

GETTING READY TO NEGOTIATE¹

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INTRODUCTION

Many people excel at creativity and improvisation when they negotiate. Preparation often is not considered a fundamental part of the negotiation process; intuition is valued more. Nevertheless, a new, broader view of the negotiation process is gaining favor. Having a well-honed sense of intuition is important for achieving success in negotiations, however business executives, government leaders and other professionals who negotiate complex matters are now blending these gut instincts with systematic preparation. Each day, more and more people are recognizing that careful preparation is a key ingredient for success in negotiations.

People do not prepare for a negotiation for three reasons: (1) they do not see any great value in preparation; (2) they are too busy to invest their precious time in preparation; or (3) they do not know how to prepare in a way that will yield results. People assume that there is no need to prepare when they are negotiating in low risk situations, or they feel they know enough about the subject matter to “wing it.” Unfortunately, unprepared negotiators surrender the initiative in negotiations to their more prepared counterparts and deprive both sides of their creativity. Negotiators who feel that preparation takes too much time fail to recognize that good preparation means efficient conversations at the negotiation table and generally an overall time savings. Finally, a lot of negotiators choose to rely strictly on their instincts simply because they do not know what effective preparation looks like.

This article is written for the emerging group of modern negotiators who recognize the value of preparation and would find the time to prepare, if only they knew how to do it well. It provides professionals with practical guidelines for preparing for any negotiation and includes pragmatic preparation tools necessary for efficient and effective negotiations. Applying the ideas and tools that follow will allow anyone to prepare systematically and comprehensively for any negotiation.

The connection between preparation and negotiation is usually misunderstood and undervalued. Often, the problems that arise in negotiations are the consequence of a lack of preparation by one or more sides. The preparation guidelines that follow are “theory for practitioners.” They have been tested in many situations by some of the most experienced negotiators in the world. We believe they will help you too.

IN A HURRY?

Good preparation need not take a lot of time; clear thinking and a few minutes of focused attention will dramatically improve your effectiveness. A systematic approach will help you get your head around the negotiation and fully understand the key issues. One basic premise to our recommendations is that in any negotiation there are seven elements to consider – interests, options, alternatives, legitimacy, communication, relationship and commitment (please see box #1).

¹ This article was based on the book “Getting Ready to Negotiate – The Getting to Yes Workbook” written by Roger Fisher and Danny Ertel, Penguin Books, 1995. This article will be published in Argentina, Brazil, Colombia, Ecuador, Peru, Uruguay and Venezuela in each country’s preeminent business & management periodicals during the first quarter of 1998.

BOX #1

Interests

Interests are not positions. Positions are the parties' demands; interests are the underlying reasons for these demands: their needs, concerns, desires, hopes and fears. The better an agreement satisfies the parties' interests, the better the deal.

Options

Options are the full range of possibilities on which the parties might conceivably reach agreement. Options are, or might be, put "on the table." An agreement is better if it is the best of many options, especially if it exploits all of the potential mutual gain in the situation.

Alternatives

Alternatives are the walk-away possibilities that each party has *if an agreement is not reached*. In general, neither party should agree to something that is worse than its "**BATNA**" – its **Best Alternative To a Negotiated Agreement** – "away from the table."

Legitimacy

Legitimacy refers to the perceived fairness of an agreement. An agreement will leave both parties feeling fairly treated to the extent that it is based on external benchmarks, criteria, or principles beyond the control of either party. Such external standards of fairness include laws and regulations, industry standards, current practice, and general principles like reciprocity or precedent.

Communication

The quality of communication in a negotiation depends on both the level of mutual understanding and the efficiency of the process. In high quality communication, the receiver of a message understands the sender's intended meaning. That is, even if they disagree, the parties understand each other. High quality communication is also efficient in that negotiators minimize the resources expended in coming to agreement or in deciding to discontinue negotiations.

Relationship

Most important negotiations are with people or institutions with whom we have negotiated before and will negotiate again. In general, a strong working relationship empowers the parties to deal well with their differences. Any transaction should improve, rather than damage, the parties' ability to work together again.

Commitment

Commitments are oral or written statements about what a party will or won't do. They may be made during the course of a negotiation, or they may be embodied in the agreement reached at the end of the negotiation. In general, an agreement will be better to the extent that the promises made have been well planned and well-crafted so that they will be practical, durable, easily understood by those who are to carry them out, and verifiable if necessary.

Time is always a scarce resource for the busy executive. With that in mind, we have classified our structured preparation techniques into three categories:

Sudden Prep is a quick scan of the negotiation map; it should help you get a feel for what the negotiation is about and where it may go.

Priority Prep is useful when you need to focus on only certain negotiation elements.

Full Preparation is a comprehensive preparation useful for complex negotiations.

SUDDEN PREP

The sudden prep is intended to provide quick help for brief negotiations or when you are short on time. It is a good way to get started on a more in-depth preparation, and may by itself be sufficient for that five-minute telephone negotiation. The sudden prep will require only a few minutes to systematize your thinking and clarify your ideas and feelings towards the negotiation.

The sudden prep focuses only on four of the seven negotiation elements: interests, options, alternatives, and legitimacy. The sudden prep is based on answering the following five questions before going into a negotiation:

- Interests** What do I really care about (my wants, needs, concerns, hopes, and fears)?
 What do I think the other side really cares about (their wants, needs, concerns, hopes, and fears)?
- Options** What are all the possible agreements that we might reach?
- Alternatives** What can I do to obtain what I want from somewhere else if we can't reach agreement?
- Legitimacy** What are some external standards or precedents that might convince one or both of us that a proposed agreement is fair?

PRIORITY PREP

Not every negotiation is the same. The elements that are in play will vary in importance depending on the situation. In some negotiations, the parties distrust each other, and in others, the problem is one of multiple complex issues. In such negotiations, it can be useful to focus as much of your preparation time as possible on a few key areas rather than doing a complete seven element analysis. In order to prioritize which elements to focus on, a diagnosis of the upcoming negotiation will help you make good decisions about how to invest your time. We suggest the following questions to help you with this process:

- Interests** Are we quarreling about our positions? Why? Have I prioritized the issues? Am I confused about them? Have I considered what I would want if I were in their shoes?
- Options** Does the situation look as though one party must win, the other lose? Have we reached a stalemate? Are the interests compatible? Should we jointly brainstorm possibilities?
- Alternatives** Do I feel I must reach agreement? Do I assume they have to? Do I feel that one of us is more powerful? Do I know what both of us will do if there is no agreement?
- Legitimacy** Am I concerned that I may get ripped off? Am I being treated unfairly? Will any of us have to explain to others why we agreed to what we did?
- Communication** Am I ready to listen empathetically to whatever they say? Do I know what I want to listen for? Do I know how to speak in ways that will make them want to listen?
- Relationship** Is the working relationship likely to be difficult? Might it be difficult for me to talk about money with them? Could this negotiation damage our relationship?
- Commitment** Am I approaching the time to make a decision? Is there more to do, after we both say "yes"? Am I clear on who has authority to make the commitments?

If one or more of these questions seem central to your negotiation, you should focus your preparation on the corresponding elements. You can use the process described below to help you prepare in depth on the specific elements that seem most relevant.

FULL PREPARATION

When the stakes are high in an upcoming negotiation, preparation takes on greater importance. At a minimum, we recommend doing either the **Sudden Prep** or the **Priority Prep**. For some negotiations, however, these two approaches may be a good beginning but not enough to fully prepare you to negotiate. For complex, high value and high risk negotiations, a thorough preparation, considering in depth each of the seven elements, is essential. Below are some guidelines for completing a full negotiation preparation.

INTERESTS

Everyone that enters into a negotiation has interests. Interests are different from positions, which are only one of the ways in which interests can be satisfied. If you get too attached to your position, you will miss the many other ways in which your interests can be achieved. Therefore, to argue for a position keeps the focus of the negotiations away from the main issue: satisfying each side's interests.

Most people do focus on positions instead of interests, locking themselves into an initial demand. This initial demand becomes the focus of the negotiations, distracting the parties from their real focus: their interests. A positional approach stifles creativity and creates a tension between relationship and substance.

When one side only thinks about what they themselves want, the other side's interests probably will not be acceptably met, with the result that they will have no incentive to close a deal. Thinking about the other side's interests does not mean that one party should advocate or fight for the other, but rather that understanding the other's interests helps both sides create a mutually acceptable agreement.

Working productively with interests involves looking for them behind both the other side's positions and our own. By probing for underlying interests, both sides can work towards the goal of finding different ways in which to satisfy the interests on the table.

THREE STEP PROCESS FOR FOCUSING ON INTERESTS:

1. To better understand the interests, begin by identifying all the parties involved, directly or indirectly. All persons or groups (constituents, friends, family, boss, etc.) that can be affected by the negotiation might have some influence on its outcome. Consequently, to avoid surprises in the future, it is a good idea to consider all the persons or groups involved from the start.
2. After identifying all the people involved, it is time to clarify each party's interests (yours, theirs and any third parties). Asking, "*What do I/he/they care about?*", even when you are guessing, will help you articulate the possible interests of the different parties. Then group the interests by affinity.
3. Having clarified all the interests, you should then delve into each one, asking "*Why?*" and "*For what purpose?*" until you discover the real underlying interests. Allocating 100 points among the interests in proportion to their relative importance helps prioritize yours and estimate how the other side prioritizes theirs.

OPTIONS

Options are the different ways in which interests can be satisfied. Normally a negotiator will stick to a single position, being unprepared to come up with different ideas that might satisfy her interests at least equally well or maybe even better. Another mistake is to see the negotiations as an attempt to resolve differences or reach consensus, which leads the parties to "least common denominator" solutions. Value that could have been created out of the differences is lost.

To avoid these common mistakes, the negotiator should change his mindset from "*How can I get the bigger share?*" to "*How might we make more together?*" Having a clear understanding of the interests at stake will help the negotiators create more value and, as a consequence, better options. Some ways of creating value are:

- Build economies of scale if the parties share similar skills and resources.
- Dovetail different skills and resources to create something neither could do alone.
- Consider options for joint benefit in all situations, as opposed to separate or independent benefit.

Some of the differences that most commonly allow the creation of value are:

Risk	Some people would accept money to take it, others would pay to avoid it.
Timing	What is expensive today can be cheap tomorrow (e.g. after Xmas sales).
Perceptions	Agreeing to keep a secret and not create a precedent can make possible the payment of a higher price.
Marginal value of the same item	Someone who makes shoes might want to trade an extra pair for some food, instead of having dozens of pair of shoes and starve.

TWO STEP PROCESS FOR CREATING BETTER OPTIONS:

1. Create options to meet the interests. The negotiator should list all of his and his counterpart's interests in order of relative importance, then try to develop possible options for satisfying all of the interests.
2. Maximize joint gains. Take an inventory of all the skills and resources each of the parties has, and try to explore both their similarities and differences in order to create value as shown above.

ALTERNATIVES

Alternatives are different from options; they are ways, outside of the negotiation, to satisfy your interests. Because not all negotiations result in agreement, choosing your alternative and walking away is a likely end to any negotiation. Since an alternative can be better or worse than any agreement, a negotiated agreement will be good if it satisfies your interests better than your alternatives would. Good preparation means assessing your BATNA – Best Alternative To a Negotiated Agreement – to determine how well it satisfies your interests.

Most people tend to ignore their BATNA and enter a negotiation without knowing what they will do if they do not reach an agreement. Others assume they know what their BATNA is and miss the chance to think more creatively about it. This is true of unions that always think of a strike as their BATNA and fail to consider the power of lobbying, public relations, job-slowdowns or work-to-rule as alternatives in their negotiations.

The BATNA can be a powerful tool if appropriately used. Always know your own BATNA and consider theirs. You should know your BATNA not in order to use it as a weapon for pressuring them to give in, but instead to help you focus on what you really want and the different ways to achieve it, as well as to have as a defense against bad deals. Although you may never know for sure what their BATNA is, it is a good idea to consider their BATNA in order to better understand the likelihood that they will walk away from the negotiation. Another strategy is to strengthen your BATNA, thus guaranteeing a better result independent of the negotiation's outcome: if you walk away, you have a better BATNA waiting for you, and if you reach an agreement, it will have to be better than your newly enhanced BATNA.

FOUR STEP PROCESS FOR UNDERSTANDING YOUR ALTERNATIVES:

1. Think of all your alternatives to a negotiated agreement. List your interests and what could be done to satisfy them outside of the negotiation. It is useful to weigh the pros and the cons of all the possible alternatives.
2. Do the same for the other side.
3. Select your BATNA among your alternatives. Write down why this is your BATNA and some concrete steps to improve it before you go into the negotiation.
4. Estimate their BATNA among their alternatives. Write down what you would do in their place, and ask yourself in which legitimate ways you could worsen their BATNA.

LEGITIMACY

Inevitably interests conflict. It has been proven that it is more persuasive to have fair arguments than to be stubborn. Fair arguments are not naively intended to be nice, rather they effectively work both as a sword to persuade others and as a shield to protect ourselves from being unfairly treated. Fair outcomes frequently come from external standards of fairness. Those external standards give legitimacy

to the process and avoid struggles of willpower among the parties. They also facilitate the explanations the negotiators will have to give to their constituents.

Many negotiators ignore legitimacy altogether and either have to use threats, bluffs or lies, or pile on concessions, to get what they want. Many more fail to think about how the other party will acceptably explain the agreement to their constituents, which reduces the chances of an agreement being voluntarily enforced. Many other negotiators consider legitimacy, but think of only one objective rationale. These negotiators commonly get attached and positional towards their sole argument, just changing the object of their willpower struggle – rather than “my position versus yours”, it becomes “my argument versus yours”.

Negotiators should develop a range of fairness arguments instead of having only one “right” answer. Be aware of the fact that fair does not necessarily mean equal, and consider “fair” processes whenever it is hard to find external standards or principles. “Fair” processes are ways of deciding an issue that have intrinsic appeal to both sides because they feel reasonable or seem to avoid giving an unfair advantage to any of the parties. Prepare to give the other party standards that will also look legitimate and persuasive to his constituents, so that they will comply gracefully with the agreement.

THREE STEP PREPARATION FOR ENHANCING YOUR LEGITIMACY:

1. Discover external standards that can be used as a sword and as a shield. List the specific substantive issues in the negotiation and the possible standards related to them. Then, order the standards from the least favorable to the most favorable. Finally, write down other relevant standards that require further research.
2. Prepare to use the fairness of the process to come to a persuasive answer, in case you cannot agree on any answer. Then try the test of reciprocity: analyze whether you would find your standards adequate if you were in the other party’s shoes.
3. Offer them an attractive way and elegant arguments to explain the agreement to their constituents.

COMMUNICATION

In a negotiation, communication is the art and science of listening and talking effectively. With good communication, misunderstandings are avoided, and negotiations become easier and more efficient. If you spend time thinking of effective and clear ways to communicate your messages and listen to theirs, the negotiation will probably be faster and simpler.

People tend to rehearse lines as preparation for communication, which tends to cause rigidity and hamper perspective and attention to the conversation. Another mistake is to ignore possible blind spots or what impact, different than intended, our messages (both words and actions) could have on others. No one will ever be able to predict all the different impacts her messages can have, but an awareness of this phenomenon is already a great step toward minimizing its effects in the negotiation.

The negotiator should prepare for two-way communication; negotiators often neglect to think about listening. They do not know what to expect to hear from the other parties, or how to recognize a message that will confirm or question their assumptions. Talking requires finding ways to invite the other side to hear you, which makes it easy for them to listen to you. This may require reframing statements until you communicate precisely what you intend.

TWO STEP PREPARATION TO COMMUNICATE BETTER:

1. Question your assumptions and identify things to listen for. Become aware of your assumptions by listing them, then jot down some possible things to listen for from your counterpart that could help you question these assumptions.
2. Reframe statements to help others understand them. Write down some of the statements that will most likely put forth your interests. Try to see how your counterpart might hear your

statements by saying “*Yes, but...*” Lastly, try to restate your interests, as many times as necessary, until you feel that they will hear you better.

RELATIONSHIP

Frequently the element in a negotiation that causes people the most anxiety is the working relationship. To have a good working relationship means that the people involved have the ability to handle their differences efficiently, not that the different parties are required to like each other or share any values or interests. Some of the ways to build an effective working relationship are to increase mutual understanding, build trust and respect, encourage mutual persuasion (not coercion), enable everyone to keep reason and emotion in balance, and enhance communication.

People frequently confuse relationship and substance and try to fix problems in relationships with substantive concessions or vice versa. It will not work to try to fix relationships through substance or substance through relationship. The most likely consequence of failing to address each issue on its own (e.g. relationship problems with relationship solutions) will be that the other side will learn to manipulate the relationship in order to get substantive concessions.

Assuming that relationships are a “given” and that whatever problems happen are “their fault” makes it easy to free yourself from the responsibility of improving the situation. Assuming that you have no control over relationships and always blaming others for every problem is not only unproductive, it is contradictory. Everyone has some level of responsibility for the productivity of a relationship.

A negotiator should prepare to address relationship (reliability, mutual acceptance, emotions, etc.) and substance (money, terms, dates, and conditions) independently. First identify the substantive issues and the relationship issues, then figure out how to deal with each issue on its own merit. Another useful step for a negotiator to take is to prepare to be unconditionally constructive in improving the relationship. By taking responsibility for the relationship, you are also, to some extent, taking partial control over it. To be unconditionally constructive means to do those things that will help improve the relationship, whether or not the other side reciprocates.

TWO STEPS TO IMPROVE YOUR RELATIONSHIP:

1. Separate relationship issues from substantive issues, initially by describing your relationship with as many adjectives as possible. Then separate the different problems into two different lists, one for relationship and the other for substance. After that, list possible solutions to each problem separately.
2. Prepare to build a good working relationship. Initially, write down “*What might be wrong now?*” like the causes of misunderstandings, mistrust, feelings of coercion, disrespect or aggravation. Then figure out “*what you can do...*” such as understand them better, demonstrate reliability, focus on persuasion, show respect and balance emotion with reason.

COMMITMENT

Commitments are made at the conclusion of a negotiation, if the parties have not decided to walk away. Good commitments are clear, well planned and durable. To draft better commitments, the negotiators should come to the table with an idea of where they would like to end up; this will guide them in charting out a plan for getting there. Knowing what you want to accomplish at each meeting will make a big difference in what you discuss and how you discuss it.

Habitually people make commitments without knowing what “done” looks like. They assume that everyone knows what the meeting is about and consequently fail to determine those actions needed to reach agreement. Many unprepared people discover that, throughout a negotiation, there were many more issues than they had anticipated and, furthermore, that the parties had divergent expectations of what the product of the meeting should be. Without knowing where everyone wants to go and how to get there, the negotiator will lack knowledge of the sequence of events required to reach an agreement. A decision does not always translate into action; the necessary steps to make it come about have to be well thought out.

Good preparation for a negotiation should include a plan for operational commitments, with a full, but flexible, list of issues and a consideration of what it will actually take to implement the agreements that are reached on these issues. Before every meeting, clarify its purpose, product and process so that people can get what they want out of it; there will also then be no waste of time and energy talking about issues that are not related to the specific meeting. Ultimately, plan the process for getting to a commitment and the sequence of meetings or issues; this will enhance coordination and communication. Draft a durable and operational draft of a deal and how you could put it together. Sequencing the necessary events will help you organize getting to the commitments you want.

COMMITMENT: THE TWO STEP PREPARATION:

1. Identify the issues to be addressed in the agreement. Describe the overall purpose and the expected product of the negotiation (including the operational and durable draft of an agreement). Then, write down the specific purpose and the tangible product of the next meeting if there might be one.
2. Plan the steps to agreement. Initially find out who the real decision-makers are, then figure out the information necessary to conclude the agreement, the implementers that need to be consulted, and the possible obstacles and ways to deal with them. Finally, put on paper the steps necessary to get to a binding agreement, in terms of what each meeting is aiming for:
 - i) Tentative agreement on issues
 - ii) Clarification of interests
 - iii) Discussion of options
 - iv) Draft of a framework agreement
 - v) Joint working draft of possible agreement
 - vi) Final text to be signed

MOVING FROM PREPARATION TO NEGOTIATION: *GETTING READY TO AGREE*

While this article focuses on negotiation preparation, we have one final word on the negotiation itself. Our best advice is that you deal with the negotiation as if it was a joint preparation session. The negotiation would then become a joint problem solving meeting where both parties could use the preparation tools described here to find the best possible outcome for all sides. Even if this joint approach is not possible and only one side is well prepared, the investment in preparation will pay off in better negotiated results. With your preparation, you can help your counterpart prepare to agree.

CONCLUSION

It is hard to change the way we are used to doing things, to practice new ideas in the real world, or to try out a new idea alone. In order to get the most value from this article, there are a few simple things that can be done to enhance your negotiation preparation skills.

- After a negotiation, ask yourself “What worked well for me/them?” and “What could I/they do differently next time?”
- Practice at your own learning speed, begin with low-risk cases, or just work with one element at a time.
- Try to get help from a colleague who is also interested in improving his/her negotiation skills, so that you will have someone to help you improve.

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