Chapter 1
The Nature of Negotiation

Overview

Everyone negotiates, almost daily. Negotiations occur for several reasons: (1) to agree on how to share or divide a limited resource, such as land, or money, or time; (2) to create something new that neither party could do on their own; or (3) to resolve a problem or dispute between the parties. After reading this book, you should be prepared to recognize negotiation situations; understand how negotiation works; know how to plan, implement, and complete successful negotiations; and, most importantly, be able to maximize your results.

Learning Objectives

1. Understand the definition of *negotiation*, the key elements of a negotiation process, and the distinct types of negotiation.
2. Explore how people use negotiation to manage different situations of interdependence—that is, that they depend on each other for achieving their goals.
3. Consider how negotiation fits within the broader perspective of processes for managing conflict.
4. Gain an overview of the organization of this book and the contents of its chapters.

Chapter Outline

I.   A Few Words About Style and Approach

For most people, *bargaining* and *negotiation* mean the same thing; however, we will be quite distinctive in the way we use the two words.
- Bargaining: describes the competitive win–lose situations (haggling).
- Negotiation: refers to win–win situations (to find mutually acceptable solutions).

Many people assume that the "heart of negotiation" is the give-and-take process used to reach an agreement.
- Give-and-take is extremely important, but negotiation is a very complex social process, where many of the most important factors that shape the negotiation occur *before* the negotiation or shape the context *around* the negotiation.

The author's insights are drawn from three sources.
- Personal experience.
- Media—television, radio, newspaper, magazine, and the Internet.
- Social science research.

II.   Luis and Tracy Catalan

An illustrative tale of negotiation.

III. Characteristics of a Negotiation Situation

Negotiation is a process by which two or more parties attempt to resolve their opposing interests and one of several mechanisms by which people can resolve conflicts. Negotiation situations have fundamentally the same characteristics.

- There are two or more parties.
  - ° Negotiation is a process *between* individuals, *within* groups, and between groups or organizations.
- There is a conflict of needs and desires between two or more parties.
  - ° What one wants is not necessarily what the other one wants, and the parties must search for a way to resolve the conflict.
- The parties negotiate by *choice!*
  - ° We negotiate because we think we can improve our outcome or result, compared with not negotiating or simply accepting what the other side offers.
  - ° It is a strategy pursued by choice; seldom are we required to negotiate.
  - ° There are times to negotiate and times not to negotiate.
- When negotiating, a give-and-take is expected (see Box 1.1).
  - ° To reach an agreement, both sides will modify their opening statement to find a middle ground; they compromise.
  - ° Truly creative negotiations may not require compromise; instead, the parties may invent a solution that meets the objectives of *all* parties.
- The parties prefer to negotiate and search for agreement rather than to fight openly, have one side dominate and the other capitulate, permanently break off contact, or take their dispute to a higher authority to resolve it.
  - ° Negotiation occurs when the parties prefer to invent their own solution for resolving the conflict, when there is no fixed or established set of rules or procedures for how to resolve the conflict, or when they choose to bypass those rules.
- Successful negotiation involves the management of *tangibles* and also the resolution of *intangibles*.
  - ° Tangible factors: the price or the terms of agreement.
  - ° Intangible factors (the underlying psychological motivations that may directly or indirectly influence the parties during a negotiation) have an enormous influence on negotiation processes and outcomes.
    - ◊ It is crucial for negotiators to understand how they affect decision making and tangible outcomes.
  - ° Examples of intangible factors include:
    - ◊ the need to "win" or avoid losing;
    - ◊ the need to look "good" to those you're representing;
    - ◊ the need to defend an important principle or precedent in a negotiation;
    - ◊ the need to appear "fair" or "honorable" or to protect one's reputation; or
    - ◊ the need to maintain a good relationship with the other party.
  - ° Intangibles are often rooted in personal values and emotions.

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Intangibles become a major problem in negotiation when negotiators fail to understand how they are affecting decision making or when they dominate negotiations on the tangibles. See Box 1.2 and included here.

◊ There are times when the urge to win overwhelms logic. There are several key factors that may play into this situation.
- Rivalry.
- Time pressure.
- The spotlight—or an audience.
- The presence of attorneys.

IV. Interdependence

Working interdependently allows parties to achieve a possible outcome that is better than they could achieve by working on their own.

Most relationships between parties may be characterized in one of three ways: independent, dependent, or interdependent.
- *Independent* parties are able to meet their own needs without the assistance of others.
- *Dependent* parties must rely on others for what they need; the dependent party must accept and accommodate to that provider's whims and idiosyncrasies.
- When the parties depend on each other to achieve their own preferred outcome they are *interdependent*; they are characterized by interlocking goals.
  ° See Box 1.3 for a perspective on interdependence and the importance of intangibles from a famous agent who represents professional athletes in the negotiated contracts.

A. Types of Interdependence Affect Outcomes

The interdependence of people's goals, and the *structure* of the situation in which they are going to negotiate, strongly shapes negotiation processes and outcomes.
- *Zero-sum*, or *distributive*: Competitive situation where there is only one winner.
  ° The individuals are so linked together that there is a negative correlation between their goal attainments.
  ° To the degree that one person achieves their goal, the other's goal attainment is blocked.
- In a *mutual-gains* situation, also known as a *non-zero-sum* or *integrative* situation, there is a positive correlation between the goal attainments of both parties.
  ° To the degree that one person achieves their goal, the other's goals are not necessarily blocked, and may in fact be significantly enhanced.

B. Alternatives Shape Interdependence

Evaluating interdependence also depends heavily on the desirability of *alternatives* to working together.
- BATNA: **B**est **A**lternative **T**o a **N**egotiated **A**greement.
  ° Whether you should or should not agree on something in a negotiation depends upon the attractiveness of your best available alternatives.

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    ° Negotiators need to understand their BATNA, as well as the other parties'.
    ° The value of a person's BATNA is always relative to the possible settlements available in the current negotiation.
    ° A BATNA may offer independence from, dependence on, or interdependence with someone else.
        ◊ Remember that every possible interdependency has an alternative; negotiators can always say "no" and walk away, although the alternative might not be a very good one.

V. Mutual Adjustment

When parties are interdependent, they have to find a way to resolve their differences.
- Mutual adjustment continues throughout the negotiation as both parties act to influence the other.
- Note that negotiation is a process that transforms over time, and mutual adjustment is one of the key causes of the changes that occur during a negotiation.

A. Mutual Adjustment and Concession Making

Negotiations often begin with statements of opening positions.
- Each party states its most preferred settlement proposal.

If the proposal isn't readily accepted by the other, negotiators begin to defend their own initial proposals and critique the others' proposals.
- Each party's rejoinder usually suggests alterations to the other party's proposal and perhaps a change in their own position.

When one party agrees to make a change in their position, a concession has been made.
- Concessions restrict the range of options within which a solution or agreement will be reached.
    ° When a party makes a concession, the *bargaining range*—the range of possible agreements between the two party's minimally acceptable settlements—is further constrained.

B. Two Dilemmas in Mutual Adjustment

Deciding how to use concessions as signals to the other side and attempting to read the signals in the other's concessions are not easy tasks, especially when there is little trust between negotiators. Two of the dilemmas that all negotiators face are the *dilemma of honesty* and the *dilemma of trust*.
- The dilemma of honesty concerns how much of the truth to tell the other party.
    ° Telling the other party everything about your situation may give that person the opportunity to take advantage of you.
    ° Not telling the other person anything about your needs and desires may lead to a stalemate.

- The dilemma of trust is how much negotiators should believe what the other party tells them.
  - ° If you believe everything the other party says, then they could take advantage of you.
  - ° If you believe nothing they say, then you will have a great deal of difficulty in reaching an agreement.

The search for an optimal solution through the processes of giving information and making concessions is greatly aided by trust and a belief that you're being treated honestly and fairly. Two efforts in negotiation help to create such trust and beliefs—one is based on perceptions of outcomes and the other on perceptions of the process.
- Outcome perceptions can be shaped by managing how the receiver views the proposed result.
- Perceptions of the trustworthiness and credibility of the process can be enhanced by conveying images that signal fairness and reciprocity in proposals and concessions (see Box 1.4).
  - ° When people make a concession, they trust the other party and process far more if a concession is returned.
  - ° The pattern of give-and-take is essential to joint problem-solving in most interdependent relationships.
  - ° Satisfaction with negotiation is as much determined by the process through which an agreement is reached as with the actual outcome obtained.

VI.   Value Claiming and Value Creation

Earlier, we identified two types of interdependent situations—zero-sum and non-zero-sum.
- Zero-sum, or *distributive*, situations are ones in which there can be only one winner or where the parties are attempting to get the larger share or piece of a fixed resource.
- In contrast, non-zero-sum, or *integrative* or *mutual gains*, situations are ones in which many people can achieve their goals and objectives.

The structure of the interdependence shapes the strategies and tactics negotiators employ.
- In distributive situations, negotiators employ win–lose strategies and tactics.
  - ° This approach to negotiation—called *distributive bargaining*—accepts the fact that there can only be one winner given the situation and pursues a course of action to be the winner.
  - ° The purpose of this type of negotiation is to *claim value*—to do whatever is necessary to claim the reward or gain the largest piece possible.

In contrast, in integrative situations the negotiators should employ win–win strategies and tactics.
- This approach to negotiation—called *integrative negotiation*—attempts to find solutions so both parties can do well and achieve their goals.
- The purpose of the negotiation is to *create value,* or find a way for all parties to meet their goals and share the reward.

Most negotiations are a combination of claiming and creating value. There are significant implications to this:

- Negotiators must be able to recognize situations that require more of one approach than the other.
  - ° Generally, distributive bargaining is most appropriate when time and resources are limited, when the other is likely to be competitive, and when there is no likelihood of future interaction with the other party.
  - ° Most other situations should be approached with an integrative strategy.
- Negotiators must be versatile in their comfort with and use of both strategic approaches.
  - ° Not only must negotiators be able to recognize which strategy is most appropriate, but they must be able to employ both approaches with equal versatility.
- Negotiator perceptions of situations tend to be biased toward seeing problems as more distributive/competitive than they really are.
  - ° Accurately perceiving the nature of the interdependence between the parties is critical for successful negotiation, though most negotiators fail to do so.
  - ° Research shows that people are prone to several systematic biases in the way they perceive and judge interdependent situations.
  - ° More in Chapter 6 about biases, but for now, the predominant bias is seeing interdependent situations as more distributive or competitive than they really are.
  - ° As a result, there is a tendency to assume a negotiation is more zero-sum than it may be and to *overuse* distributive strategies for solving the problem.
  - ° As a consequence, negotiators often leave value on the table at the end of their negotiations because they failed to recognize opportunities for creating value.

Successful coordination of interdependence has the potential to lead to synergy, which is the notion that "the whole is greater than the sum of its parts."

Value may be created in numerous ways, and the heart of the process lies in exploiting the differences between the negotiators. The key differences include:

- Differences in interests.
  - ° Negotiators seldom value all items in a negotiation with equal weight.
  - ° Finding compatibility in different interests is often the key to unlocking the puzzle of value creation.
- Differences in judgments about the future.
  - ° People differ in their evaluation of what something is worth now or in the future.
  - ° How parties see the present and what is possible that needs to be created—or avoided—can create opportunities for the parties to get together.
- Differences in risk tolerance.
  - ° A company with a cash flow problem can assume less risk of expanding its operations than one that is cash-rich.
- Differences in time preference.
  - ° One negotiators may want to realize gains now, while the other may be happy to defer gains into the future.

° Differences in time preferences have the potential to create value in a negotiation.

While value is often created by exploiting common interests, differences can also serve as a basis for creating value. Negotiators must learn to manage conflict effectively in order to manage their differences while searching for ways to maximize their joint value.
- Managing conflict is the focus of the next section, see also Box 1.5.

VII. Conflict

A potential consequence of interdependent relationships is conflict. Conflict arises:
- When the strongly divergent needs of the two parties.
- From misperceptions and misunderstandings.
- When the two parties are working toward the same goal and generally want the same outcome.
- When both parties want very different outcomes.

Negotiation can play an important role in resolving conflict effectively.

A. Definitions

Conflict may be defined as a sharp disagreement or opposition, as of interests, ideas, and so on and includes the perceived divergence of interest or a belief that the parties' current aspirations cannot be achieved simultaneously.

Conflict results from the interaction of interdependent people who perceived incompatible goals and interference from each other in achieving those goals.

B. Levels of Conflict

One way to understand conflict is to distinguish it by level. Four levels of conflict are commonly identified.
- *Intrapersonal or intrapsychic conflict*.
    ° These conflicts occur within an individual.
    ° Sources of conflict can include ideas, thoughts, emotions, values, predispositions, or drives that are in conflict with each other.
- *Interpersonal conflict*.
    ° This is conflict between individuals.
    ° Conflict occurs between co-workers, spouses, siblings, roommates, or neighbors.
    ° Most of the negotiation theory in this book is drawn from studies of interpersonal negotiation and directly addresses the management and resolution of interpersonal conflict.
- *Intragroup conflict*.
    ° This is conflict within a group—among team and work group members and within families, classes, living units, and tribes.
- *Intergroup conflict*.
    ° This is conflict between organizations, ethnic groups, warring nations, or feuding families or within splintered, fragmented communities.

    ° Negotiations at this level are the most complex.

C. Functions and Dysfunctions of Conflict

Most people believe that conflict:
- Is an indication that something is wrong, broken, or dysfunctional.
- Creates largely destructive consequences.

Elements that contribute to conflict's destructive image include:
- *Competitive, win–lose goals*
  - ° Parties often compete because they believe their goals are in opposition and both cannot simultaneously achieve their objectives.
- *Misperception and bias*
  - ° As conflict intensifies, perceptions become distorted.
  - ° Thinking tends to become stereotypical and biased.
- *Emotionality*
  - ° Parties may become anxious, irritated, annoyed, angry, or frustrated.
  - ° Emotions overwhelm clear thinking, and the parties become increasingly irrational as the conflict escalates.
- *Decreased communication*
  - ° The communication that does occur is often an attempt to defeat, demean, or debunk the other's view or to strengthen one's own prior arguments.
- *Blurred issues*
  - ° Generalizations abound.
  - ° The parties become less clear about how the dispute started, what it is "really about," or what is necessary to solve it.
- *Rigid commitments*
  - ° The parties become locked into positions.
  - ° Thinking processes become rigid, and the parties tend to see issues as simple and "either/or," rather than as complex and multidimensional.
- *Magnified difference, minimized similarities*
  - ° Parties begin to see each other's positions as polar opposites.
  - ° They believe they are further apart than they really may be; hence, they may work less hard to find common ground.
- *Escalation of the conflict*
  - ° Both sides believe that by adding more pressure (resources, commitment, enthusiasm, energy, etc.), they can force the other to capitulate and admit defeat.
  - ° Conflict escalation and commitment to winning can increase so high that the parties will destroy their ability to resolve the conflict.

These are the processes commonly associated with escalating, polarizing, "intractable" conflict. However, conflict has many *productive* aspects. Figure 1.1 outlines some of these productive aspects.

Conflict is not simply destructive or productive; it is both.

- The objective is not to eliminate conflict but to learn how to manage it to control the destructive elements while enjoying the productive aspects.
- Negotiation is a strategy for productively managing conflict.

D. Factors That Make Conflict Easy or Difficult to Manage

Figure 1.2 presents a conflict diagnostic model.
- The model offers some useful dimensions for analyzing any dispute and determining how easy or difficult it will be to resolve.
- Conflicts with more of the characteristics in the "difficult to resolve" column will be harder to settle, while those that have more characteristics in the "easy to resolve" column will be settled quicker.

VIII. Effective Conflict Management

The two-dimensional framework is represented as the *dual concerns model* (Figure 1.3). The model postulates that individuals in conflict have two independent levels of concern:
- Concern about your own outcomes—shown on the vertical dimension of the figure.
- Concern about the other's outcomes—shown on the vertical dimension.
  - ° Concerns can be represented at any point from none (representing very low concern) to high (representing very high concern).
  - ° The vertical dimension is referred to as the cooperativeness dimension, and the horizontal dimension as the assertiveness dimension.

Five major strategies for conflict management have been identified in the dual concerns model:
- *Contending* (also called competing or dominating).
  - ° This is the strategy in the lower right-hand corner.
  - ° These negotiators pursue their own outcomes strongly and show little concern for whether the other party obtains their desired outcomes.
  - ° Threats, punishment, intimidation, and unilateral action are consistent with a contending approach.
- *Yielding* (also called accommodating or obliging).
  - ° This is the strategy in the upper left-hand corner.
  - ° Negotiators show little interest or concern in whether they attain their own outcomes, but are quite interested in whether the other party attains their outcomes.
  - ° This strategy "lets the other win" and may seem strange but has advantages in some situations.
- *Inaction* (also called avoiding).
  - ° This is the strategy in the lower left-hand corner.
  - ° Negotiators show little interest in whether they attain their own outcomes, as well as little concern about whether the other party attains their outcomes.
  - ° Inaction is synonymous with withdrawal or passivity; the party prefers to retreat, be silent, or do nothing.
- *Problem-solving* (also called collaborating or integrating).
  - ° This strategy is in the upper right-hand corner.

- ° Negotiators show high concern for attaining their own outcomes and high concern for whether the other party attains their outcomes.
  - ° The two parties actively pursue approaches to maximize their joint outcome from the conflict.
- *Compromising* is the strategy located in the middle.
  - ° Compromising represents a moderate effort to pursue one's own outcomes and a moderate effort to help the other party achieve their outcomes.
  - ° Compromising may be a viable approach to conflict, or it may represent laziness or a cop-out.

Each conflict management strategy has its own distinct advantages and disadvantages and can be more or less appropriate to use, given the type of interdependence and conflict context. See Figure 1.4.

IX. Overview of the Chapters in This Book

The book is organized into 12 chapters.
- The first five chapters address the "fundamentals of negotiation."
  - ° In addition to this first overview chapter, Chapters 2 and 3 explore the basic strategy and tactics of distributive bargaining and integrative negotiation.
  - ° Chapter 4 explores how parties can plan and prepare a negotiation strategy and effectively anticipate their encounter with the other negotiator.
  - ° Finally, in Chapter 5, we discuss whether there are, or should be, accepted ethical standards to guide negotiations.
- The next three chapters explore critical negotiation subprocesses.
  - ° In Chapter 6, we discuss how a negotiator's perceptions, cognitions, and emotions tend to shape (and often bias) the way the negotiator views and interprets bargaining interaction.
  - ° Chapter 7 examines the processes by which negotiators effectively communicate their own interests, positions, and goals and make sense of the other party's communications.
  - ° Chapter 8 focuses on power in negotiation; the chapter begins by defining the nature of power and discussing some of the dynamics of using it, followed by an exploration of the key sources of power available to most negotiators.
- Much of the discussion thus far assumes that the negotiation parties do not all have an established long-term relationships.
  - ° Chapter 9 looks at ways that established relationships impact current negotiations and considers three major concerns—reputations, trust, and fairness—that are particularly critical to effective negotiations within a relationship.
  - ° In Chapter 10, we examine how negotiations change when there are multiple parties at the table—such as negotiating within groups and teams—who are attempting to achieve a collective agreement or group consensus.
  - ° In Chapter 11, we examine how different languages and national culture changes the "ground rules" of negotiation. This chapter discusses some to the factors that

   make international negotiation different, and how national culture affects the
   rhythm and flow of negation.
- Finally, in Chapter 12, we reflect on negotiation at a broad level. We look back at
the broad perspective we have provided, and suggest 10 "best practices" for those
who wish to continue to improve their negotiation skills.

Chapter Summary

People negotiate almost daily, sometimes for major things like a new job, other times for relatively minor things, such as who will take out the trash. Negotiations occur to create something new or to resolve a problem or dispute between parties.

Characteristics common to all negotiation situations include two or more individuals, groups, or organizations, interpersonal, intragroup, or intergroup process. There is a conflict of interest between two or more parties. The parties negotiate because they think they can use some form of influence to get a better deal. The parties prefer to search for agreement rather than fight openly, have one side capitulate, permanently break off contact, or take their dispute to a higher authority to resolve it. When you negotiate, expect to give and take. Successful negotiation involves the management of intangibles as well as the resolving of intangibles.

Interdependent relationships are characterized by interlocking goals; the parties need each other in order to accomplish their goals. A necessary step in all negotiation is to clarify and share information about what both parties really want as outcomes. When one party accepts a change a concession has been made. When a party makes a concession, the bargaining range is confined closer to one or both sides' limits or resistance point. Two dilemmas all negotiators face are honesty and trust. Negotiators must understand the nature of the interdependence of the parties. Negotiators are seldom identical and may include differences in interest, opinions, risk aversion, and time preferences. The other potential consequence of interdependent relationships is conflict, which has several levels including intrapersonal or intrapsychic, interpersonal, intragroup, and intergroup. One of the most popular areas of conflict management research and practice has been to define the different ways that the parties themselves can manage conflict. Each conflict management strategy has its advantages and disadvantages and is more or less appropriate given the type of conflict and situation in which the dispute occurs.