Managing Difficult Negotiations

Objectives
1. Understand how to manage the social contract.
2. Consider how to respond when the other party responds distributively, has more power, or presents you with an ultimatum.
3. Learn different approaches a negotiator can use when dealing with difficult people.

Michele is having a terrible dispute with her neighbor in the condo next door. The neighbor, who recently moved into the apartment, brought a large German shepherd dog with him that barks all the time. Michele is a writer who needs to work at home, but the dog is so distracting that she cannot get anything done. Michele has talked to the neighbor, who has apologized for the problem but has done nothing to keep the dog quiet. Since then, the neighbor won’t speak to her or respond to her messages. He won’t even answer the door when she knocks, even though she knows he is home. Michele is considering filing a nuisance complaint with the police and taking the neighbor to court.

Jose and his co-worker Max are at it again. They both work as Web site administrators for a major marketing firm. Max just can’t seem to get to work on time in the morning, and Jose always has to cover for him on the Web site problems that cropped up overnight. Max always stays later than Jose, but there is much less work in the late afternoon than first thing in the morning. Jose and Max have talked about it; Max promises to get to work earlier, and for a few days he is fine, but then he slips back into his old pattern. Jose doesn’t want to report him to the boss, but he doesn’t see any other alternative.

Simon, a manufacturer’s representative for a machine tool company, finds that a client’s recent expansion has resulted in Simon having to follow the client into another sales representative’s territory. Simon is sure that the problem can be worked out to everyone’s satisfaction and advantage, but so far the other sales rep seems to not want to give up a piece of his “turf”—in fact, he seems to act like it’s some sort of contest and wants to play games.

In this chapter, we turn to situations where parties are using different models to guide their negotiation because they have diagnosed the situation differently, possess
different levels of negotiation sophistication, or prefer different approaches to negotiat-
ing. We believe that many negotiators are not very familiar with collaborative negoti-
ating and use it less frequently than they should. One goal of negotiators should be to
ensure the broader application of integrative negotiating under appropriate circum-
stances in order to produce better agreements. We direct our discussion and advice to
negotiators who wish to negotiate collaboratively but find they must deal with others
who are reluctant to do so—who wish, intend, or are actively trying to be distributive.
We call them “difficult” people.

Negotiators always run the risk of encountering other parties who, for any number of
reasons, are difficult negotiators. That difficulty may be intentional, the result of a clear
strategic, behavioral, or philosophical choice by the other party. It may also be due to in-
adequate skill, including faulty diagnosis of negotiation opportunities—the other party
just doesn’t see any value or potential for a collaborative approach or doesn’t know how to
craft and pursue such an approach. In this section, we address methods negotiators can use
when dealing with an intentionally difficult party. We then proceed to explain the skills
and behaviors needed to defend against such parties and/or to convert them to use a more
productive negotiation process. In simple terms, the collaborative party is trying to change
the social contract or proactively manage the shadow negotiation introduced in Chapter 17
(see Fortgang, Lax, and Sebenius, 2003; Kolb and Williams, 2001). In essence, the goal is
to convince the other party to move from distributive to integrative negotiations. There are
several challenges to negotiators who want to convert a distributive bargainer towards a
more collaborative approach. We begin by discussing how to manage the social contract
and shadow negotiation. Next, we turn to a discussion of how to respond to the other
party’s hard distributive tactics, which is followed by a discussion of the options avail-
able to negotiators who are faced with another party who is more powerful. We then
discuss possible tactics to use with generally difficult negotiators, examine how to re-
spend to ultimatums, and conclude the chapter with a discussion of how to manage dif-
ficult conversations.

Managing the Shadow Negotiation and Social Contract

Managing the shadow negotiation and social contract is fundamentally concerned with de-
termining what ground the negotiation is going to cover and how the negotiators are going
to work together (Fortgang, Lax, and Sebenius, 2003; Kolb and Williams, 2001). The
shadow negotiation occurs in parallel with the substantive negotiation and is concerned
with how the negotiation will proceed. Who will have influence and power? What is ac-
ceptable behavior? Who is included or excluded from the discussion? Frequently these mat-
ters are not decided in the open but occur “in the shadows.” The result of this ongoing
shadow negotiation is a social contract regarding how the negotiation will proceed, who has
influence and power, and what the boundaries of the negotiation are.

The social contract and shadow negotiation are concerned with what the negotiation
is about and how decisions are made. Negotiators need to be clear in their own minds
where the boundaries of the current negotiation are and should be. If the discussion is
too narrow or too broad, then this needs to be explicitly addressed and corrected. When
the other party has a different implicit or explicit understanding of the negotiation, then
negotiators need to discuss this and work to create alignment in the social contract. This alignment can occur by convincing the other party to agree with your view of the situation, changing your expectation to match theirs, or reaching an agreement about the parameters of the social contract. In other words, the social contract should be discussed and negotiated, not assumed.

It is important that negotiators consider the shadow negotiation carefully before meeting with the other party so that they are clear in their own minds about the scope of the negotiation and understand how they would ideally like to work with the other party. For instance, do they want to be more or less collaborative? How important is time pressure? Is this a one-time deal, or is this discussion part of a longer relationship? It is also important that negotiators monitor the shadow negotiation once the substantive negotiation has started—because if the shadow negotiation is ignored, it has the potential to lead to poorer outcomes or even to derail the talks.

Deborah Kolb and Judith Williams (2001) interviewed hundreds of executives about their negotiation experiences, especially with respect to the shadow negotiation. Kolb and Williams suggest that negotiators ignore shadow negotiations at their peril because the unaddressed shadow negotiation can lead to negotiations that are “blocked or stalled—undermined by hidden assumptions, unrealistic expectations, or personal histories” (p. 90). They identify three strategic levers available to help people navigate the shadow negotiation: power moves, process moves, and appreciative moves (see Box 18.1).

**Power Moves**

Power moves are designed to bring reluctant bargainers back to the table. There are three kinds of power moves: incentives, pressure tactics, and the use of allies. *Incentives* draw the attention of the other party to the importance of the negotiation and help them recognize that they will benefit from negotiation. *Pressure tactics* force the other party to realize that the status quo is unacceptable, and they make the costs of not negotiating very explicit. Finally, enlisting the support of *allies* can provide assistance to help the other party see the advantage of negotiating.

**Process Moves**

Process moves are designed to alter the negotiation process itself through adjustments to the agenda, sequencing, decision rules, and the like. For example, a competitive mind-set may favor those who speak loudest or longest, or who like bluffing and gamesmanship. A negotiator who is uncomfortable with this dynamic can try to reframe the process, for example, by redefining something that was a competition over resources into a collaborative group allocation decision based on need.

**Appreciative Moves**

Appreciative moves are designed to break cycles of contentiousness that may have led to deteriorating communication, acrimony, or even silence. Examples of appreciative moves are tactics that help the other party save face in an argument, maintain dialogue and information exchange in the face of pressures to disengage, or invite new perspectives into the discussion to try to break a logjam or reverse a skid toward stalemate.
A single strategic move seldom carries the day. In combination, however, such moves can jump-start workplace negotiations and keep them moving toward resolution.

Consider the case of Fiona Sweeney, the new operations chief. She had neither the authority nor the personal inclination to order the sales and production divisions of her company to cooperate. Instead, she fashioned a series of strategic moves designed to influence the negotiations.

**Power Moves**
Having established her credibility with sales by increasing the turnaround time on expense-account reimbursements, Sweeney knew she needed to up the ante for maintaining the status quo, which created hardships for production and was frustrating customers. It was particularly important to bring pressure to bear on the sales division, because the informal reward systems, and many of the formal ones, currently worked to its benefit. To disturb the equilibrium, Sweeney began to talk in management meetings about a bonus system that would penalize the sales division whenever it promised more than production could deliver. Rather than immediately acting on this threat, however, she suggested creating a cross-divisional task force to explore the issues. Not surprisingly, sales was eager to be included. Moreover, the CEO let key people know that he backed Sweeney’s proposal to base bonuses on profits, not revenues.

**Process Moves**
Sweeney then moved to exert control over the agenda and build support for the changes she and the CEO envisioned. She started an operations subgroup with the heads of quality control and production, mobilizing allies in the two areas most directly affected by the sales division’s behavior. Soon they developed a common agenda and began working in concert to stem the influence of sales in senior staff meetings. On one occasion, for example, Sweeney proposed assigning a low priority to orders that had not been cleared by the operations subgroup. Quality control and production roundly supported the suggestion, which was soon implemented. Through these process moves, Sweeney built a coalition that shaped the subsequent negotiations. But she did something more.

Power and process moves often provoke resistance from the other side. Sweeney prevented resistance from becoming entrenched within the sales division through a series of appreciative moves.

**Appreciative Moves**
To deepen her understanding of the issues sales confronted, Sweeney volunteered her operations expertise to the division’s planning team. By helping sales develop a new pricing-and-profit model, she not only increased understanding and trust on both sides of the table, but she also paved the way for dialogue on other issues—specifically the need for change in the company’s decision-making processes.

Most important, Sweeney never forced any of the players into positions where they would lose face. By using a combination of strategic moves, she helped the sales division realize that change was coming and that it would be better off helping to shape the change than blocking it. In the end, improved communication and cooperation among divisions resulted in increases in both the company’s top-line revenues and its profit margins. With better product quality and delivery times, sales actually made more money, and production no longer had the burden of delivering on unrealistic promises generated by sales. Customers—and the CEO—were all happy.

Section Summary

The concepts of the shadow negotiation and social contract are compelling ways to think about the often hidden yet crucial power plays that occur in negotiation alongside haggling over positions and arriving at agreements. Negotiators who want to change to a more collaborative process should actively manage the shadow negotiation and social contract process.

Responding to the Other Side’s Hard Distributive Tactics

By *hard tactics*, we mean the distributive tactics that the other party uses in a negotiation to put pressure on negotiators to do something that is not in their best interest. The temptation to use hard tactics is inherent in the distributive model: try to get information, but don’t share it; work to convince the other party of the value of staying in the deal, or enhance the perception of the cost of leaving it rather than working to create value; and so on. Distributive tactics were discussed in Chapter 2, where we also discussed strategies for responding to these tactics. To summarize briefly, as a party managing a negotiation mismatch, you can respond to these tactics in the following ways: call them on it, ignore them, respond in kind, or offer to change to more productive methods.

Call Them on It

Negotiators should tell the other party that they are aware of what he or she is doing when they use hard tactics by identifying the tactic and raising it to the level of open discussion. This should be done tactfully but firmly. Negotiators may indicate their displeasure with the tactic and explain why it is interfering with a positive discussion and preventing the negotiation from progressing. Sometimes, the embarrassment value of such an observation is sufficient to make negotiators disavow the tactic and stop using it. Discussing the tactic is a good first step to converting negotiators to more win–win negotiating.

Ignore Them

A tactic that is ignored is essentially a tactic defeated; even if it is recognized later, it does not have the power to bring undue pressure to bear. Unfortunately, some bargainers continue to bargain distributively and ignoring their tactics may not be enough to give them the message that a more collaborative approach to the negotiation is possible. Yama (2004) presents several responses from a hard bargaining sales context that ignore buyers’ aggressive bargaining tactics while refocusing the negotiation on the sellers’ value proposition (see Box 18.2).

Respond in Kind

The possibility of responding to a hard tactic with a hard tactic was discussed in Chapter 2. While this is appropriate in some circumstances, responding in kind is likely to escalate the conflict. Hence, responding in kind is not consistent with the goal of trying to convert the other party to use a more collaborative approach and should not be considered in this situation.

Offer to Change to More Productive Methods

Negotiators may announce that they have identified the other party’s behavior and suggest a better way to negotiate. Fisher, Ury, and Patton (1991), in advising well-intentioned bargainers
Tools for Handling Aggressive Bargaining Techniques

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<tr>
<th>Aggressive Bargaining Technique</th>
<th>Value-Based Response</th>
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<tr>
<td>Early request for price quote</td>
<td>Probe buyer’s needs. Quote list pricing or a wide range.</td>
</tr>
<tr>
<td>Focus on seller’s cost and profit margins</td>
<td>Communicate ways you lower costs for the buyer through unique elements of your offer.</td>
</tr>
<tr>
<td>Constrained by buyer’s budget</td>
<td>Identify items that can either be trimmed from the proposal or shared with other budget centers.</td>
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<tr>
<td>Provide a discount to win future business</td>
<td>Explain your perspective that future business is based on value delivery today.</td>
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<tr>
<td>Price discounts based on past service failure</td>
<td>Seek to understand the issue and its impact, then fix it without providing a price discount.</td>
</tr>
<tr>
<td>Requests for additional items at no charge</td>
<td>Explain the offering menu and that items purchased outside the scope of the agreement are priced “à la carte.”</td>
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not to let themselves be victimized, suggest a comprehensive strategy: “Recognize the tactic, raise the issue explicitly, and question the tactic’s legitimacy and desirability—negotiate over it” (p. 130). The logic of this advice lies in the assumption that once the aggressive negotiator understands that (1) their behavior is understood and (2) continuing this behavior will entail certain costs (including the possibility that you will walk away from the negotiation), he or she will (hopefully) respond to a suggestion for a more integrative exchange.

Section Summary

In summary, we recommend that negotiators who are trying to convert the other party from using hard distributive tactics to a more collaborative approach should respond by calling the other on the tactics and offer to change to more productive methods if the distributive bargaining persists. Ignoring the tactics may work for a while, but responding in kind is not likely to be helpful in this situation.

Responding When the Other Side Has More Power

Relative power can be a good predictor of how a conflict will evolve. Other things being equal, when power is unequal, the more powerful party can achieve his or her goals more readily. Power imbalances in negotiation can represent clear dangers to the satisfaction of the needs of both parties and to the collaborative process. First, high-power parties tend to pay little heed to the needs of low-power parties, who either don’t get their needs met or use disruptive, attention-getting tactics that make collaboration very difficult (Donohue and Kolt, 1992). Second, low-power parties are not usually in a position to trigger and advance an integrative process. Integrative negotiation requires a tolerance of change and flexibility, which often requires negotiators to give up some control over outcomes; low-power parties “have less to give, and thus less flexibility to offer the other party” (Donohue
Responding When the Other Side Has More Power

and Kolt, 1992, p. 107). Negotiators should consider four tactics when dealing with a party with more power:

1. Protect themselves.
2. Cultivate their best alternative to a negotiated agreement (BATNA).
3. Formulate a trip wire alert system.
4. Correct the power imbalance.

Negotiators can **protect themselves** by keeping in mind that they have real interests, that negotiation may be the preferred approach of achieving those interests, and that excessive accommodation to the high-power party will not serve them well over the long term. In other words, low-power parties should remember their resistance point and try to stick to it. That said, while knowing the resistance point will provide a clear measure of minimum acceptability (lowest price, maximum monthly payment, etc.), too strict adherence to it may deprive negotiators of creativity and flexibility, which are critical components to the design of an integrative outcome. It may also limit their ability to use information that emerges during the exchange (Fisher, Ury, and Patton, 1991). Thus, lower power parties need to protect their bottom line but also be open to creative approaches that may allow them to achieve their interests in other ways.

When in the low-power position, it is very important that negotiators **cultivate their BATNA**, which represents the best outcome that they can accomplish without the current negotiation. Many negotiators bargain without a clear definition of their BATNA; we pointed out in Chapters 2 and 3 that the lack of such a critical reference point gives negotiators less power and limits what they can achieve in the current negotiation (Fisher, Ury, and Patton, 1991). Even after negotiations have started, negotiators should continue to try to improve their BATNA, especially when dealing with another party that has more power. For example, a job seeker who is discussing a weak offer with a particular employer should continue to cultivate alternatives by pursuing other employment opportunities.

Negotiators can **formulate a trip wire alert system** that serves as an early warning signal when bargaining enters the “warning” zone close to the walkaway option or the BATNA (Fisher, Ury, and Patton, 1991). The trip wire tells the negotiator to exercise special caution and pay increased attention to the negotiation in progress. Given
that negotiations often become intense and engrossing at such points, it might be appropriate to assign a co-negotiator to watch for the warning zone and to notify the involved negotiator at the critical time.

The next option involves dealing with an existing power imbalance. The fourth option for dealing with more powerful parties is to correct the imbalance. Three approaches to this are possible: low-power parties taking power, high-power parties giving power, and third parties managing the transfer and balance of power. The first approach, power-taking, is typically not feasible in negotiations. Using disruptive or attention-getting actions to try to assume power typically contributes to a distributive exchange, generating in-kind responses from the high-power party. As we pointed out in Chapter 7, however, power in negotiation is multifaceted, and power may be gained on dimensions different from those currently held by the high-power party.

The second approach is for the high-power party to transfer power to the other party. Such actions include sharing resources, sharing control over certain processes or outcomes (e.g., the shadow negotiation, agendas, or decisions), focusing on common interests rather than solely on the high-powered party’s interests, or educating the low-power party about what power he or she does have and how to use it more effectively (Donohue and Kolt, 1992). One may question why high-power parties would ever choose to transfer power to the other party. The answer is complex, but there are good reasons. First, sharing power facilitates the integrative negotiation process and leads to a better agreement. Second, when one party does have power over the other, frequently the best outcome the high-power party can achieve is compliance rather than enthusiastic cooperation. Finally, no power imbalance exists forever, and when low-power parties gain a power base or a BATNA, they are likely to either sever the relationship or to engage in some form of revenge. Sharing power is a proactive way to prevent these outcomes.

Finally, the third approach—using a third party to manage power transfer—is feasible and is commonly used. We discuss the use of mediators and other third parties in detail in Chapter 19.

**The Special Problem of Handling Ultimatums**

One particularly troublesome hard tactic distributive negotiators use is ultimatums. An *ultimatum* is an attempt “to induce compliance or force concessions from a presumably recalcitrant opponent” (Kramer, Shah, and Woerner, 1995, p. 285). Ultimatums typically have three components: (1) a demand; (2) an attempt to create a sense of urgency, such that compliance is required; and (3) a threat of punishment if compliance does not occur (George, 1993). For example, one particular type of ultimatum is the exploding offer, in which one party presents the other with a classic no-win, use-it-or-lose-it dilemma. An exploding offer has a specific time limit or deadline attached to it, forcing the other party to decide on a less-than-ideal offer or run the risk of going without anything (Robinson, 1995). Such offers have several other components, including:

- A clear asymmetry of power between the parties.
- A pressure-inducing test of faith for the receiver.
- A restricted set of options.
• A lack of consideration and respect for the offerer by the respondent.
• An apparent lack of good faith on the offerer’s part. (Robinson, 1995, pp. 278–79)

The strategic logic of this type of ultimatum often involves an attempt to force a negotiator into a premature agreement, thereby bringing an early end to a negotiation process that might eventually produce a more equitable outcome for the receiver. It might also have the effect of limiting the negotiator’s ability to comparison-shop among multiple competing offers or possible BATNAs. Exploding offers have become popular among some organizations recruiting graduating university students. These organizations may offer competitive, or even slightly better, financial packages to graduates but only allow 24 or 48 hours for students to decide or the offer is withdrawn. Typically, these organizations are very early in the recruiting process and their motive is to lock-in their preferred candidates and prevent them from considering other offers. While many university career centers actively discourage exploding offers, the practice persists.

While an initial analysis of ultimatums might suggest that such a take-it-or-leave-it tactic might be successful, given that something (anything) must be preferable to nothing (a failed negotiation), empirical studies have not found this to be so (Guth, Schmittberger, and Schwarze, 1982; Guth and Tietz, 1990). Conflicts involving ultimatums often fall prey to escalation problems, as noted elsewhere in this chapter, through severe action–reaction spirals. Reactions to the making of ultimatums seem to go beyond the violation of simple fairness concerns, in that they

are motivated by asymmetric moral imperatives. Most offerers define the situation as the opportunity for . . . gain; they tend to be blatantly strategic. Many respondents, on the other hand, owing to their relatively powerless situation, define the situation morally. . . . This asymmetry can lead to disagreement and unhappiness for both parties—for the offerer, following a rejection, or for the respondent, in accepting an offer that he or she feels is unfair (Murnighan and Pillutla, 1995, p. 265).

The pervasive unhappiness resulting from the use of such ultimatums can taint future dealings between the parties, sometimes permanently.

Robinson (1995) has developed one possible response to ultimatums, which he calls the “farpoint gambit” (after the name of a maneuver on a Star Trek episode). The success of the response hangs on the ability to say “Yes, but . . .” to an ultimatum. Robinson cautions—and we agree—that this approach is a last resort; other remedies should be exhausted first. When first presented with an ultimatum, negotiators should probably try a reasonable approach: be forthright in addressing the ultimatum; make sensible, reasonable counteroffers; or attempt to engage the offerer in joint problem solving. If that fails, Robinson suggests “an exploding offer can be defused by embracing it” (p. 282)—that is, agree to the ultimatum provisionally, subject to some qualifying event or condition. Robinson advises that the farpoint gambit only be used when all three of the following conditions exist:

1. When the initiator is perceived as behaving unethically and ignores appeals to reason.
2. When the respondent is truly interested in the basic offer but needs more time to consider it.
3. When there are issues central to the deal that genuinely need clarification.
Responding When the Other Side Is Being Difficult

When the other side presents a pattern of clear difficult behavior, two possibilities exist. On the one hand, it is possible that the negotiator does not know any other way to negotiate, but might be responsive to suggestions for changing his or her behavior. On the other hand, it may be that the other party has a difficult personality and acts consistently inside and outside the negotiation context. In most cases it is likely that not enough is known about the other party to make the distinction. In this section, we review several approaches for dealing with difficult negotiators. The first, proposed by Ury (1991), suggests a broad-based approach that may be used with any other party who is being difficult, including one using hard distributive tactics. The second, based on the work of Bramson (1981), suggests several different strategies for dealing with negotiators who have particularly difficult styles. Finally, the third approach is by Weeks (2001), who outlines the importance of preparation and management when confronted with the need to have a difficult conversation with another person.

Ury’s Breakthrough Approach

William Ury (1991) conceptualizes obstacles set by the other party as challenges that can be addressed through specific strategies described in a five-stage “breakthrough approach.” Ury suggests creating a favorable negotiation environment by regaining mental balance and controlling one’s own behavior; helping the other party achieve similar balance and control; changing the approach from a distributive to an integrative one; overcoming the other party’s skepticism by jointly crafting a mutually satisfactory agreement; and achieving closure through firm, even-handed use of negotiating power. Ury argues that his approach operates on the principle of acting counterintuitively. This requires negotiators to behave directly opposite to what they might naturally do in difficult situations. When the other

"How did the negotiations go? Take a wild guess."

Source: © CartoonResource.com
party stonewalls or attacks, people often feel like responding in kind. When others insist on their position, negotiators often want to reject it and assert their own. When others exert pressure, negotiators are inclined to retaliate with direct counterpressure. In trying to break down the other party’s resistance, however, these counterpressure responses actually increase it. In contrast,

The essence of the breakthrough strategy is indirect action. You try to go around his resistance. Rather than pounding in a new idea from the outside, you encourage him to reach from within. Rather than telling him what to do, you let him figure it out. Rather than trying to break down his resistance, you make it easier for him to break through it himself. In short, breakthrough negotiation is the art of letting the other person have it your way. (Ury, 1991, p. 9)

Ury proposes a five-step process for this counterintuitive pattern of responding (the titles of the steps are adapted from Ury’s strategies for managing difficult negotiations; see Table 18.1).

**Step 1: Don’t React—Go to the Balcony**  A natural reaction to aggressive tactics is to strike back, give in, or break off negotiations. These behaviors do not serve the negotiator’s tangible interests, let alone move the process in an integrative direction. The challenge to this obstacle is to not react, thereby avoiding the destructive effect that reacting naturally has on the process. Instead, Ury recommends that negotiators should “go to the balcony”—that is, psychologically remove themselves from the interaction so that they become an observer to their own interaction with the other party. The advantages of going to the balcony are it:

- Provides some distance from the conflict and from one’s own emotions.
- Creates breathing space, allowing negotiators to cool off so their response can be more reasoned.
- Creates an opportunity for negotiators to understand the situation in the broader context and to remind themselves why they are there in the first place.

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<th>TABLE 18.1</th>
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<td><strong>Barriers to Cooperation</strong></td>
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<td>Step 1</td>
<td>Your natural reaction to the other side’s competitive behavior</td>
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<td>Step 2</td>
<td>Other’s negative emotions</td>
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<td>Step 5</td>
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Source: Adapted from “Strategy Table,” from *Getting Past No* by William Ury. Copyright © 1991 by William Ury. Used by permission of Bantam Books, a division of Random House, Inc.
Step 2: Disarm Them—Step to Their Side  Negative and attacking behavior in negotiation tends to breed more of the same from the other party. Tensions heighten and damaging exchanges tend to escalate. Confrontation and impending impasse typically elicit negative emotions for both sides. The negotiator’s challenge is to act counterintuitively—to deflect or sidestep the other party’s negative behavior, disarming him or her through positive, constructive communication. The strategy of stepping to the other side conveys the compelling image of “coming around” the table to listen to and acknowledge the other party’s legitimate points, needs, and concerns. This strategy of disarmament includes:

- Active listening.
- Acknowledging the other party’s points, without necessarily conceding their truth or accuracy.
- Recognizing points of understanding and overlap that might provide the foundation for subsequent agreement.
- Acknowledging the other party personally as a mark of recognition and respect for his or her authority, sensitivity, and competency.
- Expressing one’s own views clearly and considerately.

Step 3: Change the Game—Don’t Reject, Reframe  Framing the problem is an important step in preparing for any negotiation (see Chapter 4). Given the obstacle of the other party’s positional behavior, the challenge at this stage is to change the negotiation by proactively reframing his or her tactics. A reframing strategy includes the following active behaviors:

- Asking open-ended, problem-solving questions.
- Reframing the other party’s tactics. For example, if presented with a stone wall, ignore it, test it, or reinterpret it as just wishful thinking. If attacked, ignore it, deflect it from you to the problem, or recast it in less confrontational terms that highlight common goals and interests.
- Negotiating directly and openly the rules of the negotiation process.

Step 4: Make It Easy to Say Yes—Build Them a Golden Bridge  This is the persuasive stage of the process, wherein the challenge and opportunity for negotiators is to make it easy for the other party to say yes to an offer (see, Fisher, 1969). According to Ury (1991, p. 89), the four most common objections from the other party to your proposals are:

- They’re not my idea.
- They don’t address one of my basic interests.
- They might cause me to lose face or look bad to some important constituency.
- They require too big of an adjustment for me (i.e., “you want too much, too fast”).

The proposed strategy is to close the gap between negotiators by building a golden bridge to entice the other party to cross over to agreement by:

- Involving him or her in the actual design of an agreement that addresses the interests and challenges of all parties.
- Satisfying his or her unmet needs as much as possible without jeopardizing meeting your needs or the basic fabric of the agreement.
- Recognizing and being empathetic to the range of personal and organizational demands and expectations that he or she faces.
- Helping him or her to save face and deal with constituencies by providing justifications for the agreement—for example, that conditions have changed, a third party recommends this, or an objective standard of fairness supports this outcome.
- “Going slow to go fast” (Ury, 1991, p. 105), walking him or her through complex agreements step by step and not demanding closure until everyone is ready.

### Step 5: Make It Hard to Say No—Bring Them to Their Senses, Not Their Knees

Throughout the first four stages, the other party may believe in his or her superior power or wits. Having made it easy for the other party to say yes, negotiators must now address the challenge of making it hard for them to say no. Confronting power plays with power plays will most likely return the negotiation to the competitive dynamics the parties have worked to change. A better strategy is to bring the other negotiators to their senses without bringing them to their knees. The components of this strategy are to:

- Pay attention to one’s own BATNA, strengthening it and making sure the other party knows what it is.
- Help the other party think about the consequences of not reaching an agreement.
- If necessary, actually use one’s own BATNA, being careful to anticipate and defuse the other’s reaction to what may be perceived as a punitive move.
- Keep sharpening the other’s choice—refer back to the attractive terms that got the other party to cross the bridge and help them maintain their focus on the advantages of completing the deal.
- Fashion a lasting agreement, thinking through and planning for implementation.

Ury’s breakthrough approach is an active strategy that negotiators can use to deal with another party that is being difficult. Care must be taken when using this approach because in an emotionally charged negotiation, these tactics have the potential to make matters worse if they are not applied subtly and with care. That said, Ury’s approach does provide a powerful way to manage difficult people in a nonconfrontational manner.

### Responding to Difficult People

Sometimes problems in negotiation can be traced to difficulties in the other party’s behavioral style. The subject of how to deal with difficult people in the workplace has received increasing attention in recent years from several authors (e.g., Bernstein and Rosen, 1989; Bramson, 1981, 1992; Solomon, 1990). These authors make several important points. First, everyone can exhibit difficult behaviors or be difficult to deal with at times; some people, however, are invariably difficult, and their behavior follows predictable and identifiable patterns. Second, what is difficult behavior to one person may not be difficult for another. Labeling an action “difficult” may say as much about the receiver
Emotions are frequently an aspect of difficult, high-stakes negotiation. When emotions run wild, however, they can be detrimental to the process, distorting perceptions and diverting attention from the real issues. Adler, Rosen, and Silverstein (1998) looked at the problem and effects of fear and anger in negotiations, and they suggest some tactics for managing such emotions. Regarding your own emotions, negotiators can:

- Determine which situations tend to trigger inappropriate anger.
- When angry, decide whether or not to display your anger.
- Use behavioral techniques to reduce your anger (e.g., taking a break, counting to 10).
- Express your anger and disappointment effectively (e.g., openly and in a nonaccusatory fashion).
- Avoid the negotiator’s bias (“I’m fair and reasonable, you’re not . . .”).
- Try to promote trust.

Regarding the other party’s emotions, negotiators can:

- Defuse emotional buildups by direct confrontation (“You seem angry; are you?”).
- Assess the real significance of emotional displays (Is it an act? A distributive dirty trick?).
- Address the other’s anger directly, perhaps apologizing for a comment or pointing out the effects of a bad situation.
- Respond to the other’s anger strategically (call a break, use silence to “wait him out,” make a modest concession, etc.).
- Help the other party save face, especially when losing face contributed to his or her anger.
- Consider engaging a mediator when you anticipate anger rising.


as it does about the sender. Person A may have a great deal of difficulty contending with a very aggressive negotiator, whereas Person B has little difficulty with that person. Third, difficult people behave the way they do because it achieves results for them. Their behavior gives them control, feels comfortable, and lets them get their way. By giving in to it, negotiators reinforce the behavior, providing the difficult person ample reasons to continue behaving in ways that have worked in the past. Difficult people also may continue their behavior because they honestly are not aware of the long-term costs to people and organizations that must contend with them.

It is possible to cope with invariably difficult people—contending with their behavior on equal behavioral terms—as opposed to giving in to them; accepting their behavior; or getting them to change their values, beliefs, or attitudes. In short, negotiators must effectively counterbalance the potential power these behaviors give to those who use them. Box 18.3 offers a general framework for coping with a difficult other party. Relating to difficult people in negotiation or other highly charged, results-oriented exchanges is a critically important skill. We encourage anyone wishing to go beyond the basics presented here to refer to Bramson (1981), Solomon (1990), and Ury (1991) to build their skills and insights in this area.
Having Conversations with Difficult People

There are many topics that people find difficult to discuss with others, including both negative situations like discussing poor performance with an employee that may lead to a dismissal and positive situations such as providing praise for a job well done (Weeks, 2001). While people differ in the type of situations that they find stressful, whatever the topic it is much harder to discuss when the other party is a difficult person. Weeks suggests that there are two fundamental stages to dealing with a stressful conversation: preparation and managing the conversation.

Preparation

The best place to begin preparing for difficult conversations is to really understand your comfort level in dealing with them (Weeks, 2001; also see Gray, 2003b; Stone, Patton and Heen, 1999). Some people are more comfortable discussing negative situations like a poor performance appraisal than others. Other people are more comfortable with delivering praise than others. The key here is to understand your own comfort level and to know how you react to different difficult conversations. For instance, if someone gets aggressive, raises his or her voice, and threatens you during a negotiation is your natural response to withdraw, push back, or to analyze the situation? It is important to understand your natural response to difficult situations so that it is not vulnerable to being taken advantage of by the other party (Weeks, 2001). Stone, Patton, and Heen (1999) have created a useful checklist for a five-step process of having difficult conversations that starts with solid preparation before starting the conversation (see Box 18.4).

There are at least three things you can do once you are aware of your likely response to an upcoming difficult conversation. First, you can visualize how the conversation will unfold—meaning think about the order of the conversation, how the other person may respond, and how you will respond back. You should consider multiple pathways because it may not be possible to predict with complete accuracy what direction the conversation will take. Second, you can practice the upcoming difficult conversation with a neutral party (Weeks, 2001). This person should not have the same reactions to others as you do in order to provide a different perspective on the upcoming difficult conversation. The practice can involve role-playing “what if he or she says this” and should include an honest appraisal by the neutral friend of how the other party may interpret your responses. Finally, the third thing that can be done during preparation is to construct a team that has a wide variety of strengths and weaknesses when dealing with difficult others. This is likely limited in practice to more complex negotiations, but often people can take someone with them to a difficult conversation to provide emotional support and to help with the postdiscussion interpretation.

Managing Difficult Conversations

Weeks suggests that there are three important elements to the successful management of difficult conversations: clarity, tone, and temperate phrasing. Each is discussed in detail here.

Clarity

Clarity means to use language that is as precise as possible when managing a difficult conversation. There is a natural tendency to use euphemisms and to speak indirectly, especially in a difficult conversation where there is bad news (Weeks, 2001). Clarity is important because the precision of using words to express exactly what is thought and
felt in a difficult conversation is likely to make the conversation unfold as positively as possible under the circumstances. Delivering the message in a clear and concise manner allows people to understand the message as clearly as possible and to start to make sense of the information. As Weeks (2001) states, “. . . there’s nothing inherently brutal about honesty. It is not the content but the delivery of the news that makes it brutal or humane” (p. 117). In other words, receiving bad news is difficult enough without having the additional stress of having to interpret an unclear message as well.
**Chapter Summary**

There are times when negotiators confront a situation where the other party is using a different negotiating model, and this needs to be managed. This chapter examined what negotiators can do when they are in an integrative mode, and the other party is being competitive or “difficult.” We began the chapter with a discussion of managing the social contract and shadow negotiation, two important and related concepts that negotiators need to manage proactively. They are concerned with managing the *how* of the negotiation, rather than the *what*. We then turned to a discussion of how to respond when the other side persists in using hard distributive tactics and how to respond when the other side has more power. The chapter concluded with a discussion of tactics to use with generally difficult negotiators, responding to ultimatums, and how to manage difficult conversations.

There are two important themes that ran through this chapter. First, preparation for dealing with negotiation mismatches is critical. This preparation not only involves a thorough understanding of the situational dynamics, but it also requires a deep, critical self-analysis of one’s likely response to stressful negotiation situations. In addition, we recommend that you carefully consider how the other party is behaving and how you are responding to their behavior. The second theme running through the chapter is the importance of actively processing information about the negotiation as it unfolds. It is not enough to concentrate on the content of the discussions. When dealing with a difficult other party, negotiators need to be even more vigilant about the process of the negotiation, managing the shadow negotiation and social contract proactively and being careful with the tone of the discussion.

The tools that we discussed in this chapter take considerable practice to master. Their application is as much an art as a science, and even the best negotiators will be pushed to their limits when dealing with difficult other parties. That said, they can provide rewards if they are applied judiciously and with sensitivity to the needs and limitations of the situations and of the negotiators involved.

**Tone**  Tone is the nonverbal aspect of the conversation and it includes “intonation, facial expressions, conscious and unconscious body language” (Weeks, 2001, p. 117). It is important to strike a neutral tone when having a stressful conversation, especially if it is about bad news. Taking a gloating or an aggressive tone will not only interfere with the other person’s comprehension during a difficult conversation, it will also likely lead to an escalated conversation that is even more difficult. In addition, people are very sensitive to tone, and a negative tone along with bad news will likely increase their motivation for revenge in the future.

**Temperate Phrasing**  Temperate phrasing involves choosing language carefully to deliver a message that will not provoke the other side. Instead of telling the other party to “shut up and listen,” one can say “may I finish my sentence before we move onto the next topic.” Provocative language may provide some flair to the conversation in the short term and allow one to impress or hurt the other party, but the goal during difficult conversations is to ensure that the other party hears and understands the message as clearly as possible. Temperate phrasing is an important way to increase the probability of that happening.