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Optimizing negotiation processes:

PHASE 2 – THE PREPARATION OF THE NEGOTIATION

#2/4

Your Access to Efficient Negotiations

Introduction

A structured and systematic approach to preparation is one of the surest way to increase the quality and efficiency of a negotiation.

The present guide is conceived as a short guide. It contains the most important questions which one should always think over prior to a negotiation.

On pages 16 and 17, you can also write down the questions which you could/should ask the other party during the negotiation (in order to discover what you do not know; to check whether your assumptions regarding their point of view and interests are correct; to benefit from their ideas; etc.).

It is worthwhile to coordinate the preparation of a negotiation together with the other party – i.e.: to suggest that each one uses this booklet and reflects upon the same questions. (This approach enables to get much quicker to the heart of the matter once the negotiation starts instead of pussyfooting around, thereby losing a lot of time and energy.)

This booklet is the second one in a series of four. The other three deal with the other phases of an optimal negotiation process:

- Phase 1 – setting a negotiation in motion
- Phase 3 – the negotiation itself
- Phase 4 – the debriefing of the negotiation

Organization of the negotiation
Working relationship
 Perceptions (points of view)
 Motives (interests)
 Creating value (options)
 Claiming value (criteria)
 Unilateral moves

<p>Do we have some relationship problems at a personal or institutional level with the other party (accusations, animosity, rancor, etc.)? Which ones? Why?</p>	<p>Does the other party have some relationship problems at a personal or institutional level with us (accusations, animosity, rancor, etc.)? Which ones? Why?</p>

<p>Do we trust the other party (institutionally / individually)?</p>	<p>Does the other party trusts us (institutionally / individually)?</p>

Observation: regarding the organization of the negotiation, please refer to the first booklet / "Phase 1: Setting a negotiation in motion".

What should we do to prevent or resolve people-related problems and relationship issues which could play a role during the negotiation?

Should we suggest some *ground rules*¹ that will help us have a productive conversation – and if yes, which ones?

What should we do to promote mutual trust?



People- or relationship-related problems need to be addressed first! As long as they are not being dealt with and resolved, relationship issues make it much more difficult to resolve the issues of substance. If you are angry with the other party, not saying it will usually not help: your unspoken anger will still influence your thinking – but not being aware of the problem, the other party will not be able to take it duly into consideration.

¹ Common rules: Only one person will speak at a time and no one will interrupt when another person is talking; at the same time, each person will avoid grandstanding and digressions in order to move the deliberations forward / No personal attacks / If something is not clear for someone, he or she will simply ask for clarification / Expressing an idea does not mean making a commitment / If the dialogue is disturbed, the problem will be addressed immediately and solved jointly / etc.

Organization of the negotiation
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<p>What is our perception of the main topics to be discussed and of the main issues to be resolved?</p>	<p>What is probably the point of view of the other party regarding the main topics to be discussed and of the main issues to be resolved?</p>

<p>In case of a conflict: from our perspective, how did the current situation come into being? What is our version of the story?</p>	<p>In case of a conflict: what created it in the opinion of the other party? What is probably his/her/their version of the story?</p>

What should we do and, in particular, which questions should we ask in order to discover and understand the point of view of the other party (→ pages 16 -17)?

How could we motivate the other party to take note of our point of view and to think over it? ²

Are there significant differences between us with regard to (national, professional, organizational) culture, values or beliefs which could complicate the negotiating on and if so, how shall we address this? ³

2 e.g.: make clear that we only express our perception, our view of the points to be taken into consideration, our interpretation of what happened – and not pretend that our version of the story is the only one to be true

3 e.g.: address openly the differences; involve a third person who is familiar with both cultures; speak slowly; make sure to have enough time to exchange the respective perceptions (as they are heavily influence by culture)

1 Setting in Motion → 2 Preparation → 3 Negotiation → 4 Debriefing

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<p>What are the needs and fundamental interests that the result of the negotiation should allow us to fulfill?</p>	<p>What are probably the needs and fundamental interests that the result of the negotiation should allow the other party to fulfill?</p>



Remember the difference between "interests" and "positions"! Ask yourself which interests could lie behind a position. Question the way you formulate your own objectives: *why* are they important for you to achieve? And when you put an interest on the list, ask yourself whether there is something even more important underneath. Asking "why" over and over again is the best way to uncover the true interests, either yours or theirs.

Looking at those two lists of interests, where do we seem to have common, conflicting and/or simply different interests?

a) Common interests

b) Conflicting interests

c) Different (neither common nor conflicting) interests

Is there an *overriding goal*⁴, which both sides may want to achieve and if so, which one?

Which are the interests of other people, who are not directly involved in the negotiation, which we should take in consideration?

⁴ An overriding goal must reflect some key interests of both sides. It has to be ambitious and specific enough, in order to be motivating. Achieving it should maximize the mutual benefits resulting from an agreement. Once an overriding goal has been endorsed, it will serve as a beacon – showing in which direction both parties are trying to navigate together in view of their common interests, irrespective of all difficulties and obstacles.

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How could mutual gains be created based upon our common interests?

Which *creative question*⁵ should we ask in order to find ideas which would enable to satisfy at the same time our interests and theirs?

⁵ Creative question: an open question which addresses one important interest of each party and stimulate joint problem-solving thinking – e.g.: "What could we do together to reduce your costs while at the same time maintaining our profitability?"

Could our respective skills and resources be combined differently in order to generate additional mutual benefits and if so, how?

Could the scope of the negotiation be enlarged in order to increase mutual gains or help reconcile conflicting interests and if so, how?



This is the only part of your preparation which you should not spend too much time on! To find good options which might create value on both sides, you need to brainstorm together with the other party – i.e.: you cannot invent them alone. If you develop too detailed ideas and proposals, you run the risk of becoming too attached to them; you will then be tempted to "sell" them to the other party – and they will probably not "buy" them, because they did not co-invent them.

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<p>Which commonly accepted <i>criteria and standards</i>⁶ could we propose in order to resolve our conflicts of interests in a fair way?</p>	<p>Which criteria and standards might the other party suggest to use instead?</p>

⁶ Example of neutral criteria: market prices, benchmarks, official indices, laws and regulations, court decisions, common practices, precedents, technical norms and standards, etc. Neutral criteria are characterized by the fact that they are independent from the sole will of one of the parties. Therefore, neutral criteria can be accepted by all parties as being legitimate and fair.

<p>How could we convincingly argue that the criteria which we prefer are both relevant and legitimate?</p>	<p>How might the other party argue that those criteria which are favorable to them are the most relevant ones?</p>

If neutral criteria and standards cannot be identified, which *fair procedure* ⁷ could be followed in order to resolve conflicting interests and make sure that the final agreement is perceived by both sides as being legitimate?

Are there some negotiations in which the other party is facing a similar problem to the one that we have to resolve? If so, which kind of solution do they adopt themselves in those cases?

⁷ Example of fair processes: neutral expertise, arbitration, auctions, joint preparation of a business plan, fifty-fifty, „I split, you choose“, etc. What those processes have in common is the fact that their outcome cannot be influenced by anyone of the parties alone.

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<p>What can/will we do if an agreement can't be reached – i.e.: what are our <i>walk-away alternatives</i>⁸ and which one of them is the most attractive for us?</p>	<p>What is the other party likely to do if an agreement can't be reached? What is most probably their most attractive <i>walk-away alternative</i>?</p>

⁸ A "walk-away alternative" is a unilateral initiative which a party can take autonomously (i.e.: without having to ask the other party) and which allows it either to leave the negotiation while still satisfying its interests in an acceptable way, or to prompt the other party to start negotiating more constructively. Examples: chose another supplier, make an alliance with another partner, build up a coalition, give up on a sales prospect and pursue other opportunities, go to court, start a lobbying campaign, go on strike, simply say "no" and maintain the status quo, etc.

What should *we* certainly do before the negotiation starts in order to build up a walk-away alternative or to strengthen the one which we already have?

Which legitimate initiatives could/should we take away from the table in order to reduce the attractiveness of *their* walk-away alternative?

And finally: which questions should we certainly ask the other party?



Do's and don'ts regarding questions:

- Questions should be asked with the sole purpose of discovering something that one does not know – and not with the goal of obtaining the answer which one would like to hear.
- Rhetorical questions (loaded, suggestive or trick questions) should be avoided. Asking them deteriorates the quality of the working relationship with the other party and incentivizes them to give a wrong answer – i.e.: to lie.
- In order to "harvest" a lot of information, one should ask open questions – i.e.: questions which cannot be answer by "yes" or "no" because they start with words like "what", "why", "why not", "what if", "how", etc. The usefulness of closed questions is much more limited: they enable only to verify whether a statement or an assumption is correct (yes) or not (no).

In order to get "good" answers, one needs to ask "good" questions – and whether a question is good or bad is a judgment made by the other party!



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Opportunities and risks in the negotiation process

