

Labour Research Service

NEGOTIATIONS SKILLS COURSE

National Union of Mineworkers, February 1993

Monday 22 February

1.00 pm	Registration and lunch
2.00 pm	Session One: Calculations
3.00 pm	Session Two: Inflation
4.00 pm	Tea break
4.30 pm	Session Three: Wages
6.00 pm	Close

Tuesday 23 February

8.30 am	Session Three: Wages (continued)
10.30 am	Tea break
11.00 am	Session Four: Company accounts
1.00 pm	Lunch break
2.30 pm	Session Five: Negotiation procedures and tactics
4.30 pm	Tea break
5.00 pm	Session Five: continued
6.00 pm	Close
Evening	Preparation in bargaining teams

Wednesday 24 February

8.30 am	Session Six: Role play
12.00 pm	Evaluation of role play
1.00 pm	Close

Worksheet No. 1

Company Name

Figures in

19⁹¹

19⁹⁰

% change

A

B

C

Sales			
Total profit*			
Less: interest paid			
Profit before tax			
Less: tax paid			
Profit after tax			
Dividends paid			
Profit retained			
Number of workers			
Director's fees			

Formula to help you

% change = Latest (column A) - Previous (column B) ÷ Previous (column B) %

* Total profit = Profit before paying interest and tax

Figures in rand	19..	19..	% change
	A	B	C

Sales per worker	_____	_____	_____
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Profit per worker	_____	_____	_____
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Wage per worker	_____	_____	_____
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Salary per director	_____	_____	_____
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-----**Formulae to help you**

1. Sales per worker = sales - number of workers

2. Profit per worker = total profit - number of workers

3. Salary per director = Director's fees - number of directors

ACTIVITY: TAKING NOTES IN MEETINGS WITH MANAGEMENT

AIM

- To help you see the importance of taking notes in meetings with management

TASK

Discuss the questions below in your group. Write down the points raised in your group.

1. Why do shop stewards need to take notes in meetings with management?

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2. Is it okay to rely on management minutes for records of meetings with management?

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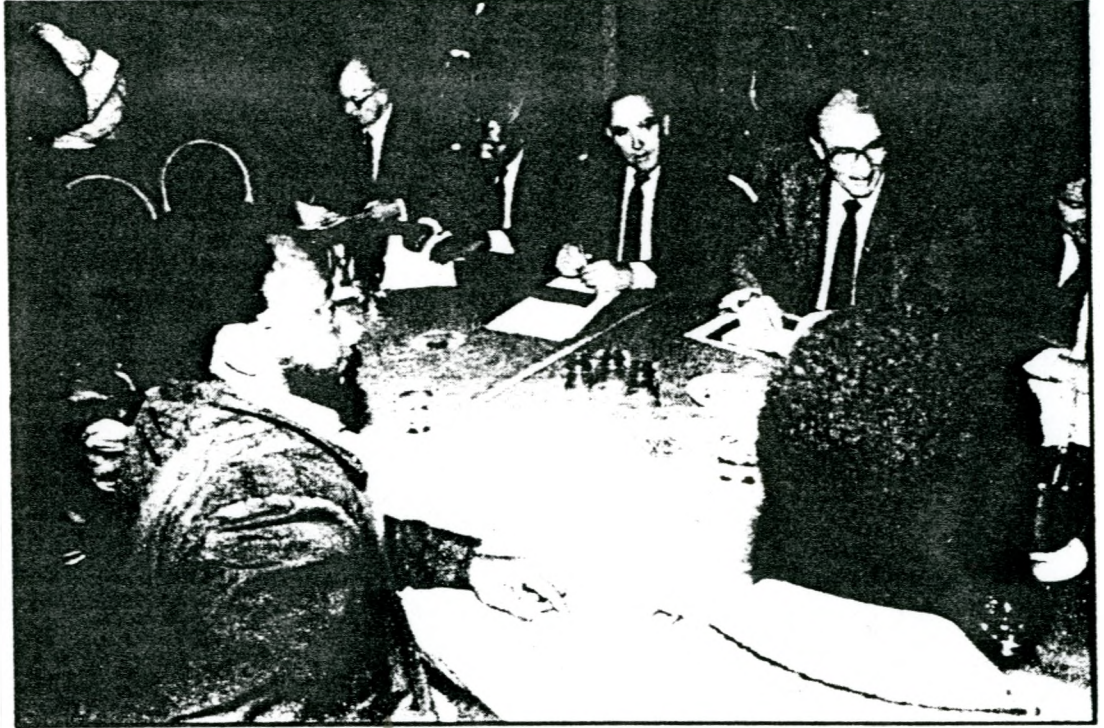
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How do you handle meetings with managements?



3. How does management use language to try and control meetings with shop stewards?

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4. When you take notes in meetings with management, what problems do you have?

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TAKING NOTES IN MEETINGS WITH MANAGEMENT

Workers need to take notes in meetings with management to ensure that all decisions are correctly recorded.

If you take notes in meetings, you can write your own minutes after the meeting.

This will help to ensure that the union has its own record of the meeting. If this is done you won't need to rely on minutes drawn up by management.

You will then be able to avoid problems that can arise if, for example, management has left things out or has changed things.

Sometimes you need to record exactly what management says in a meeting so that you can refer to these things at future meetings.

If you have taken your own notes, it will be easier to challenge management when they try to change what has been agreed at previous meetings.

Some ideas on how to take notes in meetings with management.

English is probably not your first language and so it isn't easy to take notes in meetings that are conducted in English. We have included some points below to help you.

- 1. Don't try to follow every word that management says. Rather listen out for the really important points.**
- 2. Listen out for words that suggest a decision or recommendation.**
- 3. Listen out for management's responses to your demands.**
- 4. Remember you should always interrupt and ask management to repeat or clarify what they are saying if you are not sure.**
- 5. Always:**

Study the agenda before the meeting.

Write down the unions demands under each item.

Leave a space to write down what was decided about each item.

Listen and concentrate on picking out words that suggest a decision or recommendation.

Below is an example of how you can use an agenda for a meeting with management to prepare for taking notes.

Agenda for meeting between management and shop stewards on 1st September, 1988.

- 1. Opening
- 2. Apologies
- 3. Minutes
- 4. Matters Arising
- 5. Overtime
- 6. Retrenchment
- 7. Full-time shop steward

HOW TO PREPARE TO TAKE NOTES FROM AN AGENDA

Shop steward/management meeting1/9/88

10.00am

Management Office

Present:.....

2. Apologies

3. Minutes

4. Matters Arising

5. Overtime

Demand:

Action:

6. Retrenchment

Demand:

Action:

7. Full-time shop steward

Demand:

Action:

GIVING REPORT-BACKS

We all know that report-backs are very important if we want to build a strong, democratic organisation.

We spoke to a union organiser and he explained how to plan and present report-backs.

This is what he had to say:

"What I can say is that it isn't possible to report on everything that happened in a meeting. Shop stewards must be able to choose the main items - the important matters - of the whole meeting and report on these."

But how do you decide on what things to report on and what things to leave out?

"Shop stewards are people who are close to the shop floor - knowing exactly what are the workers' needs and what interests them most. Shop stewards must use this knowledge when deciding on the important items to report on.

"Also sometimes there are time limits on things that were discussed at meetings. Let's say for example, at a shop steward council meeting shop stewards advise that within two weeks they want a report-back on a matter. It is then important for shop stewards that when reporting back, that item must be a priority because there is a time limit."

Is it necessary to plan report-backs?

"It is very important for shop stewards to plan for report-backs. Also it's not a good idea to allow the chairman to give the full report-back. They have to share the items because we need to train others to be able to talk. If only the chairman reports back then some shop stewards can feel they aren't part of the meeting and that they don't need to assist the chairman with questions.

"If shop stewards plan report-backs carefully, workers will want to listen to the whole report-back."

What about the order in which you report back on items. Is that important?

"It is important first to give an overview of the meeting and then to come to the main items. Let's say out of the 5 points you must report on, there may be 2 that are very important and the other ones are less important. I would recommend that shop stewards don't start with the important items. They should start with those that are less important in order to keep everybody in the meeting because once you have talked about the main items, workers will want to leave the meeting."

HERE IS A CHECKLIST ON HOW TO PLAN REPORT-BACKS.

Think carefully about who you are reporting back to

- What does your audience already know
- What do they need to know

Decide on the aims of the report. Is it:-

- To give information
- To mobilise workers
- To get a decision or a recommendation
- To change ideas
- All or some of the above

Think about how much time you will have for your report

- How long will the meeting last?
- How many things are also going to be discussed at the meeting?
- How short can you make your report so that you cover all the key points?
- Will there be time for discussing the issue and making decisions

Think about what language to use

- What language will most of the people in the audience understand best?

Think about what your audience really needs from your report-back

- Perhaps you are a delegate to a union BEC.

Before you report back to a general meeting you need to give a full report-back to the shop stewards. Then all the shop stewards can decide together what issues must be reported back to the workers.

You need to think about these issues very carefully because workers often get bored if they have to listen to long report-backs which try to cover all the points that were discussed in a very long meeting.

Think about what issues you must report back on and what issues you can leave out

- It is very difficult to choose the right issues to report back on.

In each case you need to think very carefully about what your audience needs to know and what they know already.

You also need to think about the main purpose of your meeting and the kind of meeting you are reporting back on.

For example, you will need to cover lots of details if you are reporting back on a meeting with management, but only the main points and key decisions if you are reporting back on a 3-day National Executive Meeting.

In most cases you will be reporting back to general meetings.

So here are some ideas for deciding on what are the important issues to report back on to general meetings.

- You must report back on items that directly affect the workers.
- You must report back on items that workers need to discuss and make a decision on.
- You need to report back on important union policy matters
- You need to report back on broader issues that workers need to know about and discuss.

HERE IS A CHECKLIST ON HOW TO PRESENT YOUR REPORT-BACKS

Giving good report-backs gets easier with practice. But here are a few points that can help you present a report-back clearly.

- Introduce the report-back in a way that gets workers interested
- Give a short account of the whole meeting
- Then go back and report on the different issues or points in more detail
- Stick to the main points. Don't go off the point
- Be brief - plan your report on each item so that your whole report fits into the time available
- At the end of your report, go over all the points that workers must make decisions about
- When dealing with issues that need decisions, don't go straight to the decisions that workers need to make. Report on the arguments involved first
- At the end of the discussion arising from your report back, summarise the decisions workers have made. Go over what action workers will be involved in

REMEMBER

SHORT

INTERESTING

COVER KEY POINTS

TIME FOR DISCUSSION

NOTE:

It will often be more interesting if different shop stewards report on different issues. This needs careful planning before the meeting.

Sometimes, especially after meetings with management, it might be possible to make a short play of the meeting - this can make a report-back much more interesting and will give members a better idea of how stubborn management can be in meetings.

ITEMS FOR NEGOTIATION

	DATE													
	ROUND NO.													
UNION DEMAND														
COMPANY DEMAND														
DIFFERENCE														
UNION DEMAND														
COMPANY DEMAND														
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Rules. There are none. What is proper is decided by the negotiators involved, and even they have no right of 'appeal'. Courts decide on legal merits not standards of fairness.

Informal 'rules' have emerged for different usages. They have no status other than what the negotiators concerned accord them. For every 'rule' there is an exception, and for every negotiator there is a time and circumstance where the 'rule' is abandoned.

Some so-called 'rules' include:

- Agreements should be honoured.
 - Sanctions are permissible as complements to the negotiation but not as substitutes.
 - Neither negotiator should revert to an opening position because a current (improved) position is not (yet) acceptable.
 - Solutions should not be imposed on a take-it-or-leave-it basis.
 - Neither negotiator should interfere in the internal affairs of the other to disrupt his negotiating position or cohesion.
-
- Negotiators should act in 'good faith' and not behave in a reprehensible and destructive manner.

All these 'rules', and many others, are breachable, and have so been many times by negotiators. Often one negotiator abides by one interpretation of a rule and the other by another. The alleged 'dishonouring' of an agreement is the subject of many negotiations. At what point a sanction is unacceptable as a negotiating tactic is a matter of great contention between negotiators. Sometimes 'take-it-or-leave-it' is all that is left when faced with an obstinate opponent. Negotiators do interfere in each other's affairs – that is what propaganda, leaks and rumours are all about, let alone threats – with a view to weakening the opposing coalition. Disputes about 'good faith' fill the courts and arbitration sittings every week.

LABOUR RESEARCH SERVICE

Negotiations Planning Form No. 2

Bargaining Ranges

[illegible]

Acknowledgements to UTP

19.02.90

LABOUR RESEARCH SERVICE

Negotiations Planning Form No. 3

Arguments

Issue:

[illegible]

Acknowledgements to UTP

19.02.90

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Memorandum to: Martin Nicol,
Collective Bargaining Department,
National Union of Mineworkers.

13th March, 1990.

re Negotiations Skills Course

2nd and 3rd March, 1990,
Wilgespruit

1. A report on the seminar is enclosed. Here follows some comments on observations made on participants' bargaining tactics.

2. Style of bargaining There appears to be a custom in the mining industry of opening the bargaining with long speeches, in which one's full case is presented. This is a weak tactic, and should be altered immediately. Most experts agree that a short presentation of the union's demands, with only the briefest justification, is the best way of opening the bargaining.

The brief justification at this stage, moreover, should give only the broad outline of the union's case - the theme in fact - and there should be a minimum of detail.

3. Talking/listening Negotiations experts also agree that the winning side is not necessarily the side that has talked the most. Indeed, the reverse is generally the rule. It is more sensible to place the other side on the defensive by forcing them to justify their position.

A simple but effective tactic in this regard is questioning: placing questions to the other side on the justification for their position, and the objections to the union's position. Their answers will give the union side plenty of ammunition to return to the attack.

4. Timing It is unwise to use up all one's arguments at once. Instead, a range of arguments should be deployed at different times during the negotiations, for different purposes. For example, you may use the union's second strongest argument to open; employ weaker arguments later to rebut the employer's case; move in hard with your strongest argument when you sense that the employer is weaker.

But do not fire off all your ammunition at once!

Timing requires, of course, that you have listed and evaluated all your arguments carefully. Very weak arguments should be discarded.

5. Theme Decide on a theme for your negotiations. For example, the Living Wage is a powerful theme. The exceptionally harsh working conditions in the mining industry would be another. Choose the theme, and return to it at every stage in the bargaining. Do not permit the employers to divert the argument to other issues where you are less strong - for example, the payability of the marginal mines.

Choose only one theme - otherwise the effect is reduced. A theme unifies your argument and provides a crutch when you get into trouble!

6. Mixing of issues Clarity in the bargaining is something only the union needs. Managers prefer confusion to clarity. This is because the union is demanding something extra, while management has the relatively easy task of merely retaining the status quo. So ensure that you understand the issues clearly, and how they differ from each other. Make sure that each issue is discussed on its own, and is not confused with other issues.

Thus, in negotiating about the basic wage rate, management loves to throw in information about average wages, increments, allowances, etc etc. All of this is utterly irrelevant to the item under negotiation. These matters merely muddy the water so that the basic wage rate demand cannot be seen clearly.

Whenever management attempts to confuse the item under discussion, as it will often attempt to do, by bringing in other items, insist that the discussion returns to the item on the table.

Naturally, you must be very clear in your own mind what is the difference between basic wages and average wages etc !

7. Pressure When you have found a way of putting the management under pressure, keep it up! On one occasion during the role play, one side had the upper hand - and then asked for a caucus. This let the other side off the hook.

Concessions are made when one side feels it is under pressure and has to relieve that pressure by offering a concession. Negotiations are about applying appropriate pressure - and handling pressure.

The temptation to make unplanned concessions is great when under pressure. So a caucus is an excellent way of handling extreme pressure on oneself. One is able to recover one's breath away from the table.

8. Planning In the two role plays during the weekend, a number of things happened which were clearly not planned. In one role play, there was a complete breakdown - negotiations halted and could not be resumed - over a petty issue, namely, which party was to leave the room for a caucus.

This illustrates the necessity for the planning of tactics. Otherwise, matters get out of control and the negotiations collapse. Alternatively, the union collapses and makes concessions which it had not planned to make.

Negotiators must train themselves not to "fly blind" in the negotiations. Every argument, every tactic must be carefully planned in advance.

"Planning", of course, includes an evaluation of what management will do in response. An important question in planning is, "What will be the consequences of my action?"

9. Fallbacks A useful notion is the fallback position. Negotiators have to be very tough with themselves - and their negotiating team - about the point at which negotiations will be broken off. That is the fallback position.

Some negotiators prefer flexibility. That is a code word for collapsing under pressure.

A fallback must be realistic. If the management fail to reach your fallback position, then you will break off negotiations and go on strike.

Do not decide your fallback in the tension and pressure of negotiations. You are unable to think clearly in these circumstances. The fallback must be planned in advance and adhered to. If circumstances change, by all means alter your fallback, but do so outside the negotiating room, somewhere calm where the pressure is off and you can think clearly.

By the way, if you alter your fallback position, it usually means either that it was unrealistic in the first place, or that you are not able to cope with the pressure management is exerting on you . . .

It is precisely this situation - the collapse of your bargaining stance under pressure - that the planning of fallbacks is designed to prevent.

10. Conclusion The NUM has a corps of extremely able negotiators who will become more formidable if they plan their negotiations carefully, using the three planning forms: priorities, arguments and counter-arguments, ideal and fall-back positions. (These were distributed at the seminar.) It would also be helpful if tactics were planned for use during the stages of bargaining: opening, arguments, getting movement, packaging and closing.

11. Follow up We recommend that a follow up seminar be planned to rehearse:

1. the three negotiations planning forms
2. the timing of arguments
3. the planning of tactics
4. the evaluation of tactics: which had good consequences, and which had bad consequences for the bargaining.

Moreover, special attention should be given to the conscious elimination of some of the bad habits described above.

RGY
13.3.90

DISCUSSION EXERCISES ON NEGOTIATION

(Appoint someone to take notes of the reasons you give for your answers - any answer can be acceptable if the motivation is sound)

1. Management sends you the following agenda for a meeting:

Agenda

1. Confirmation of minutes of last meeting
2. Matters arising
3. Procedures for shaft-steward elections
4. The role of shaft-stewards in improving productivity
5. Union Meetings during the company's time
6. General

Should you:

- a) Object to item 6
- b) Object to item 4
- c) Refer the agenda to the branch committee for approval

2. When you attend a negotiation, it is most important to:

- a) Carry out congress resolutions
- b) Have a mandate from the workers
- c) Dress smartly so that management respects you

3. The negotiating team for the negotiations should be:

- a) Big (more than 10 members) to allow proper report backs
- b) Small (4-6 members) to allow in-depth discussion in the team
- c) Tiny (1 or 2) to avoid differences of opinion
- d) Whatever size required by management

4. During the negotiations, one of the team members makes a point that is against the mandated position set by the members. Do you:
- a) Interrupt him immediately and contradict him
 - b) Break in as soon as you are able to and say "What my comrade actually means..." and give the correct mandated position
 - c) Ask for a caucus
5. Some members of the negotiating team don't understand English very well. Do you:
- a) Insist that management provide for translation
 - b) Caucus frequently to explain what is happening to all the members who don't follow English
 - c) Request the branch to replace these comrades with others who do understand English
6. The aim of a negotiation is:
- a) To sign an agreement which gives more to the workers than the bosses
 - b) To reach a settlement
 - c) To get to a legal strike and militant action as soon as possible
 - d) To educate the negotiating team and the shaft stewards about collective bargaining
7. Management make a final offer which they say is the best they can make under the present economic climate. It is far from your mandate. Do you:
- a) Accept the offer and delay a report back in case the workers are angry
 - b) Ask to refer the matter back to the membership
 - c) Declare a dispute
8. Management complains that the union always misses dates for meetings and that it sends different people to the negotiations each time who do not know what happened at the previous meeting.

Is this a valid complaint?

checklist

negotiating with management

preparing your case

- * get the facts and check them
- * look at agreements, policies and rights
- * work out aims
- * decide on key arguments and counter - arguments
- * work out fallback position

teamwork

- * arrange a pre-meeting
- * choose a speaker
- * make sure notes are taken
- * agree arguments and tactics

meeting management

- * never disagree in front of management
- * use adjournments when needed
- * steer discussion to your strongest points
- * look for management offers
- * make sure there's an agreed written record

reporting back

- * keep members in touch, and consult them before accepting final offers

COMMON OBSTACLES TO THE NEGOTIATING PROCESS

<u>AGENDAS</u> :	Single issue Multiple Hidden
<u>POSITIONS</u> :	Extreme demands/offers Refusal to negotiate Lock-in tactics Calculated delays in decision-making 'Take it or leave it' approaches Absence of desire to achieve agreement
<u>MANDATES</u> :	Constituent expectations Use/abuse as a bargaining tactic
<u>RELATIONSHIPS</u> :	Historical carryovers Lack of mutual respect 'Enemy' stereotypes Failure to provide face savers/ insensitivity Failure to establish/violation of "Bargaining Rules"
<u>STRUCTURAL</u> :	Problems in the bargaining machinery
<u>CONTEXTUAL</u> :	Social/economic/political pressure
<u>POOR NEGOTIATING SKILLS</u> :	Poor preparation Failure to clarify or justify Hostile openings Missed signals Poorly expressed proposals Poor linking/concessions before conditions Inability to close Confrontational tactics Tactics become more important than agreement Stands on principle Public commitment to positions Misjudgement of others' capacity to move Inability to close Going for the 'last inch' before agreement Moving to fallbacks too quickly

CONFRONTATION TACTICS: PERSON - POSITION FOCUS

PERSON - POSITION FOCUS

- extreme demands
- single agenda
- multiple agendas
- non-negotiable demands
- demands of principle
- refusal to justify or explain
- aggressive probing
- threats early in bargaining
- early use of sanctions
- emotional outbursts
- control minutes and slant
- interpretation of events
- focus on emotionally upsetting areas
- make other feel inferior or dependant
- question other's age or experience, ability to negotiate competently, knowledge, authority, etc.
- use irritators
- deny finality of agreement.

COUNTERING TACTICS

- deflect aggressive openings
- avoid being drawn by probing
- do not allow assertion of dominance
- stick to bargain procedures
- suspend negotiations to allow "cool off" or "re-
assessment"
- avoid emotional response
- low reaction to threats
- expose the "game"
- keep issues focused
- respond to needs and emotions
- listen for real vs. overt concerns

TACTICS TO ACHIEVE AGREEMENT

- measure for measure : recounting movement and its costs to obtain movement
- quid pro quo : equal abandonment of issues
- changed circumstances
- scapegoating
- claiming misunderstanding to save face
- threats of sanction
- actual sanctions
- make offers public
- walk outs

APPLYING AND HANDLING PRESSURE : ISSUES - ARGUMENT FOCUS

APPLYING PRESSURE

- delay indicating position
- show up weakness, inconsistencies and omissions in arguments
- elaborate on negative consequences of agreeing to demands/proposals
- demand justification of position
- blow hot - blow cold
- commitment of principle
- threats of sanctions
- moral appeals
- make public offers
- walk outs
- reminding of past relations
- new information
- use of positive comparisons
- use of allies
- avoid argument dilution

HANDLING PRESSURE

- avoidance
- delay answering or indicating position
- red herring
- incorrect summary
- question mandates
- caucus
- use of the question
- team assistance
- adjust agenda
- low reaction
- ask the other party for suggestions
- humour
- avoid aggressive responses
- focus on problem not people
- avoid impasses
- keep issues open
- return to constituencies

NEGOTIATION TACTICS

IF THE OTHER SIDE IS MORE POWERFUL

- Protect yourself : do not collapse into an agreement
- Bottom lines (fall backs) provide such protection
 BUT close negotiation, inhibit imagination and lateral thinking
- know your BATNA (best alternative to negotiated agreement)
- formulate a tripwire (a far from perfect agreement better than your BATNA)
- the clearer your BATNA, the greater your power
- develop your BATNA : list alternatives; convert them into practicalities; select one
- consider the other side's BATNA
- when the other side is powerful seek to base negotiation on the merits; principle to play as large a role as possible

IF THE OTHER SIDE USES DIRTY TRICKS

Common dirty tactics include :

- deliberate deception i.e. false facts,
- ambiguous authority where they do not have power to compromise or agree
- dubious intentions in which the other party is unlikely to stick to agreements
- psychological warfare i.e stressful situations, personal attacks, good guy/bad guy routines, threats
- positional pressure tactics i.e. refusal to negotiate, extreme demands, escalating demands and reopening or expanding agendas, lock-in tactics, the "hardliners in our camp", options, calculated delays in decision-making, "take it or leave it".

Avoid being a victim : negotiate the rules of the game

- recognise the tactics
- raise it explicitly
- question the tactics' legitimacy and desirability
- move back to : separate people from the problem; invent options for mutual gain; insist on objective criteria.

IF THE OTHER SIDE WILL NOT NEGOTIATE ON THE MERITS

- negotiation jujitsu : if the other side adopts a positional bargaining approach:
 - Avoid defending or attacking position;
 - refuse to react
- don't attack positions, look behind them to interests.
- don't defend ideas, invite criticism and advice
- recast an attack on you as an attack on the problem,
- ask questions and pause (use of silence)
- use the one text procedure : proposal and ask for feedback; modify and ask for comment etc.

Acknowledgements to Mark Anstey

21 February 1993