

Negotiation 101

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Overview

Here's a crash course on effective negotiations. It covers the basics of negotiating for long-term, mutual gain...exactly the kind you want to engage in as a member of UTSC.

Preparation

For a difficult and/or high-stakes negotiation, use this [Negotiation Notes Form](#). Start filling it out at least a week in advance of the negotiation, and bring it to the negotiation.

Best Alternative to Negotiated Agreement (BATNA)

This is your measuring stick for evaluating any potential agreement. In coming up with your BATNA, consider the following:

1. What can you do all by yourself to pursue your interests?
2. What can you do directly to the other side to make them respect your interests?
3. How can you bring a third party to the situation to further your own interests?

After considering a set of alternatives to agreement, decide on the one that's most likely to satisfy your interests. Then pursue low-hanging fruit to solidify your BATNA. For example, if your BATNA is to talk to another vendor (like Nexpose vs. Nessus), then you should spend at least 15 minutes investigating Nessus, or enough to find out how well it satisfies your interests: consider price, features, terms, etc. It's rare, but it may turn out that your BATNA is actually better than negotiating in the first place.

Once you have your BATNA solidified, try to identify the other side's BATNA; it will give you an idea of the challenge ahead: to negotiate an agreement that's better than both sides' BATNAs.

Proposals

Go in with three proposals in mind:

- What do you aspire to?
 - Imagine the best deal you can get within the bounds of fairness and the other side's BATNA. Aim for this first. You'll rarely get it, but you'll often get a better deal for trying.
- What would you be content with?
 - This is closer to what you should expect to get: an imperfect agreement that still satisfies your interests in a way that makes you content.
- What could you live with?
 - This is the last stop before resorting to your BATNA.

Managing Willpower

Willpower is our ability to refrain from carrying out an impulse. In negotiations, you may have to choose not to react with an outburst, to separate your personal feelings from the task at hand, and more.

A few things to know:

- Willpower is like a muscle:
 - It can be fatigued.
 - In the hours leading up to an important negotiation, avoid exerting willpower: indulge a little!
 - It can be strengthened through training over time, such as:
 - Breath-based meditation 5-15 minutes a day.
 - Setting up situations where you can resist temptations, like a chocolate within sight or within reach, wearing itchy wool but not scratching the itch, etc.
 - Setting up situations where you can choose to do things in an unfamiliar way, like choosing to open a door with your non-dominant hand.
- Willpower is significantly impacted by how well-rested you are and your blood-sugar levels.
 - If you're sleep-deprived, consider sleeping in the day of an important negotiation.
 - A sugary beverage can temporarily restore willpower.

Getting to Yes

Positions vs. Interests

In a negotiation or disagreement, people take specific **positions**, like "I won't go lower than \$2000".

Behind these positions are **interests**. For every interest, there are several possible positions that serve it.

When faced with positions you can't accept, ask questions and try to understand the other side to get to their interests.

Also, you need to **understand your own interests** fully to know where you can be flexible in the negotiation.

By understanding the other side's interests, you can get them to accept positions they hadn't considered before: positions that still serve their interests, but also serve yours more than their initial position.

Some open questions to help you find interests:

- Why?
- Why not?
- What if?
- What is your recommendation?
- What makes that fair?

When asking open-ended questions like these, you may get a pause or silence. Let it happen. They may need time to think.

It often only takes one good answer to get the negotiations going, so ask more questions until you get one.

Separate people from the problem

If you have an adversarial relationship with the other side, you must address that separately from the problem you're negotiating over.

Perception

- **Put yourself in their shoes:** Try to understand their viewpoint. You don't have to agree with it, but you have to come to see why someone might think that way.
- **Don't deduce their intentions from your fears:** Don't assume; find out more about their intentions and why they have them.
- **Don't blame them for your problem:** The only constructive path is to focus on what you can do about the problem now.
- **Discuss each other's perceptions:** Be frank and honest in doing so; do not blame.
- **Find opportunities to act inconsistently with their perceptions of you:** Rather than telling them to challenge their assumptions of you, show them.
- **Make sure they participate in the process:** Ask for advice, give credit for their ideas.
- **Let them save face:** Help them reconcile their decisions with their values and past words/deeds. If the other side has to contradict any of these, you have to find a way to let them take credit for their change in stance, or an objective reason why they changed stance: an existing law/policy, an impartial third party's judgment, etc.
- **Accumulate yeses:** Find areas where you agree without making concessions. You may be surprised at how many areas you already agree, but the other side was just unaware.
- **Stand up for yourself:** Remain polite but firm. Acknowledge their point of view, but stand up for your own as well. Acknowledge differences with optimism.

Emotion

- **Recognize both side's emotions:** Self-monitor your emotional state; if it's running high, consider why you're feeling that way and how you need to feel before you can make a particular statement or proposal. You may need to take a break, get refreshments, etc. Similarly, consider how the other side is feeling and remember that what they say in a given moment may be affected by their emotional state.
- **Recognize basic human needs:** Generally, everyone needs security, recognition, a sense of community, and control over their own fate. See [Maslow's hierarchy of needs](#) for more.
- **Acknowledge the person:** Find opportunities to acknowledge areas where someone is competent and/or has authority.

- **Acknowledge emotions as legitimate:** Discuss how each side feels about the situation that led to the negotiation. If the other side feels they've been wronged, try to see their point of view. If you're able to understand them, let them know that you can see their point and why they'd feel that way. Remain confident in doing so.
- **Allow the other side to let off steam:** If the other side has concerns, grievances, etc., ask them to list them out. It takes willpower to sit through this, but it will help you understand the other side. Again, remain confident.
- **Don't react to emotional outbursts:** This too takes willpower, but you have to do this to avoid a cascade of rage that can derail the negotiation.
- **Use symbolic gestures:** When the other side is angry, the proper use of a letter of sympathy or regret, eating together, an earnest apology, shaking hands, and/or embracing can defuse the situation, even if you don't acknowledge personal responsibility for the action or admit an intention to harm.

Communication

- **Negotiate in private:** Aim for negotiating one-on-one or with only the most important stakeholders.
- **Ensure you're listening to the other side:** An easy way to do this is to summarize back to them what you think they told you. Ask for corrections.
- **Speak only for yourself:** Do not accuse or assume. Use "I" statements rather than "you" statements.
- **Speak for a purpose:** Before making a significant statement, know what you want to communicate or find out, and know what purpose this will serve.
- **"Yes, and":** Instead of refusing with "but", say "yes...and". The "yes" part is where you acknowledge their point of view, and the "and" part is where you express your own. **"Yes**, our prices are high, **and** that's because our quality and customer service are the best in the industry".

Invent options for mutual gain

1. **Defer judgment:** There is a time for creativity and a time for criticism. First, be creative; do not judge. Once each side has exhausted its ideas, then start narrowing down and improving the best ones. If you get stumped, turn to experts in different fields.
2. **Keep an open mind:** There is a huge array of possible solutions. You're trying to find the overall best one, and it often takes both sides to reveal it.
3. **Expand the pie:** The entire basis of trade is specialization and comparative advantage. Find options that are low-cost for you but high-value for them, and vice versa. Identify shared interests and try to dovetail differing ones. Consider how you differ on beliefs, values, forecasts, and risk assessment. Consider if-then formulae: if you meet your revenue forecast, then they make an extra concession. If their risk prediction comes true, then you make an extra concession.
4. **Be willing to solve their problems:** You may resent it, but you have to help the other side in solving their own problems. You offer a fresh perspective. When you help them solve their problem, you make it easier for them to say "yes".
5. **Keep implementation in mind:** Design the deal to minimize your risks; act independently of trust. Build in a dispute resolution procedure for both sides.

Insist on objective criteria

Consider the following criteria where appropriate:

Market Value	Tradition	Equal Treatment	Efficiency
What a Court would Decide	Precedent	Reciprocity	Costs
Professional Standards	Mutually-selected Mediator's Opinion	Moral Standards	Scientific Judgment

When both sides can agree upon one or more of the above criteria, they can move forward in the negotiation without resentment.

Build a Golden Bridge

If negotiations have come close to completing but the other side is hesitant, here are ways to break through.

Involve the other side: Ask for and build on their ideas. Ask for constructive criticism. If they still don't respond, offer them a choice between 2-4 options. Let them take credit wherever possible.

Satisfy unmet interests: Look out for any interests you may have missed. Double-check that you're satisfying the other side's basic human needs.

Don't ask for a final commitment until the end: Nothing is agreed until **everything** is agreed. Go over each issue carefully; more clarity now can save a lot of pain later.

Getting Past No

Tips for more difficult situations

Don't React: Step Back and Assess

When put in an adversarial situation, it's easy to react: to strike back, give in, or break off.

In a negotiation, you need to mentally detach yourself from the moment and take a bigger picture view of the situation. In an especially tough situation you may need to call for a short break to do this.

Bypassing Dirty Tricks

For many of these, the most important step is being aware of the tactics being used against you. If you are unfamiliar with any of these tactics, research until you can immediately identify them. Role play with a colleague in a mock-negotiation if need be.

Deliberate Deception

Stay alert, but don't let yourself slip into suspicion or paranoia.

- **Phony facts:** Verify when possible. Ask clarifying questions. Look for contradictions between current and past words/deeds. Negotiation is not a question of trust. Separate people from the problem.
- **Ambiguous authority:** Before starting with any give and take, verify the other side's authority. If they still try to pull a fast one on you, insist on reciprocity: the agreement is a joint **draft** until you deal with someone with the proper authority.
- **Dubious Intentions:** Craft a reasonable request that the other side would accept if they were genuinely cooperative. Build compliance features into the agreement itself, like contingent agreements, penalties, etc.

Psychological Warfare

Know your own hot buttons and be aware of when someone is pushing them, knowingly or not. You must exert willpower to keep yourself from reacting to them. You may need to pause and say nothing, or pause and then ask about something earlier in the discussion, before it started going downhill. You may have to call for a short break to recover mentally.

Don't get mad. Don't get even. **Get what you want.**

- **Stressful situations:** Politely but firmly call attention to the stressful nature of the situation or environment (noise, temperature, time pressure, thirst, hunger, scrutiny, etc.). Negotiate better physical circumstances in an objective and principled way.
- **Personal attacks:** Ignore the first one or reframe it as an attack on the problem. If it's about a past wrong, reframe it to look toward future remedies. Reframe from "you" and "me" to "we". If the attacks continue, politely but firmly call attention to the tactics. If they insist on continuing after they know you know what they're doing, offer to continue negotiations once they are ready to proceed in a constructive manner, ensure they have your contact info, and end the current negotiation session.
- **The good guy/bad guy routine:** Keep your own proposals in mind from your preparation: if neither the "good" guy nor the "bad" guy's offer is something you're content with, probe them on the basis of their offers. Bring in objective criteria.
- **Threats:** If appropriate, warn the other side what will occur if the negotiations fall apart and possibly of your BATNA. A warning differs from a threat in that it is meant to be informative of cause and effect; it is separate from your own will.

Positional Pressure Tactics

Never make important decisions on the spot.

- **Refusal to negotiate:** They're trying to use their very entry into negotiations as a bargaining chip, or they're trying to set preconditions for negotiations. If you can verify this is true, insist on reciprocity and other objective criteria. Otherwise find out why they're not negotiating. Consider getting a third party to help with negotiations.
- **Extreme demands:** Call attention to their use of this tactic. Ask for principled justification of their position until the position looks ridiculous to everyone.
- **Escalating demands:** Call attention to it and then take a break while you consider whether and on what basis you'll continue negotiations.
- **Last-minute demands:** Ask if the other side is suggesting you re-open negotiations. If yes, treat the current agreement as a joint **draft** with no commitment until everyone is committed.
- **Lock-in tactics:** A lock-in is when the other side commits to a position in front of one or more stakeholders or constituents before entering negotiations. Reframe their lock-in as an aspiration or goal to help them save face. Or resist the lock-in on principle and focus on the problem at hand.
- **Hardhearted partner:** When someone says, "I'm fine with that, but my boss/lawyer/etc. refuses", confirm their assent (in writing if possible), and then bring in the hardhearted person and discuss it with them.
- **Calculated delay:** Look for objective conditions that force a deadline, like start/end of the semester, fiscal year, etc. Otherwise, inform the other side that you'll use these delays to strengthen your BATNA and create a fading opportunity: the more the other side delays, the better the odds that you'll find a way to meet your interests without them.
- **Take it or leave it:** Ignore it or change the subject if possible. Ask questions. Otherwise, inform the other side of your BATNA and look for a face-saving way for them to change their stance, like an unexpected change in circumstances or a plausible interpretation on policy.
- **Inflexible deadline:** Use it against them. Example: "I'd like to make a more generous offer, but in view of the time problem, this is the best we can do." Or, "To meet your deadline, we'll need your help. Can you (insert concessions here)?"

Use Power to Educate

As a last resort, when you're in the position of power, use it to educate rather than try to force the other side.

- **Ask reality-testing questions:** Ensure the other side understands the implications of the negotiations failing by helping them find out themselves. Ensure they've thought everything through and that they haven't made any false assumptions. Ask the following:
 - "What do you think will happen if we don't reach an agreement?"
 - "What do you think I will do?"
 - "What will you do?"
- **Build a coalition:** A third party, such as an independent expert or mediator, or even the other side's allies or constituents can be very convincing if you can enlist their aid.
- **Even when you can win, negotiate:** An imposed outcome is tenuous. Knowing when to forego an advantage is just as important as knowing when to seize it.
- **Warn, don't threaten:** If the above fail, show them your BATNA on one side and your negotiated agreement on the other. Sharpen the contrast between the two, and how much better the agreement is for everyone, but leave the choice to them.

- **Use the minimum power necessary:** If you must use your BATNA, you may not have to deploy it in full force. The more power you use, the more you need to defuse the other side's resistance.
- **Use legitimate means:** The more you have objective criteria backing your use of power, the less resistance you'll face.

Resources

Video

[Conducting Effective Negotiations](#) - Stanford Lecture by Joel Peterson, chairman of JetBlue (68 minutes)

[Fundamentals of Negotiation](#) - [Lynda.com](#) course (37 minutes)

Literature

- [Getting to Yes](#)
- [Getting Past No](#)