. If you are going to communicate your BATNA, it would be better to do so in ways that respect the relationship, leave open the possibility of two-way communication, underscore the legitimacy of your last offer, suggest how that offer meets the other side's interests, and so forth. The total impact of such negotiation power as you have will be greater if each element is used in ways that reinforce the others.

You will also be more effective as a negotiator if you believe in what you are saying and doing. Whatever use you are able to make of the ideas in this book, don't wear them as though you were wearing someone else's clothes. Cut and fit what we say until you find an approach that both makes sense and is comfortable for you. This may require experimentation and a period of adjustment that is not so comfortable, but in the end, you are likely to maximize your negotiation power if you believe what you say and say what you believe.