



Welcome to MWI's Negotiation Skills Workshop

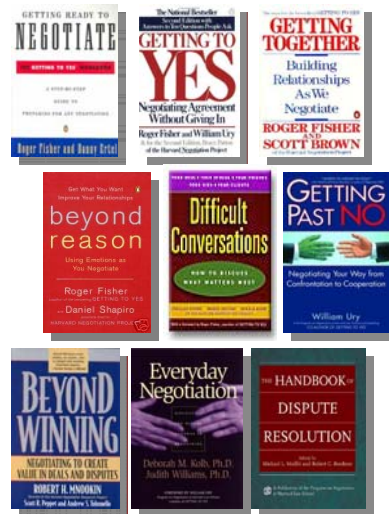
NALP
Annual Education Conference
April 4, 2009

Workshop Purposes

- Increase Awareness
- Introduce Analytical Frameworks
- Enhance Skills
- Provide a Low-Risk Learning Environment



History of MWI



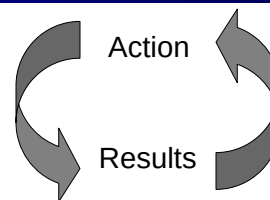
- Since 1994, MWI has provided dispute resolution training and services to a range of clients worldwide including:
 - Analog Devices, Inc. (ADI)
 - Coca-Cola Enterprises
 - CVS Caremark
 - Iron Mountain
 - Visa International
- MWI's Negotiation Programs are based on the work of Roger Fisher, co-author of 'Getting to Yes', and his colleagues at the Harvard Negotiation Project (HNP)

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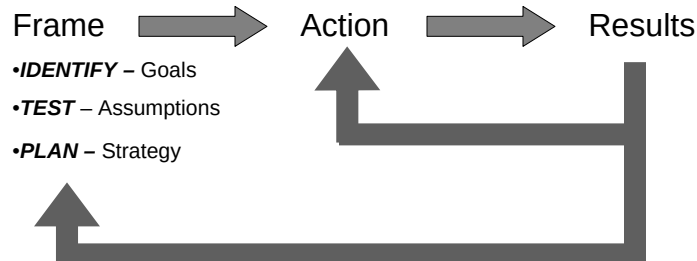
HISTORY

Common vs. Strategic Loops

Common Loop:



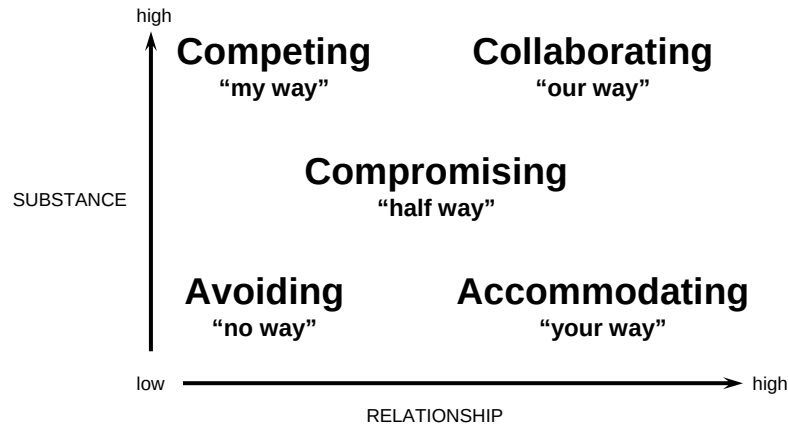
Strategic Loop:



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AWARENESS

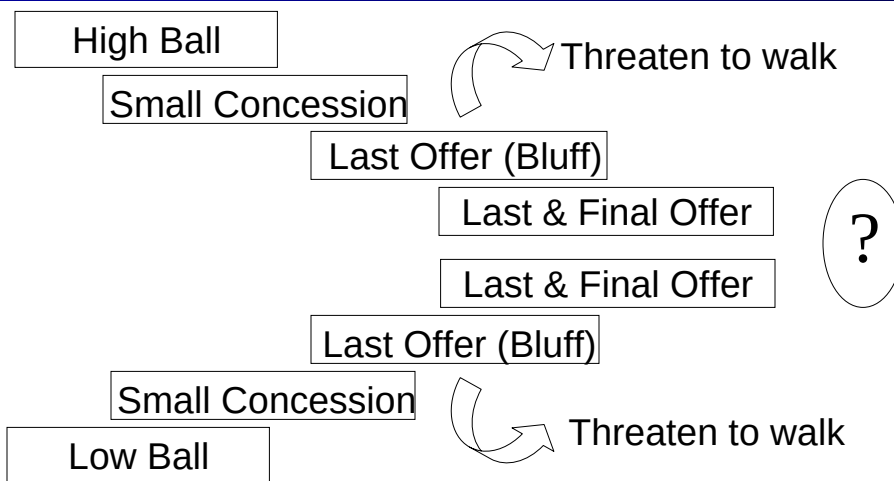
Negotiation Styles



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AWARENESS

Positional Haggling



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AWARENESS

What is Your Definition of Success?

Typical definitions of success through Positional Haggling or other “less principled” approaches include:

- They make more concessions than you do
- Brinksmanship
- Reached a deal (*any* deal)
- It *feels* fair
- Didn’t “give in” (to your own detriment?)
- You “win”



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AWARENESS

A Framework for Negotiation

- INTERESTS
- OPTIONS
- ALTERNATIVES
- OBJECTIVE STANDARDS
- COMMUNICATION
- RELATIONSHIP
- COMMITMENT



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FRAMEWORK

The Seven Elements: *Interests*

- *Definition*
 - The needs, concerns, goals, desires and fears that inform parties' actions, and underlie their positions in negotiation
- *Measure of a good outcome:*
 - Satisfies both parties' interests in order to make a durable outcome
- *Note*
 - **Interests** are different than **positions**
 - Positions are not the only way to meet our interests



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FRAMEWORK

The Seven Elements: *Options*

- *Definition*
 - The range of possibilities on which the parties might agree
- *Measure of a good outcome:*
 - Maximizes creative potential
 - Leaves no joint gain on the table
- *Note*
 - Options are created "On the table"



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FRAMEWORK

The Seven Elements: *Alternatives*

- *Definition*
 - Things we can do either by ourselves or with a third party, without the other side's agreement. Our **"BATNA"** is our **Best Alternative To a Negotiated Agreement**
- *Measure of a good outcome:*
 - Any agreement made should be better than our BATNA
- *Note*
 - **Alternatives** are different than **Options**
 - Alternatives are created "Away from the table"



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FRAMEWORK

The Seven Elements: *Objective Standards*

- *Definition*
 - The use of outside criteria to help the parties determine a range of fairness
- *Measure of a good outcome:*
 - Result perceived as fair; no one feels taken
- *Note*
 - Objective standards may include: law, precedent, community standards, expert opinion, industry regulations, contract language and market prices



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FRAMEWORK

The Seven Elements: *Communication*

- *Definition*
 - The exchange of thoughts, messages or information by speech, signals, writing, physical cues or other actions
- *Measure of a good outcome*
 - Effective, Efficient and Authentic
 - Message sent = Message received
 - Speaker feels heard and the listener feels involved
- *Note*
 - Don't assume we understand or have been understood



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FRAMEWORK

The Seven Elements: *Relationship*

- *Definition*
 - The quality of interaction between negotiators
- *Measure of a good outcome:*
 - The process used today improves our ability to negotiate tomorrow
- *Note*
 - Treat every relationship as long term
 - Having a good working relationship does not mean we always agree



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FRAMEWORK

The Seven Elements: *Commitment*

- *Definition*
 - An agreement about what each party will or will not do
- *Measure of a good outcome:*
 - Sufficient / Realistic / Operational
- *Note*
 - There are many possible degrees of commitment – drafts, joint recommendations, agreement in principle, binding contracts



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FRAMEWORK

Proposed Definition of Success

An optimal agreement is one that:

- Meets both sides' **Interests**
- Is the best of many **Options**
- Is better than a party's **Best Alternative To a Negotiated Agreement**, our **BATNA**
- Is based on **Objective Standards** that is supported by criteria that is viewed as fair by both sides
- Improves, supports, or at least does not damage, the **Relationships**
- Is based on clear **Communication**
- Involves **Commitments** that are realistic and operational



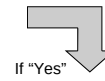
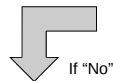
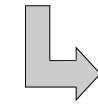
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FRAMEWORK

A Framework for Success

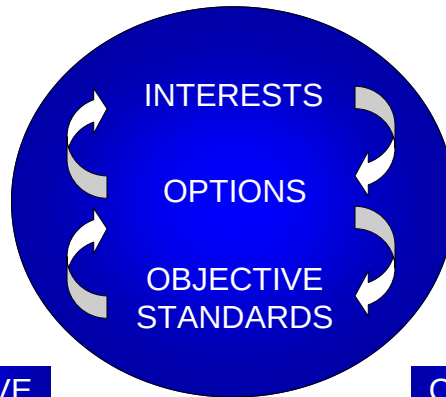
COMMUNICATION

RELATIONSHIP



ALTERNATIVE

COMMITMENT



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Preparing to Negotiate

PARTIES/POSITIONS: Who are the parties and what are they demanding?

OBJECTIVE STANDARDS: Standards of fairness recognized by both parties.
Industry standards, precedents, company policies, laws, expert opinions, etc.

INTERESTS: What motivates the parties to negotiate: their goals, hopes, needs...

RELATIONSHIP: The quality of interaction and the level of trust.

Our Interests:

Their Interests:

Describe current relationship:

Describe future ideal relationship:

OPTIONS: What we could do together to meet our interests. Possible solutions.

COMMUNICATION: How messages are sent and received by each party

Questions to ask (inquiry):

Messages to send (advocacy):

ALTERNATIVES: What each party can do on their own to meet their interests.

COMMITMENT: How you will negotiate and what the end result will look like.

What we would do if no agreement:

What they would do if no agreement:

Plan to explicitly discuss process: Meeting agenda ID attendees & roles
Length and number of meetings
Ground rules and guidelines

Plan to explicitly discuss outcomes: Expected outcomes Dispute resolution
Agreement structure



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FRAMEWORK

Preparing to Negotiate

- Use the Seven Elements Framework to analyze and prepare for your negotiation
- Fill in the categories on the Seven Element Prep Sheet
 - Not a “stepped” process – move back and forth between the elements as necessary
 - Use one set of elements to inform/feed into the other
 - Begin as far in advance as possible – proper preparation takes time



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FRAMEWORK

Preparing to Negotiate

- PARTIES:
 - Identify the parties in the negotiation
 - What are they demanding?
 - What are you demanding?
- INTERESTS:
 - What are your interests? What are their interests?
 - NOTE: You can only *speculate* about their interests and must always test your assumptions



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FRAMEWORK

Preparing to Negotiate

- OPTIONS:
 - What creative options can you generate together that would maximize value for all parties?
 - Is there anything you could offer that would be of high value to them and low cost to you?
- ALTERNATIVES:
 - What are your/their alternatives if agreement is not reached?
 - NOTE: You can only *speculate* about their alternatives and must test your assumptions
 - NOTE: Take your time to increase and improve your alternatives



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FRAMEWORK

Preparing to Negotiate

- OBJECTIVE STANDARDS:
 - What standards can help define a “fair agreement” for both parties?
 - NOTE: Finding applicable standards requires research and diligence
- RELATIONSHIP:
 - What is the relationship like now?
 - How would you like it to be? Similar? Different?
 - What steps will you take to achieve the desired results?



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FRAMEWORK

Preparing to Negotiate

- COMMUNICATION:
 - What messages would you like to send?
 - What information would you like to receive?
 - How will you convey that information?
- COMMITMENT:
 - What processes can you discuss and commit to?
 - What type of agreement would you like to leave with?



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FRAMEWORK

Ground Rules for Negotiating

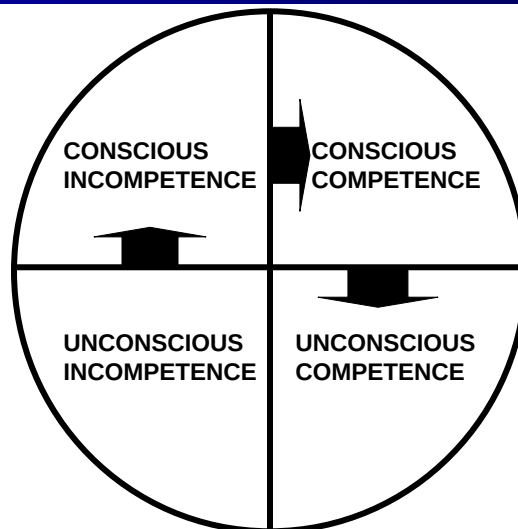
- Instructions are confidential
 - Don't share them
- Instructions are summaries
 - Fill in the blanks, but don't change the facts
- Be prepared: don't read
- Don't be a bully or a pushover
- Reaching agreement is not necessary
 - Return on time
- If you finish early, try to improve the deal and/or give each other feedback/coaching



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FRAMEWORK

Learning Cycle



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APPLICATION

Going Forward: Continuing the Learning Process

- Practice, Practice, Practice
- Negotiate with yourself to prepare for your negotiations early, often and consistently
- Read and re-read "Getting To Yes" and see bibliography in the back of this manual for suggested titles on basic and advanced negotiation topics
- Prepare in groups with your colleagues
- Consult an expert for advice/suggestions in difficult situations



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APPLICATION

About MWI

MWI is dedicated to providing innovative dispute resolution services and training to corporate, institutional and individual clients seeking to resolve difficult disputes. The following provides an overview of the dispute resolution services and training provided to clients since 1994.

Negotiation and Mediation Training Programs:

- Collaborative Negotiation Skills
- Dealing with Difficult Negotiators and Tactics
- Getting Past No
- Manager as Negotiator
- Mediation Skills Training

Dispute Resolution Services

- Business and Workplace Mediation Services
- Facilitation Services
- Organizational Ombuds
- Divorce Mediation Services
- Dispute Management System Design

Please visit www.mwi.org/negotiation or contact MWI at 800-348-4888 for more information.



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OVERVIEW



MEDIATION WORKS INCORPORATED

MWI Negotiation Note Sheet

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PARTIES / POSITIONS: Who are the parties and what are they demanding?

Us:

Them:

INTERESTS: What motivates the parties to negotiate; their goals, hopes, fears, needs, etc...

Our Interests:

Their Interests:

OPTIONS: What we could do together to meet our interests. Possible solutions to be put on the table.

ALTERNATIVES: What each party can do on their own to meet their interests away from the table.

What we would do if no agreement:

What they would do if no agreement:

ID your BATNA (Best Alternative To A Negotiated Agreement)

ID their BATNA (Best Alternative To A Negotiated Agreement)



MEDIATION WORKS INCORPORATED

MWI Negotiation Note Sheet

www.mwi.org

OBJECTIVE STANDARDS: Standards of fairness recognized by both parties.

Industry standards, precedents, company policies, laws, expert opinions, etc...

RELATIONSHIP: The quality of interaction and the level of trust.

Describe current relationship:

Describe future ideal relationship:

COMMUNICATION: How messages are sent and received by each party.

Questions to ask (inquiry):

Messages to send (advocacy):

COMMITMENT: How you will negotiate and what the end result will look like.

Plan to explicitly discuss process:

☐ Meeting agenda ☐ Identify attendees, decision makers and roles

☐ Length and number of meetings ☐ Ground rules and guidelines

Plan to explicitly discuss outcomes:

☐ Expected outcomes of each meeting and a definition of success

☐ Agreement structure (Memorandum of understanding? Signed contract?)

☐ Dispute Resolution Process Clause - 1) negotiation 2) mediation 3) arbitration

Questions? Contact MWI at <negotiation@mwi.org> or 800.348.4888