

## Creative Negotiation



The very thought of negotiating sounds intimidating, yet we are all experienced negotiators. Any time we come to an agreement on anything, we are negotiating. Some of it we may do somewhat subconsciously, such as deciding who says hello first, or holding a cattle gate open for another rider to pass through. Determining where to go out for dinner with your spouse, or asking your daughter for help in training a colt also involves negotiation. More traditional issues we associate with negotiation may include agreeing on (1) a pruning price with your vineyard crew, (2) how much you are going to pay to have your postharvest cooling shed constructed, or (3) what you will get for your export cherries.

One thing that these examples have in common, is that they involve people.

Many of us developed a love for agriculture based on our love for farm animals and plants. We may at first be surprised to see instead, what a large portion of our day involves interacting with people. We can take specific steps to become more effective negotiators.

Negotiation skills include being well prepared, showing patience, maintaining integrity, avoiding the presumption of evil, controlling our emotions, understanding the role of time pressures, breaking down bigger issues into smaller ones, avoiding threats and manipulative tactics, focusing first on the problem rather than on the solution, seeking interest-based decisions, and rejecting weak solutions. We shall visit these later in this chapter.

Much of this book incorporates negotiation principles in one way or

another. This chapter is presented as a way to help us think through challenging day-to-day situations, especially those for which we may not find direct answers in the book. I find that it helps to keep a mental or written notebook on how we react to difficult situations. Certainly, we have lots of opportunities to practice.

While still focusing on agricultural labor management, it is my hope in this chapter to expand to other *people issues* that affect us. Whatever improvements we make in one area of our lives tend to spill over to other areas, such as the home, ranch, business dealings, or sports. For those of you who operate a family farm, many such distinctions are already blurry.

Scenarios interspersed throughout this chapter allow you to practice negotiation skills. Set aside your reading after each scenario, and think through all the issues that may be involved. How do you think you would react? Put yourself in the place of each of the players. Only after considering each scenario separately should you move on to find out how they were resolved.

While resolutions are provided for most of the scenarios, they may *not* reflect the best or worst possible outcome. Furthermore, what is *best* for one stakeholder may not be for the other. You may want to ask yourself how

these individuals could have arrived at a better solution. Finally, the scenarios are not necessarily intended to reflect the topic discussed in that section.

*Interest-based (or integrative) negotiation* is built upon the principle of meeting the needs of all the individuals or “stakeholders.” This frequently calls for creative thinking that goes beyond the poorly thought out compromise—such as those arrived at when there is a rush to solve before we have made an effort to comprehend. A deep understanding of the underlying challenge is required for a long-term solution. Many conflicts that on the surface seem to be purely about resources often have significant components related to issues of participation, face saving, relationships, and identity. For interest-based negotiation to work, people have to be able to share their needs and fears. Otherwise, how can individual needs be met if they are closely guarded. Stakeholders, furthermore, must be able to retain a sense of ownership over framing such needs and fears. All of this is not always possible or easy to accomplish. Interest-based negotiation, then, is contrasted against either competing (win/lose) or compromising approaches.

“Deep conflict requires a tremendous exertion of psychological and physical energy. ... Such conflict may be creatively transformed when adversaries come to learn, ironically perhaps, that they may fulfill their deepest needs and aspirations only with the cooperation of those who most vigorously oppose them.”<sup>1</sup> As we saw in Chapter 13, while discussing deep-seated interpersonal conflict, people are more willing to listen when they feel that they have been heard and have a sense of control over the outcome.

In more traditional (or competitive) negotiations, people often attempt to convince the other side of the merit or justice of their proposal. “If the other side understands our ideas,” we reason, “surely they will agree with us.” Merit and justice still play a role in interest-based negotiation, but so does exploring for solutions that meet mutual needs.

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## SCENARIO 18-1

## We Want A Raise

Seven tractor drivers walked into a farm manager's office. These men had worked for the farm enterprise for several years. "We are all here," one of them began, slowly gathering confidence as he spoke, "because we want a raise." The farm manager, somewhat stunned, turned around to look at each of them in disbelief. "How dare these guys come here, all together, and try and intimidate me into giving them a raise," he thought, but no words came out of his mouth. Two of the tractor drivers did most of the talking and insisted that the manager either give them a raise or they would quit.

## So, what happened?

The manager called the tractor drivers on their bravado or bluff, or so he thought. Soon he found himself without a single equipment operator, as they had all quit in masse. When the farm foreman in that operation went to town to purchase some parts a few hours later, he saw one of the tractor drivers walking aimlessly through town. The tractor driver explained that he had no idea how he would face his wife. How he would tell her he had lost a job he had held for over five years. The foreman acted quickly, and the situation was somewhat salvaged, as the farm manager was able to convince four of the tractor drivers to come back and work for him.

Not everyone finds the interest-based concept easy to swallow, however. "Traditional negotiation techniques suggest you hide your true business needs and goals..." explains a grape grower who looks at the idea of interest-based negotiation with a certain amount of distrust. "Once the other side gets a hold of your real needs, they will strangle you with that knowledge."

A little caution, if not cynicism, may well be necessary to survive. While we can attempt to model effective negotiation strategies when dealing with others, at times we may have to resort to a more traditional approach. Research has demonstrated, for instance, that those who are willing to "play to win," if so forced, yet prefer a mutually productive approach, may be more credible negotiators.

Daniela, a young employee in one corporation, had heard of the difficult reputation developed by John, one of the agricultural technicians, but she had never had any difficulties with this individual. Daniela approached John one day and found him sitting with his feet up on a table, reading a magazine. She apologized for disturbing him, assuming that perhaps this might have been his break period.

"John, when you can, could you please pick up some parts for me in town?" Daniela asked politely. John

answered rather curtly, "Right now?" She was not going to be intimidated, and responded, "That will work great for me, thanks!" John continued to show difficult behaviors with other individuals, but from then on never showed Daniela any discourtesy. I am not suggesting that Daniela took the very best approach available, but it served her well on that occasion.

The catch is that once people get caught up in competitive negotiation, it is often hard to step back and see clearly enough to work through difficulties in a collegial manner. A third person to help mediate may be needed (see Chapter 13). Traditional negotiation approaches have sometimes been described as including competition, yielding, withdrawal, or compromise. No one approach is always right or wrong.

Competing means one person gets his way. Or at least it seems so at first. In the long run both parties often end up losing. It does little good, for instance, to get a wonderful contract for your new swine facility, if the contractor is left with such a small profit margin that she goes out of business before completing it.

At one dairy, the incentive was to get done quickly. Employees were paid for the full shift even if they got done early. As one milker was washing his boots and preparing to go home, his



*In some situations yielding can be a virtue, but not always. When we stop caring, we often withdraw physically or emotionally.*

supervisor asked if he could work into the next shift. When the milker got his paycheck, he was not given credit for the free time he had accumulated (as a result of quickly finishing his first shift). No amount of arguing helped convince his supervisor of how unfair this seemed. The milker refused any overtime work in the future. This is a perfect example of a win-lose outcome turning into a lose-lose scenario.

Competition tends to focus on a particular episode, rather than on long-term viability; on the present goal, rather than on the long-term relationship. I know a retired manager who brags that his subordinates soon learned “he was not always right—but always *the boss*.” Although this manager may have obtained worker compliance from his winning tactics, I doubt he got much in terms of employee

commitment. Losers often hold grudges and find ways of getting even.

Should not a farmer try to obtain a good price for her apricot crop? Or get the best possible deal when buying that new piece of farm machinery? What about one-time situations, where you will never see another again in your life?

Hidden in these questions are deeper issues. Surely, there *are* times when we bargain with the idea of getting the best possible results. In some cultures, people are offended if you pay the asking price without bargaining. However, many times in life we think we are dealing with a one-time situation only to find that we have to negotiate or interact with that individual again.

*Yielding* (unilateral concessions at the expense of the person doing the giving in). We are most likely to yield if we feel there is little chance of winning,

## SCENARIO 18-2

## Leading by Example

A foreman forced his will on the crew, but did it for a good cause. “No harm,” he thought, “I am just trying to maximize all of our efforts.” One day the crew workers were hungry and wanted to stop for lunch. The foreman wanted to get just a little more work done before lunch and kept them going for another hour before breaking to eat. He could tell that a few workers were mumbling a bit, but he thought, “I am hungry too, I can wait for another hour, and so can they.”

**So, what happened?**

“We were all very upset about this,” one of the crew workers explained, speaking of the resentment felt at not being able to stop for lunch at the appointed hour. “The next time the foreman tried to make us work past lunch time we all walked off and left him fuming. The foreman told us to never do that to him again, but from

then on he respected our need to stop at noon.”

*Looking back* at scenarios 18-1 and 18-2, how have these farm operations been affected? What challenges do you think they may face in the future? How did the idea of “saving face” enter each of these situations? Even though some of the tractor drivers came back to work for the grower, do you think they will stay with him, or will they be looking for other work? Is there anything the farm manager could do now to improve the situation with the tractor drivers? How about the foreman, what can he do to recover the respect that has been lost?

Some of the remaining scenarios will be broken down into multiple parts before the final resolution is given. Consider each of these parts fully in terms of what you would do, before reading what happened next. Some scenarios do not have a follow up and leave you to reflect upon the issue.

or if the outcome is more important to the other person than to us. “An angry co-worker began to shout and push me trying to pick a fight, and I left,” a dairy worker explained. “For some reason I let it go and just backed away and left.” The milker reflected that in his more youthful times he was a hothead and probably would have fought back. Instead, when the dairy farmer returned, the worker reported the abusive incident to the dairyman, who fired the co-worker.

In some situations yielding can be a virtue, but not always. A person who continues to yield sometimes stops caring. I do not see any harm in the occasional business yielding, or a balanced yielding among spouses, or even the frequent yielding obedience of a child to a parent or teacher. There are two specific types of yielding that concern me: (1) if saying yes today means living with frustration or resentment tomorrow, yielding is not a virtue; and related to that, (2) when we

repeatedly agree to go along with a weak solution, this is not appropriate yielding, either (e.g., because we want to avoid disagreement at all costs, or feel coerced). When we stop caring, we often withdraw physically or emotionally.

*Compromise* (mutual concessions where both parties yield some). Some compromises involve an arrangement somewhere between two positions; others may mean alternating the beneficiary. An example of the former is paying 20 cents per vine pruned when management wanted to pay 18 cents and crew workers asked for a quarter. An instance of the latter may involve alternating who gets to use the computer when there is limited computer time. While some issues lend themselves well to compromise, many others do not.

Compromise takes a measure of goodwill, trust and maturity, but not much creativity. Why is it that finding a middle ground can provide so little long-term satisfaction? Compromise

## SCENARIO 18-3

*Housing Arrangements*

*Part I.* A horse breeder was facing some stress related to an employee living in a ranch-provided home. Actually, *not living* in the home would be a better description. The employee's wife had kicked him out a few weeks ago, and he was now sleeping in his pickup. It was important for the horse breeder to get his employee back in the house. They would soon be leaving for an important equestrian competition, and he just did not want to leave the issue up in the air.

**So, what happened?**

*Part II.* The first step the horse breeder took was to find out if there was anything he could do to help repair the marriage difficulties. He offered to pay for marriage counseling. The wife was surprised and grateful that the farmer cared enough and agreed to let him know the next day. When the next day arrived, she informed the horse breeder that she had opted against counseling and had made up her mind that she was leaving her husband. While the horse breeder did not want to sound crass, he did want to know when she would vacate the home.

**So, what happened?**

*Part III.* The breeder knew that if the worker's wife pushed the issue, she

could stay in the housing for quite a while. After talking a bit, the opportunity was right and he asked, trying not to seem overly anxious, "What are your plans?" She explained that she would need to stay in this home for at least one month, "We need to get together some money for a rental, including one month's deposit."

**So, what happened?**

*Resolution.* The horse breeder first researched the cost of rental housing. When he approached the woman again, he was well prepared. "I realize it will be hard, but if you can manage to leave in two weeks, I will pay for one month's rental up to \$X," he explained. "I realize it will be even harder, but if you manage to vacate the home in only one week, I will pay for two month's rental for you, or up to \$2X." She was out in three days, after the horse breeder agreed to give her the cash instead of the rental payment.

How may this horse breeding farm scenario have changed if the farmer would have made the same bottom line offer to help with the rental, but would have inverted the sentences so that the offer for leaving in one week would have been brought up first? "I realize it will be hard, but if you manage to vacate the home in one week, I will pay for two month's rental for you, up to \$2X. If you leave in two weeks, however, I will pay for one month's rental up to \$X."

often involves lazy communication and problem solving. For many of us, the term compromise certainly has come to have a negative connotation. While mutual concessions may take place at any time in the negotiation process, all too often such compromising occurs before the challenge has been sufficiently understood, or more creative solutions considered.

Our human brain is incredibly capable when it comes to taking a huge amount of data, quickly digesting it, and coming up with the one best solution. This is good when it comes to making

quick decisions in emergencies and under time pressures. Unfortunately, making quick decisions can often deprive us of arriving at more effective, long lasting determinations. We are often too ready to accept a solution that seems to work, rather than the truly creative solution. The latter provides a sort of exhilaration. It is contagious. Once employees are involved to this degree, it is hard to turn back.

You may have heard the classic tale of two siblings who argued over who would get an orange. They compromised and split it in half. One ate half and

threw away the peel; the other, who was involved in a cooking project, grated the peel and discarded the rest.<sup>2</sup>

Compromise is good, especially when one considers the alternative, but creative or interest-based negotiation can provide much greater satisfaction.

What makes for an effective negotiator? Trustworthiness, for one, plays a huge role in successful negotiation. Dependability, honesty, and consistency are all part of trustworthiness. I often hear individuals involved in negotiations say, “I don’t trust that person.” It has also been said, “It is more important to be trusted than to be loved.”

As we break down negotiation talent into more specific skills, we can see that trust plays a large role in many, if not all, of them. When we lose trust for a person, we begin to discount them. In our mind they begin to become undependable and dishonest.

## PREPARE

To prepare effectively, one needs to know as much as possible about the situation and the personalities involved. Cost comparisons are essential when dealing with economic issues. Much has been written about being a smart shopper. Sometimes the most unexpected issues may come up. You may, for instance, have to face a worker who has come asking for a loan to bury a family member. One worker was struck by the tragedy of his young wife’s untimely death. He was going to have to pay \$4,700 for the funeral (not including the graveside plot). With a little calling around, the farmer’s wife discovered that the same service could be had for \$1,024. Sure, the second funeral home was not providing caskets that were as fancy, nor flowers. She figured that for those savings, they could purchase their own flowers.

Being prepared, may also mean understanding the style of the person you will be dealing with. For instance, if you are exporting your fruit to Asia and are meeting with prospective buyers, you may want to know as much as possible about the proper etiquette and



preferences of your guests. Should you plan to get right to the point, for instance, or take more time talking about other pre-negotiation issues? Is there a right or a wrong way to handle greetings? Even details such as how to accept a business card may play an important role in showing the potential buyers the proper respect. In some Asian cultures, for instance, the proper etiquette is to hold the card with both hands and take time to study it carefully. You keep the card before you throughout the meeting, rather than putting it away in your wallet. An effective way to prepare for very difficult or emotionally charged situations is to role-play ahead of time. Role-playing the opposite perspective can be particularly enlightening.

## SEARCH FOR CLARITY

As negotiators, it helps to learn about other people’s preferences and also make our own clear. One grower explained that it was hard enough to understand our own needs and preferences, let alone be able to concentrate on someone else’s. And perhaps that is one of the reasons why we do not see as frequent a use of interest-based negotiation. It does take a certain amount of effort, especially at first. With time, it can begin to feel more natural.

In the 1980s, when the non-smoking movement had not yet reached Chile, I

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taught a graduate course on labor management. Perhaps as many as 80 percent of my students smoked. I was clearly in the minority. I did not want to be rude, but I also knew that tobacco smoke would give me a headache. “I want to encourage everyone who wishes to smoke to do so whenever they wish,” I began. “Nevertheless, I would ask that you just step outside the classroom to do so.” This was taken positively, and several in the class even nodded their approval.

Part of effective preparation is considering the worst possible scenario, or “best alternative to a negotiated agreement” (BATNA).<sup>3</sup> I suppose that even not agreeing to negotiate is a form of negotiation. If we cannot come to an agreement, what is the worst possible outcome to this situation? If your neighbor has a dispute with you over water rights? If the only welding shop in town substantially raises their prices? If your son threatens to leave the dairy if you do not meet certain conditions?

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### SHOW PATIENCE

Effective negotiation frequently calls for a great amount of patience. Logic is not the only thing that prevails in bargaining efforts. There is a lot that comes into play in the form of interpersonal relations. Allowing other people, as well as ourselves, the time to work out problems is essential. When dealing with someone of a dissimilar culture, we may also need to allot additional time to work out an agreement.

Not coming across as *wanting something too much* is related to patience. When we become overly narrow as to the result we will accept, we put ourselves at a negotiation disadvantage. So it was when my wife and I bought our first home. We were so openly delighted with it, that we lost an opportunity to bargain much over price. Of course, there is a balance between being *desperate* and playing *hard to get*, neither of which is very positive.

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### MAINTAIN INTEGRITY

At a time when many decisions were made on a handshake, my parents invited all the children to a family conference. “Earlier this year,” they explained, “we came to an agreement with the winery for a price. Since then, many vineyards were affected by a terrible freeze, one that has meant a huge decline in supply. Had we waited a few more months before coming to an agreement on the price for our wine, we could have gotten a much better deal.” My parents asked each of their five children for their opinions. The answer was a unanimous agreement to honor the oral agreement. At the time, I felt impressed that my parents would ask for our input. Since then I have come to the conclusion that they knew the answer all along, but wanted to teach us an important lesson about integrity.

It is really impossible to have a discussion about trust and neglect the issue of integrity. Integrity in business and in every part of our lives is completely tied to our ability to be effective negotiators and be considered trustworthy.

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### AVOID THE PRESUMPTION OF EVIL

“And she didn’t even sign the e-mail!” the farmer complained. He had a bitter taste as a result of some dealings with a local government agency. In a world of increasing electronic correspondence, the possibilities for misunderstanding are ever increasing. When using e-mail, there is much we can do to become better communicators. Nevertheless, it is dangerous to assume that someone did not sign so she could offend us. This is especially so when the person’s name already appears as part of the e-mail address.

E-mail etiquette is no different than any other type of good manners. There is a great variation in what people consider polite. For instance, in some cultures it is considered good manners

## SCENARIO 18-4

## I Won't Work for That Foreman

*Part I.* A peach grower hired a foreman who was very effective. The grower noticed that jobs that used to take much longer to accomplish were being completed in a more timely fashion. The foreman was kind, but firm. However, some of the equipment operators, accustomed to work without supervision, highly resented having a foreman.

**So, what happened?**

*Part II.* The grower wanted to make sure the foreman was respectful of the employees, was giving them their proper breaks, providing them with cold water, and doing all the things a thoughtful foreman should do. This seemed to be the case. One of the most outspoken workers came to speak to him. Most of the other workers had adjusted to having a foreman, especially after the grower went out of his way to explain the foreman's duties, and how this would lighten the grower's load. The worker seemed agitated, and soon set out the ultimatum, "I will not work here with *this* foreman," he blurted out his feelings.

**So, what happened?**

*Part III.* Fifteen years ago this peach grower would have fired the crew worker for insubordination. Now, as he was getting older, the grower had mellowed out considerably. He knew the importance of listening to others. "What's the matter?" he inquired solicitously. "Well, its just not right," the crew worker responded, still upset. "The man does not have a foreman's license!"

**So, what happened?**

*Part IV.* The grower wanted to laugh at this response. He had heard almost every story in the book during his years in farming, ever since he

started working alongside his dad as a youngster. But this one was a new one. While the grower knew that there was much about the law he did not know, he was clear on this point. There was no law that required foremen to have a supervisor's license. But then, he looked at it from the worker's perspective, and realized that there really was not anything funny about the employee's concerns. "Did you know that here in California a foreman does not need a license?" he began. As far as the grower knew, there was no state that required a license, but he wanted to make sure that the employee did not lose face or feel foolish. "What you say is important, maybe foremen *should* be required to have a license, just like farm labor contractors," he added in an effort to further validate the employee. "Tell me," the grower eventually asked, "are you willing to work for me now?" "I just don't know," the worker spoke now much more calmly, but was shaking his head somewhat.

**So, what happened?**

*Part V.* The grower felt his own options narrowing, and was about to tell the crew worker that he was fired. The grower was amazed when he heard himself asking, "Would you like some time to think about it? You had asked for time off during the Thanksgiving weekend." The crew worker agreed to think about it and seemed satisfied.

**So, what happened?**

*Resolution.* The grower knew that despite his own calm, there was still something wrong. When the employee returned a few days later, the employee once again seemed agitated, and blurted out: "You do not have work for me!" The grower once again assured the employee that there was work for him. Finally, the worker clarified, "You see, now I cannot collect Unemployment Insurance!" The worker had wanted to be fired, so he could collect Unemployment Insurance.

to leave the toilet seat down. In others, the polite thing is to leave it up so it can stay clean. In some Hispanic sub-cultures it is rude for a man to greet the wife of a friend with a kiss on the cheek; in others, it is rude not to.

While we want to make every effort to be polite, it is best to avoid being judgmental about other people's behavior. At one ranch, one of the partners tended to assume that the other two partners were talking about him when he saw them conversing. This is called negative attribution. It is all too easy to incorrectly interpret another person's innocent behavior and assume the worst. Contention breeds mistrust. It is good *not to be easily provoked*, especially when no offense was intended.

Some years ago I was asked to talk to a group of young adults. I noticed that as I spoke, a young man would lean toward the young lady beside him and whisper. I found this to be very distracting. I feel very strongly that only one person should speak at a time, and so it was that every time he began to talk, I stopped. When I stopped, he stopped, and so it went. I later found out he was interpreting for a foreign visitor. On another occasion, I attended a meeting where my supervisor was pointing out some problems. I began to defend myself. "We were not talking about you," the supervisor said calmly. It is embarrassing to run at "the sound of a shaken leaf" when no one pursues. It is good to avoid assumptions or becoming defensive.

An effective tool, instead of assuming the worst when we do not know how to interpret something, is to describe what happened and let the other person explain. Such a description should avoid inferences as to why someone did something. We will often find out there was a good reason for what took place, or at least give each party the opportunity to explain her perspective.

## CONTROL EMOTIONS

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Our emotions get in the way of effective negotiations regularly. Nothing

kills creativity quicker than anger, pride, embarrassment, envy, greed, or other strong negative emotion. Anger is often an expression of fear, or lack of confidence in our ability to get what we think we want. Emotional outbursts tend to escalate rather than solve a conflict. If we can improve our ability to manage our emotions and respond without getting defensive, we have gone a long way toward creative negotiation. A friend once said, "When we permit negative emotions, such as anger, to take control of us, this is a sure sign we are about to step into a trap."<sup>4</sup>

It is extremely difficult to hide our emotions, especially when we feel there is much in the balance. Our body language, particularly our facial gestures and voice tonal qualities, often give us away. We are not emotionless robots, nor is it advantageous to completely hide our emotions. However, it is better to *describe* our negative emotions (e.g., a feeling of disappointment) rather than to *show* them.

## UNDERSTAND TIME PRESSURES

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Deadlines are often self-imposed. How often do we feel obligated to respond right away when facing a difficult situation? People can ask for a little more time to study out a matter, or to accomplish a task. Do not be afraid to ask, "This is a tough one, can you give me until 3 p.m. tomorrow to get back to you?" Or, "It is now 7:15 a.m., and I am tied up for the next two hours. If I call you between 10 and 10:30 a.m., will that work for you?" This type of detail only takes a few minutes longer to negotiate.

"I will call you back as soon as I can," on the other hand, leaves much to be desired. As a recipient of that message we may wonder, does that mean I will receive a call in the next half hour, two hours, or week? Although not intended as such, this may well come across as an avoidance tactic. To be credible, then, it is important to agree on a specific time wherein we will get back to a person. We also need to be

specific about exactly what it is that we have agreed to accomplish.

If we can build a little cushion for the unexpected, that is helpful. Most people do not mind having to wait a little longer if they know what the real situation is. Armed with such knowledge, each individual can plan her own time more effectively, rather than wait for another person who may or may not come through.

If a deadline seems hard to meet, ask to re-negotiate an extension before the due date. An effective negotiator will ask the other party to suggest or take a role in establishing a deadline, rather than arbitrarily impose one. Furthermore, it is good to give others the time they need to make a decision with which they are comfortable. To do what we say we will do, and do so in a timely fashion, builds trust. People who can be counted to follow through with what they say they will do are invaluable.

## BREAK DOWN BIGGER ISSUES INTO SMALLER ONES

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An effective negotiator is constantly looking for ways to break down challenges into smaller, more easily solvable issues. For instance, if a farm foreman is resisting the introduction of an electronic gadget to help keep track of each crew member's performance, it helps to talk it over, and find out specific concerns. There may be some apprehension about (1) the reliability of the system, (2) setup time, or even (3) staying on top of production data right in the field. Each of these concerns can be addressed separately.

## SEPARATE PROBLEMS FROM SELF-WORTH

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Without a doubt, the worst type of intermixing of issues is that of combining some problem that is

*If a deadline seems hard to meet, ask to re-negotiate an extension before the due date.*

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Jack Kelly Clark

important to us with our own self-worth. It is ineffective and manipulative, for instance, to imply that disagreement with our idea is equivalent with a vote of no-confidence against us. Such an approach will sooner or later result in our feeling rejected.

A member of a dairy's corporate board made the mistake of suggesting that a vote against the incentive pay program she was suggesting for the milkers was equivalent to a vote against her. After the meeting, she confronted a member of the board who voted against the proposal as it presently stood. She was fortunate that this individual was willing to stand up to such pressure. He explained that as long as he was a member of the board he would vote for what was best for the dairy. And furthermore, the board member told the founder that he did not appreciate being pushed into doing anything short of voting his conscience. The board member apologized.

### AVOID THREATS AND MANIPULATIVE TACTICS

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Threats also reduce our negotiating ability. Such threats may entail a directed consequence—towards ourselves or someone else. Any type of threat can greatly undermine our long-term negotiating ability. This is even more so when an individual does not follow through. Threats do not engender trust or liking.

*Focusing on the problem rather than the solution may sound counter intuitive, yet it is one of the keys to effective negotiation.*

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Even inconsequential threats can be annoying. At a family game, one player repeatedly threatened to quit. After a half dozen threats, his mother told him, “The first time you threatened, I was concerned; by the last threat, I was just ready for you to quit and let the rest of us enjoy the game.”

Sometimes we may not realize that sharing some of our discouragement may come across as a threat. People in deep-seated interpersonal organizational conflict, more often than not, are seriously contemplating bailing out of the organization. Yet, these individuals have seldom told others at the farm that they are contemplating withdrawal. And that is good!

One farm manager who had threatened those around him with comments about leaving the operation, began to quickly lose the support of others around him. The respect that this individual so much wanted from his colleagues began to vanish, and even his loyalty to the farm enterprise was questioned.

While people often feel a great need to share their feelings with someone who can be supportive, we need to choose such a person with care. If the individual always agrees with us and validates our perspective, such a person may not be doing us a favor. People who feel validated elsewhere may put less effort into improving a failing relationship. A positive relationship is one in which the listener can help us identify where we may have contributed to the problem. We all need people who can help us see the *blind* spots in our personalities and behaviors.

### FOCUS ON THE PROBLEM RATHER THAN THE SOLUTION

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The suggestion of focusing on the problem rather than the solution may sound counter intuitive. Yet, for a number of reasons, it is one of the keys to effective negotiation. The more complex the situation, the more important this principle. When someone comes with the solution, even when that solution is a good one, it gives the other

## SCENARIO 18-5

## Poor Quality Pack

A greenhouse manager has had terrible results this year in terms of tomatoes being picked outside of the acceptable color range. He asked both the assistant production manager and the foreman to work on the difficulty. The foreman insisted that the problem was caused by the incentive pay program. In his opinion workers were paying little interest to quality issues, as there was no negative consequence for poor quality. The assistant manager,

on the other hand, felt that a return to hourly pay would greatly reduce productivity. Plus, she remembers that last year, when workers were paid by the hour, they still had problems with quality.

Who are all the possible individuals that can be affected by this challenge? Do they have any common needs? What might these be? Are there some hidden challenges here? How could we be sure that the correct problem was understood?

stakeholder the feeling of not having any control. Research has shown<sup>5</sup> that people often prefer an outcome that is not as beneficial, yet one where they sense greater control over possible outcomes.

Even if a stakeholder has gone out of his way to find a fair solution for all involved, when such a solution is presented as firm, it tends to put other stakeholders on the defensive. In one such case, a rancher who was presented with such a stance (i.e., given the solution) felt coerced to do all the compromising. What this stakeholder did not realize until later is that the solution being presented was already a huge concession and compromise on the part of the other stakeholder who presented it. The timing and approach had been ineffective, however.

An individual with an excellent idea needs to wait until the predicament that has brought everyone together has been carefully discussed and until the needs of all the stakeholders are understood. Only then can the solution be presented, and this needs to be done in a very tentative fashion. “Would such and such an idea meet your needs, or can we play with the concept and twist it a bit so it does?”

Where there is an emotionally charged atmosphere, or when there is much riding in terms of consequences for individual stakeholders, this approach may make a difference between success and failure. An effective negotiating technique, then, is

to come to the bargaining table with the idea of studying the problem and individual needs, rather than imposing a solution.

This approach of coming right out with a fair solution, but doing away with all the bargaining, is known to most of us as the “take it or leave it” tactic. In collective bargaining, it is called *Boulwarism*, named after former General Electric Vice President Lemuel R. Boulware. What management would do was to propose a final offer to the union right up front. Management went out of their way to study all the facts that could pertain to the contract, and to make it fair for all involved, “trying to do right voluntarily.” They refused to budge from their position, however, unless any “new facts” of sufficient strength were presented. Such an approach was highly resented by the union, which felt undermined. Two “new facts” played key roles against Boulwarism: (1) the practice was found to some degree, to constitute bad-faith bargaining by the National Labor Relations Board and the courts; and (2) the union also made a very strong point against the tactic through a successful strike.<sup>6</sup>

When we are the ones being presented with a possible solution, it is good to be slow to find fault. If someone’s proposal is quickly followed by our counterproposal, the other individual is likely to feel slighted. Two key reasons for avoiding quick counterproposals include (1) the other

*In traditional negotiations we are inclined to focus exclusively on our needs and assume it is the other stakeholder's responsibility to worry about having her needs met. Yet, by showing a sincere interest in meeting the needs of others we increase the chances of having our needs met.*

stakeholder is least receptive to hear another proposal after setting hers on the table, and (2) such counteroffers are often perceived as disagreement, or an affront to “face.”<sup>7</sup>

At the very least, then, efforts should be made to let the other stakeholders feel that their proposal is being taken seriously and has been understood. If a counterproposal builds on the other stakeholder's proposal, and credit is so given, then the chances for negative feelings are further curtailed.

### TRY FOR INTEREST-BASED SOLUTIONS

In traditional negotiations (i.e., focused on competition, yielding or

compromise), we are inclined to focus exclusively on our needs and assume it is the other stakeholder's responsibility to worry about having her needs met. Yet, by showing a sincere interest in the needs of others we increase the chances of having our needs met. While talking about our needs may have been considered a selfish thing in traditional negotiation, in creative negotiation it is not selfish by definition, as it is not only our needs that are being considered, but also the needs of the other stakeholders.

We frequently fail to explore beyond the obvious solution—like the sisters who split the orange in half. It helps to validate the other stakeholder's needs as a starting point in exploring creative solutions and as a way to reduce negative emotion. “Hmm ... you need to get home by four today. Let's think of how we can do that and get the animals fed, too.” Integrative negotiation seeks to carefully understand the true nature of the problem, and genuinely attempt, where it is possible, to provide solutions that meet the respective needs of all who are affected.

In recent years there have been some very positive developments in the field of negotiation, including union-management relations. The past has offered a frequently adversarial, turbulent and sometimes violent approach to collective bargaining and labor union-management relations. These positive changes, which have in no way been universally adopted, have come about as a result of an interest-based negotiation approach. Union representatives are becoming more conscious of the need to increase the competitiveness of unionized employers, while further enhancing job security and quality of life for all employees. Employers under a union contract are more likely to work with, rather than against, the union to meet both worker and organizational needs. I have had the opportunity to watch representatives of union and management sitting side-by-side and enthusiastically reporting success after success with the interest-based approach.

At the core of creative negotiation is the idea that it is possible for everyone



to get more of what they need by working together. The foundation of effective problem solving is understanding the problem. Otherwise, it is all too easy to build solutions on a false foundation. After such understanding, creative negotiation involves looking for the hidden opportunities presented by challenges.

Having said all this, it is not easy to be *creative*. It takes work. The following five-step process has been suggested to get the creative juices flowing: (1) actively consider all alternatives, (2) digest and rearrange the data, and (3) set the challenge aside and wait. Wait for what? ... for a (4) sudden flash of inspiration, which needs to be (5) rigorously tested.<sup>8</sup> These steps are important, as they recognize the importance of looking at a challenge from all angles, studying out a problem, and then putting it aside for a time. Sometimes steps one through three may need to be repeated several times until that inspiration comes.

As we practice creative negotiation, faith in our ability to turn challenges into opportunities will increase. This self-confidence will help us focus on problem solving and reduce the chances of falling back on contention, negative emotion or competitive negotiation.

## ADMIT ERROR AND APOLOGIZE

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We mentioned earlier that strong negative emotion can lead us into psychological traps. So can overinvestment in an idea. If the foundation is wrong, we may have to undo all our work and begin from scratch. Depending how far into a project we are, this can be quite painful and expensive. We have to first recognize that we *have been wrong* before we can *make things right*.

If we notice that the concrete foundation to the dairy barn we are building is faulty, we can close our eyes and continue construction only at our own peril. As painful as it may seem now, the sooner we recognize our error and make the necessary expenditures to

break up and remove the concrete so we can start over, the better off we are.

Sometimes we may feel over-invested in terms of an idea. It may be as hard to admit we were wrong as it was to break up that concrete. People who are willing to admit a mistake are more likely to be considered trustworthy. A proper apology is extremely powerful. So is sharing a goal we have in terms of a new approach to dealing with issues. If we have been extremely critical in the past, it helps to let people know we will be working to improve that negative trait.

To be genuine, an apology must not come across as a justification for what we have done wrong. A true apology is also accompanied with an offer to make restitution when that is possible. Furthermore, a sincere apology implies a willingness to make the appropriate changes commensurate with what we have done wrong. When it is warranted, I like the idea of asking a person to whom I am apologizing, "Will you accept my apology?"

When someone expresses regret but makes no effort to change, this is hardly an apology. As powerful as an apology can be, when someone takes back that apology by word or deed, this puts such an individual in a position of greater disadvantage than if she had expressed no regrets at all. Such is the situation, for instance, in many cases of domestic violence (physical or verbal). It is not uncommon for a man to be contrite after beating his wife today. But by tomorrow he has begun to minimize the damage, and not long thereafter is striking her again.

A person who is willing to accept an apology and forgive another is, likewise, in a better position than one who is not. It is also hard to trust a person who will not acknowledge an apology. An individual who has truly forgiven another does not continually remind the other of that fact. Some comments and deeds are so hurtful in their nature, however, that it may take extensive time before a person can truly feel free of the associated pain.

**SCENARIO 18-6****Disagreement Over the Radio**

Two milkers had a disagreement over which radio station to listen to. “I don’t know,” one of them sighed as he lifted his hands in disappointment, “just choose whichever station you want.”

**So, what happened?**

*Resolution.* The one milker accepted the defeat of the other and began to walk towards the radio. But before the milker arrived to where the radio was located at the other side of the parlor, his co-worker protested, “That’s just not right, why should you get your way.” Their negotiation process had to begin anew.

*Avoid attributing negative emotions to another person, such as “You are angry.” Instead, just describe the emotion in more neutral ways, and with some degree of tentativeness, allowing the other stakeholder to either validate these feelings, or offer their own explanation.*

**REJECT WEAK SOLUTIONS**

In traditional negotiation, as soon as we get close enough to the solution we want, we are often prone to accept someone’s yielding their will to ours. While at times the motivation on our part may be selfish, in others we may truly believe that our solution will best serve all involved. Then again, earlier we said that (1) it was difficult for true

caring to co-exist with frequent giving in; and (2) jumping to solutions before the problem is carefully understood often yields weak solutions.

Sometimes people will yield or pretend to yield out of frustration over the situation. By accepting their yielding, we have reduced our direct and indirect negotiation power. Instead, we not only get better solutions when we make sure the other person is



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**SIDEBAR 18-1****Not so Fast!**

Benie and Jennifer Matsuda were making some joint succession plans for their farm operation. They came to an agreement, but Benie noticed that his wife had only agreed hesitantly. Rather than just accepting Jennifer's agreement and moving on with his own plans, Benie said, "I notice that you are not totally pleased with our decision. It is really important to me that this is right and that you are as happy with this decision as I am."

Jennifer said she was OK with the decision, but Benie still sensed otherwise. Benie had the perfect

opportunity to move forward and do things the way he wanted to, but hesitated again. "I still sense there is something you are feeling, perhaps difficult to put into words, but nevertheless something important that makes you hesitate." Jennifer answered, "Actually, I think you may be right." She agreed to think over the matter some more. That night they had another chance to converse at length, and Jennifer was able to better articulate a fear she had. As a result they were able to make some small but important adjustments that left them both satisfied. Moreover, Jennifer was able to further build her trust in her husband because he had honored her feelings, thoughts, and opinions.

*Making quick decisions can often deprive us of arriving at more effective, long lasting solutions.*

completely satisfied with the solution, but we gain trust in their eyes and can thus improve our negotiation strength.

We may often sense that another person is giving in, rather than agreeing that the solution that has been suggested is, indeed, the best possible alternative. If you read emotion or strength of conviction in another stakeholder (or the very opposite), you may want to step back and consider together what unmet needs may exist still and work toward finding a solution that takes these into consideration.

## **BE TENTATIVE ABOUT READING PEOPLE'S FEELINGS**

Attributions should be neutral or tentative, such as "I sense there is something wrong here." Avoid attributing negative emotions to another person, such as "You are angry." Nor should one ascribe a reason along an attribution, "You must be hurt because we switched to 3x milking." Instead, just describe the emotion in more neutral ways, and with some degree of tentativeness, allowing the other stakeholder to either validate these feelings, or offer their own explanation: "I sense that something is still not right in our agreement, but I am not sure if I am reading that correctly."



Jack Kelly Clark

## SUMMARY

This whole book has, in one way or another, been on the subject of negotiation. Each of us negotiates our way through life. While there are no easy answers that will fit every negotiation need, there are some important principles that will help us become more effective. Effective negotiation skills call for careful understanding of the issues involved, ability to break down big issues into smaller ones, caring about the needs of others as well as our own, and focusing first on the problem rather than the solution, to name a few.

Creative negotiation at first seems different enough from how we may have reacted to challenges in the past that reading a chapter and a book, such as this one, only begins to plant some ideas in our minds. Some of the approaches may seem mechanical at first. I like to keep these thoughts alive from day to day by reading good books or listening to audio tapes. Furthermore, I tend to analyze human interaction. There is much to be learned from both interpersonal success and failure.

There are many excellent books available on the topics of negotiation skills, listening skills, conflict management, interpersonal communications, and so on. Try your local library, and you may find some real treasures. After I read a book or listen to a tape, I like to note the most important things I have learned from each. You may want to do the same, keeping special notes on the outcomes of your negotiations.

As I grow older, *doing right* has become more important to me than *being right* (in the sense of winning). There is a great amount of satisfaction in being able to give the *soft answer* (“A soft answer turneth away wrath”<sup>9</sup>). This is a journey that one embarks in, the challenge of which is so difficult, that one can never truly say, “I have arrived there.” May your own excursion be filled with satisfaction and hope.

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