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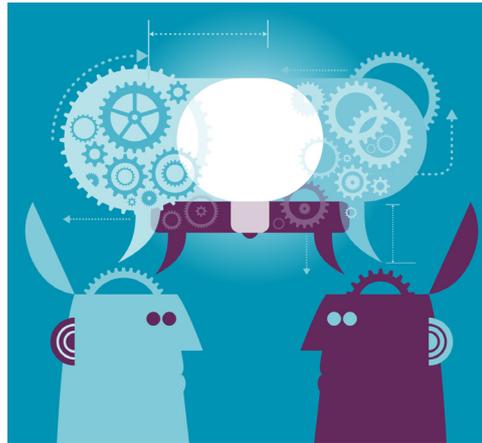
## Research & Development

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*At an IMD Discovery Event in February 2013, more than 150 executives attended an IMD Discovery Event that explored what it takes for leaders to negotiate and manage conflict effectively both inside and outside their organizations. The participants – senior managers from a variety of industries and companies – shared their experiences, participated in role playing and actively contributed to the discussion.*

*Discovery Events are exclusively available to members of IMD's Corporate Learning Network. To find out more, go to [www.imd.org/cln](http://www.imd.org/cln)*

# Negotiation and Dispute Resolution



Leaders negotiate all the time, both inside and outside their organizations. Externally, they deal with customers, suppliers, investors and other stakeholders. Internally they negotiate for resources, schedules and support. Thus, the ability to negotiate and to resolve disputes is a fundamental skill that every leader needs to master. Whether you are involved in internal budget negotiations or external supplier negotiations, the ability to negotiate and manage conflict effectively comes from understanding the structural and interpersonal aspects of negotiations.

Different types of negotiations require different tactics: Negotiating the price of a car is different from negotiating the terms of a multi-million-dollar acquisition, not only in terms of overall value and importance, but also with regard to the number of parties and stakeholders involved. You negotiate differently depending on whether it is for yourself or on behalf of another party, or between co-workers, loved ones, or strangers; not surprisingly, the emotions vary depending on what is at stake. Other factors affecting the choice of tactics and likelihood of successful outcomes include: culture of the parties, time available, suspected length of the relationship and previous experience between the parties.

There is no single negotiating recipe; you have to adapt the strategy to the situation. This insights@IMD examines negotiation and dispute resolution.

## Creating and capturing value

Professor Michael Watkins discussed the structural aspects of negotiations by exploring how leaders capture and create value. Think of the stakes or total value under consideration in a negotiation as a pie. In “distributive” (or “zero-sum”) negotiations, each negotiator strives to capture the largest possible piece of a pie whose sum total is perceived to be fixed. Successful bargaining requires understanding and shaping your and your counterparts’ perceptions of the range of outcome values (the bargaining zone) as well as the target (goal) and bottom line.

In contrast, “integrative” negotiations focus on creating and capturing joint value through mutually beneficial trades to arrive at the best possible agreement for both parties, ensuring that nobody walks away feeling like a loser. This involves enlarging to the maximum extent possible the total pie of value to be divided between the parties. It requires cooperation, disclosure, listening, creativity as well as effectively managing “negotiators’ dilemmas” and knowing what information to share and how to share it.

Other structural differences that leaders are likely to experience include 1:1 vs. multi-party; simple vs. complex agendas; face-to-face vs. virtual; negotiating on your own behalf vs. on behalf of others; and deals vs. disputes. There is no single “best way” to negotiate – you need to adapt your style to each situation in order to create and capture the greatest amount of value, including agreeing on contingency deals.

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Before negotiating, think about what you are prepared to trade off (or not) to close a deal, including how important it is to you to preserve an existing relationship. Consider also the best way of achieving consensus because even if you have the authority to push something through, this may not be the most effective option because the deal is just the prelude to the outcome and people are more likely to follow through with commitments when they've made them willingly and with trust. In difficult situations it may be worth enlisting the help of an external expert or adviser who can help facilitate the negotiation and reduce conflict or provide expert advice to help the parties reach a satisfactory decision or resolution.

### Some "Negotiator's Dilemmas"

#### Should you make the first offer in a negotiation?

If you have a good sense of the market and think you have more information than the other, you can make a first offer to "anchor" the negotiation and influence perceptions. But if you do not have a good sense of the market, it might be best to let the other side make the first offer.

#### If you want to influence someone to agree to a costly (in terms of time, effort and money) proposal, should you present the most or the least costly option first?

It is more effective to present the most costly option first because the principle of "reciprocity" suggests that if someone rejects a more costly proposal, they are more likely to feel they should accept the less costly option.

#### Is it better to tell someone what they will gain from doing something, or what they will lose if they do not do it?

It is better to tell someone what they will lose because the "scarcity principle" suggests that the fear of missing an opportunity is a powerful motivator; the more unique or scarce something is, the more desirable it becomes. (For more on the principles of "scarcity" and "reciprocity," see R. Cialdini. "Harnessing the Science of Persuasion." *Harvard Business Review*, 2001.)

### Persuading others

Professor Suzanne de Janasz discussed the interpersonal aspects of negotiations by examining the concept of persuasion, which she defined as an ongoing social process of discovery, preparation and dialogue. Persuasion is part art, part science: the art is establishing and sustaining trust; the science is collecting and analyzing information and understanding human behavior.

People commonly believe that others can be persuaded through logic, persistence

and enthusiasm but this is not always sufficient. De Janasz emphasized that persuasion is "something done with another, not to another." This means the target gets to choose, which increases his/her commitment to the new belief or behavior. Other persuasion mistakes include the hard sell, which often fails (one-way communication focused only on arguments); resisting compromise ("the truth is obvious, why can't you see?"); being unaware of your credibility (why should anybody be persuaded by you?); adopting a simplistic view of stakeholder positions ("either you are with or against me"); and lacking flexibility in influence tactics. Professor de Janasz suggested following instead these four steps to persuade others.<sup>1</sup>

1. Understand others' motivations and needs: Identify key decision makers, listen, check perceptions, observe, and use your network to help segment your audience (the people you need to influence) according to (1) the degree of alignment, i.e., how closely you think others agree with your agenda, and (2) the quality of the relationship and trust in you where (1) represents the vertical axis and (2) represents the horizontal axis (see Figure 1).
2. Establish credibility: Demonstrate expertise about your agenda by sharing knowledge, reliable data, clear explanations, non-defensive responses to challenge, and building trust by exploring ideas together and showing commitment to their interests.
3. Utilize appropriate influence tactics.
4. Support preferred outcomes with real and accurate data in multiple forms such as a frame for common ground, and demonstrate tangible benefits. Do not make things up or you are more likely to lose credibility when the truth is discovered.

Once you have worked out where people stand within these dimensions, you can customize and adapt your influence tactics.

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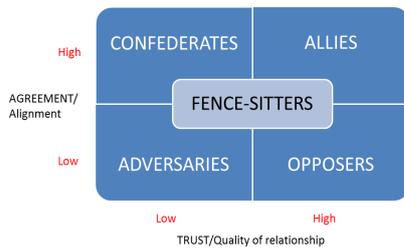
<sup>1</sup>Adapted from B. De Mar, and S. de Janasz. *Negotiation and Dispute Resolution*. Englewood Cliffs, NJ: Pearson/Prentice Hall, 2013.

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**Figure 1: Segmenting and customizing<sup>2</sup>**



**Allies** are often taken for granted but can be crucial to your cause, so identify them within your network, confirm their alignment and reinforce your similarities to strengthen the connection through genuine praise.

**Confederates** are aligned with your objectives but not with you and respond to “commitment and consistency” tactics expressed through making commitments active, public and voluntary.

**Opposers** are those with whom you have a good relationship but who are not aligned with your views on a particular issue, so be clear and unambiguous, listen to their concerns and ideas and, if all else fails, agree to disagree.

**Adversaries** expect to see you highlight unique benefits and want to receive exclusive information. If you have a serious relationship and alignment issue with an adversary, consider whether you may have played a part in this and make adjustments. Or, you may just have to let them go and acknowledge that alternative views exist and not try to convert them... yet.

**Fence-sitters** are those who have not yet expressed where they stand. Here you need to define the quality of the relationship, the level of alignment and what their concerns are, and perhaps express frustration at their neutrality. You could use your allies to influence them, and honestly expose your expertise and past achievements using experts and testimonials as “social proof.” Finally, be

<sup>2</sup>Adapted from P. Block. *The Empowered Manager*. Jossey-Bass, 1987.

genuine, obtain commitment in public and remember that persuasion is not about hitting hard and often but about being patient and taking the necessary time to build alignment and commitment.

## Building Alliances

Adapting your strategy to the type of negotiation is essential. Professor Watkins added that mastering persuasion and exerting influence requires:

- Framing how key people see “the problem” or “the opportunity” and “the options” by using logic (logos), principle (ethos) and emotion (pathos).
- Controlling the process and moving quickly to solidify support, anticipating the moves of others and seeking to neutralize opposition.
- Deciding the best sequence in which to interact with other players.
- Moving people from “A” to “B” incrementally by progressively establishing new baselines, public commitments and irreversible steps.
- Action-forcing events and establishing deadlines to create momentum in your favor.

Master negotiators do not just influence decision-making: they analyze who else will influence how decisions will be made. They also build effective networks of alliances, including broad alliances based on shared interests and long-standing relationships, and short-term temporary alliances that pursue narrow, focused objectives. Having defined your influence goals and motivations for the negotiation, you can craft an effective alliance-building strategy by identifying key decision makers; clarifying the decision making process; assessing winning and blocking coalitions; mapping networks of who influences decision-makers; and assessing support and opposition.

Mapping your influence network allows you to visualize the types of networks and relationships you need to build and leverage to attain your goal, for example by being seen to reach out to adversaries and using empathy to understand their point of view.

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**Actions and strategies you can use to help prevent and resolve conflict include communicating effectively, using “I” language, being sensitive; managing expectations, anticipating conflicts and focusing on others.**

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**Remember that any deal you strike in a negotiation is just the prelude to the implementation. Focus on the post-negotiation outcome and aim for consensus to increase the chances of successful follow-through and execution.**

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## Resolving Disputes

Conflict is a natural dynamic that arises when people's interests, perceptions, goals, values or approaches to problems differ and when one party feels that another is interfering with their ability to attain a certain objective. It may occur between individuals or groups and range from minor disagreements to major disputes or even war. It can be costly and dysfunctional; it can also be positive by spurring action (e.g. value clarification) and outcomes (e.g. creative solutions) that would not have occurred otherwise.

Whatever the conflict situation, your response can have a profound impact on the outcome. To avoid escalation and increase your chances of reaching an agreement, de Janasz suggests responding to conflict as follows:

- Control your temper and emotional response (pause before reacting)
- Understand and clarify the issues and goals
- Decide whether to engage; remember that you have the choice
- Search for a common goal or ground
- Take a break if things become too intense
- Bring in a third party, or threaten to do so.

To help prevent and resolve conflict, communicate effectively and speak up early and often; use “I” language to reduce defensiveness; listen first to show respect

### Negotiating tips

**The “mid-point” rule:** Negotiations tend to conclude close to the mid-point between the first solid offer and the first counter – be aware of this (i.e., the “anchors”) in distributive negotiations.

**Setting targets:** Negotiators who set ambitious goals do better, as long as they do not overcommit to achieving them. During your preparation, establish an aspirational target and do not take your bottom line as a fallback position. Instead, set a BATNA (best alternative to a negotiated agreement).

**“Irrational behaviors”:** Recognize that there is no negotiation without emotion, and uncontrolled emotions can lead to unethical (lying) or irrational behavior such as preferring to take nothing rather than accepting a deal that is perceived to be unfair. You can reduce this likelihood with thorough preparation, commitment to the long-term relationship between negotiators and a willingness to openly address these behaviors as they arise.

and to encourage others to listen to you; be sensitive to culture, gender and religious differences; manage expectations by letting others know what to expect, especially when you are no longer able to carry out your roles and responsibilities; anticipate conflicts and focus on others.<sup>3</sup> Organizations should create and maintain a culture of openness, align organizational systems and offer conflict management and negotiation training for individuals and teams. Leaders should be effective role models for teamwork and constructive feedback by involving employees in decisions that affect them.

Despite your best efforts, conflicts and disputes can still arise. If you cannot prevent them, apply your effective persuasion and negotiation skills. If all else fails, consider involving a third party (e.g. a mediator, trust catalyst or consultant). The costly legal route should only be used as a very last resort.

## Conclusion

Communicating effectively and understanding both the structural and interpersonal aspects of negotiations are essential to effective negotiating and dispute resolution. Matching your negotiation strategy to the situation, persuading your counterparts by shaping the negotiation, managing conflict to avoid destroying value and building supportive alliances can allow you to sustainably create and capture value. However, shaping your counterpart's perceptions may require time and incremental steps. In complex negotiations, packaging and sequencing is important, so divide a big deal into appropriate smaller, more manageable packages of issues to be negotiated separately. Remember that any deal you strike in a negotiation is just the prelude to the implementation. Focus on the post-negotiation outcome and aim for consensus to increase the chances of successful follow-through and execution.

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<sup>3</sup>Adapted from S. de Janasz et al. *Interpersonal Skills in Organizations*. Burr Ridge, Illinois: Irwin/McGraw Hill, 2012.