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Negotiation is not a competitive sport

By Steven P. Cohen

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Negotiation is not a competitive sport

Taking a hard line may be fine -- but only in the short term, and only if you really believe that your counterpart is your adversary. But negotiation is often a series of episodes, which means that considering your counterpart as a partner or a collaborator is the foundation of trusting and fruitful-- and ongoing -- negotiation. How the game is played matters more than who wins.

By Steven P. Cohen

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Why negotiate?

If everyone -- an individual or a company -- had everything they wanted, there would be no particular reason to negotiate, bargain, or collaborate in decision-making. But in the real world, we do not have everything; the resources we control or influence do not serve all of our interests. Unless we can find and reach agreements with parties who can respond to our interests, our needs will not be satisfied. Moreover, we are far more likely to find agreeable counterparties for joint decision-making if we can offer something that is important to them.

Some parties' negotiating styles put them in a bind, literally; the unilateral decision-making and the resulting demands particular to such styles give these parties little leeway for achieving favorable results. When one party says, "My way or the highway," it puts itself in a position it can't get out of without losing face. This is as true in international diplomacy as it is when a parent tries to reach an agreement with a fifteen-year-old child.

When parties adopt a position, locking themselves into a narrow range of 'acceptable' outcomes, they often conclude that the most appropriate approach to negotiation is to treat the process as competitive - where the outcome has to yield winners and losers. The short-term thinking that underlies this approach tends to vitiate the likelihood of serving the long-term interests of the 'winner' in a win/lose competitive negotiation, even if the short-term objectives are achieved. This article will describe how to avoid that approach and build a foundation for successful, trusting and ongoing negotiation.

A fanciful history of negotiation

A potted history of the process of reaching agreement could say that in the old days, two property owners who had a disagreement would hire knights to determine who was right. The process was called waging war. Several centuries ago, someone invented lawyers, and as a consequence, the process of determining who's right in a dispute became one of waging law. Using this line of reasoning, negotiation could be viewed as waging peace. However, if negotiation is viewed as a means for determining who is right, it retains the underlying sense that, as a consequence, some parties end up winning and others emerge as losers.

In warfare or litigation - or the use of negotiation as a tool that yields winners and losers - competition is the best description of what's taking place. While the pursuit of war and law - as well as sports and other activities - may tend to be competitive, it makes far more sense to recognize that negotiation is not a competitive sport.

One step in negotiation's history, one that advanced it beyond the view that it is competitive, was the development of what too many people call the "win/win" approach. Win/win sounds as if it yields a result that allows each party to walk away from the bargaining table satisfied that the gains achieved by both parties are equal. This is certainly a more civilized way to reach an agreement than the positional bargaining approach. However, a more realistic, real-world description of interest-based negotiation would say that it is a process that yields an agreement that each party will willingly fulfill.

Why parties compete

The primary objective of competition is to "Beat the other guy." This approach makes a great deal of sense in many areas of life. However, since negotiation should yield a willing commitment among the parties to an agreement, any process that leaves a party feeling like a loser will reduce the loser's enthusiasm for honoring - and fulfilling -- the deal. If commitment and fulfillment do not ultimately result from the bargaining process, no deal has been reached and the bargaining/negotiation has been a failed exercise.

People can make a case for adopting a negotiating strategy that leads to a deal which falls apart. The party that is "stood up" by another party who reneges on a deal may gain the moral high ground that it might be use as leverage in future dealings with the "reneging" party - or may gain a sympathy vote from other negotiation partners.

Who's in charge here?

Most people would like to be able to manage all the resources they need to meet their objectives. Vertically integrated businesses were developed with that very end in view - with automobile manufacturers owning everything from the mines yielding raw materials to distribution facilities and controlling dealer networks. A similar approach led to the development of cartels that may have had a variety of owners controlling different elements of an overall industry - but who also shared interlocking arrangements to cooperate. In these cases, there were likely to be winners and losers. The manufacturers won and the customers generally had to accept what they were offered. Henry Ford's comment that buyers of his cars could have "any color they wanted, as long as it was black." was an outstanding example of this approach.

Thus, if it is treated as a competition, the negotiation process may yield short-term gains; long-term gains, however, are not a likely result.

A more open market with a larger number of participants means that consumers of business-to-business services or products or individual end-user customers have far more choice. In this sort of market, parties can choose their negotiating partners based on their perception of which potential suppliers or clients are likely to offer them the best deal.

People and businesses have to make an additional choice; they have to determine what they need and then decide who or what organization is most likely to be worth dealing with in order to get that need fulfilled. Figuring out who's got what to offer, whether it be an attractive price, on-time delivery, or quality products is critical homework that needs to be undertaken before initiating negotiation.

Commitment is crucial

One crucial challenge is determining whether a potential negotiation partner can be depended upon to "deliver the goods" in ways that will serve the acknowledged objectives of the initiating party. A further test of that is the extent to which one can depend on other parties to fulfill the commitments they make. Unless a promise made is a promise kept, the bargaining process ends up as a failed exercise.

The fairness of the negotiation process has a significant impact on whether promises made will indeed be fulfilled. If one or more parties feel that they've been treated unfairly, they are likely to look for ways to get out of the deal - or to think twice before agreeing to negotiate with that party a second time. The old saw, "If you cheat me once, shame on you. If you cheat me twice, shame on me," certainly applies to the long-term impacts of unfair, misleading, or oppressive negotiation strategies and tactics.

Using force, trickery, or heavy-handed tactics can often pay off in competitive environments. No one would think of fielding a big league professional basketball team made up of players who can barely see over their cars' steering wheels. In sports, competitive advantage based on skill, size, or even psychological tactics can often yield a greater likelihood of success.

Competing for success

In a competitive market, a level playing field may be rendered moot by inequalities among the players. A company with greater capitalization, a better product, more attractive prices, or other advantages should, on balance, be more successful than its competitors lacking those advantages.

Whether in sports or business, competition tends to reward those with more power or skill or other strengths; competition yields winners and losers. A negotiation process that yields winners and losers is likely to have the long-term effect of turning off the losing party's willingness to fulfill the agreement he or she was forced to accept - and reducing the likelihood that the losing party will want to negotiate with the winner in the future. Thus, if it is treated as a competition, the negotiation process may yield short-term gains; long-term gains, however, are not a likely result.

One can imagine a variety of scenarios where competition underlies the reasons one party negotiates with another: Employees compete to climb the career ladder - often by negotiating with their bosses or human resource personnel and trying to get ahead of colleagues. Vendors negotiate with buyers to make a sale; their success generally means that other vendors fail to sell their products. In each of these situations, the negotiation is about convincing another party that one individual or vendor adds greater value than others. The aim of at least one of the parties is to make sure those other individuals or organizations are beaten in the competition to get ahead.

Treating one's counterpart as an opponent rather than as a partner in a collaborative process decreases the likelihood of reaching an agreement that contains the fundamental element of commitment.

Competing to feed egos

When money is involved, some people look at negotiation as a competition between the parties to see who can get the best price. "Beating down" one's opponent in price negotiations often seems to be driven by ego gratification, bragging rights, or even simply saving corporate dollars. None of these objectives is morally questionable, but if they underlie negotiation strategies or tactics, they can damage the very same sorts of interests on the other side. Everyone has an ego, and if a negotiator thrives on bruising the egos of others, he or she runs the risk of reducing the possibility of long-term gains.

Competitive bargaining and relationships

If you recognize that almost every negotiation is an episode in an ongoing relationship, you are also recognizing that, while a party may get better results one time, he or she may get more the next time the two of you negotiate. Obviously, you don't always negotiate with the very same individuals or organizations; but since you need to collaborate with colleagues, family members, and neighbors - as well as repeat customers and suppliers -- a very large proportion of your negotiation partners are "repeaters." Treating those frequent negotiating counterparts as competitors rather than as partners in collaborative decision-making nullifies significant gains that can be achieved.

Bargaining is a central element of the negotiation process. In effect, you are saying to your negotiation partner, "If you promise to.., Then I promise to . . ." The success of that bargaining activity is based on trust. Unless the negotiation partners can trust one another to deliver as promised, the bargaining does not yield a durable agreement. Treating one's counterpart as an opponent rather than as a partner in a collaborative process decreases the likelihood of reaching an agreement that contains the fundamental element of commitment.

Negotiating on the same page

In the bargaining process, one must accept the fact that information moves between the parties more than any other commodity. One needs information about price, product specifications, delivery and a host of other elements of the deal. Information is the fundamental currency of negotiation. Here again, a competitive approach undercuts the likelihood that the information that moves between the parties will be reliable - and thus convincing.

When negotiating parties trade information, they have the opportunity to narrow their focus so that the ultimate agreement, the commitments that are made, reflects common understandings. If each party only listens to his or her points, each runs the risk of being participants in a pair (or more if there are more parties) of dueling monologues. It is all well and good to understand oneself - but unless negotiating parties understand one another, even if they shake hands or sign a contract, each may walk away thinking there has been agreement on a specific deal that is different than the one other parties have agreed upon.

To avoid wasting time and effort to reach a mutually-incomprehensible deal, negotiators have to bifurcate themselves, focusing first and foremost on their own interests, keeping a close eye on the process - particularly its fairness - and most significantly, soaking up every bit of information they can learn from or about the interests of their negotiation partners. In a competition, parties may spy on each other with the aim of undercutting their opponents' capacity to utilize resources to gain a satisfactory result. In collaborative decision-making, the objective of spying - of gathering information - is to increase the likelihood of ending up on the same page and thus reaching an agreement that means the same thing to each party.

Part of the obligation of negotiators is to pay attention to details. An agreement that reflects a lack of mutual understanding can cause one set of problems - with each party fulfilling a different deal. Agreements that contain surprises present a similar problem; if one party attempts to pull the wool over another's eyes, it can also lead parties to get out of a bad deal, and perhaps, even to a soured relationship.

Can our choice of negotiation partners make it a competitive process?

We don't negotiate with competitors - it is probably illegal and, even if not, it is likely to be against our interests. Our obligation to ourselves and our constituents (those who depend on us) is to gain advantage over competitors. Clearly, negotiating with competitors can yield gains when the issue under discussion is a joint venture, merger, or acquisition. Competitors who negotiate to divide up market share, set monopolistic prices, or otherwise restrain trade are really not negotiating; the legal term is conspiring.

Negotiating with colleagues in order to bring about buy-in can be crucial to building teams within companies - and reducing cross-silo or inter-tribal warfare. Internal negotiations that work lead to greater success when the time comes for external negotiations with customers, suppliers, or others outside our company. When an external party discovers that there is a lack of agreement within an organization, it will see this as a temptation to divide and conquer and, in so doing, harm the interests of the other negotiating party.

In a market characterized by cost-cutting and penny-pinching, longstanding supplier/customer relationships are jeopardized as negotiators - or their constituents - make price the determining issue rather than long-term value, return on investment, or dependability. This trend has led to many corporate decisions that reward purchasing people while forcing suppliers to cut prices. One might argue that such marching orders to cut prices are an incentive for buyers to get competitive with their vendors, winning only by taking a threatening approach, "If you don't cut prices, we'll go somewhere else for widgets." This competitive approach is combat; it is not negotiation.

One of my clients, dominant in its industry, recognizes the risks of developing a reputation for heavy-handedness in its dealings with suppliers. It has made a corporate decision that beating up on suppliers on price alone will have long-term negative consequences. The client has made a commitment not to behave like the proverbial 700-pound gorilla. Its buyers are encouraged to collaborate with suppliers to develop creative ways to bring costs down in ways that help protect - if not maintain - suppliers' profits.

If the dealings between corporate buyers and their suppliers degenerate into competition, where only one party emerges as a winner, suppliers could be driven out of business, thus consolidating the supplier base, reducing competition, and ultimately, increasing prices. Purchasing agents often complain about the problems of dealing with sole suppliers; if beating down prices puts vendors out of business, that hastens the arrival of the buyer's nightmare of "monopoly suppliers". Using the win/lose approach to negotiation becomes self-defeating.

Are the following approaches competitive tactics?

There are certain approaches to negotiation that might be viewed as creating a competitive process. However, these need to be looked at in broader terms, in order to understand how activities you undertake to strengthen your BATNA do not necessarily change a negotiation from a fair to an unfair process.

Bluffing, for example, needs to be contrasted with lying. It is similar to the distinction between positional ("My way or the highway") bargaining and interest-based negotiation. When one tells a lie to mislead another party, and if that lie is detected, the liar's credibility is damaged and he or she has to live with the consequences. On the other hand, a negotiator may bluff another party - not by saying something that is false, but rather by making a risky proposal and then being prepared to accept the consequences of having that proposal accepted.

Similarly, a distinction needs to be drawn between **spying and information gathering**. Since information is the basic commodity that travels between negotiating parties, the more information one gathers in advance of formal negotiations the better-prepared one is to negotiate. One does not want to get caught spying, stealing proprietary information or obtaining information in a dishonest or underhanded manner. Stealing data or other information wipes out a negotiator's credibility and decreases the likelihood of an agreement among the parties. On the other hand, there is so much information available in libraries, on the Web, and through other legitimate means, that the information gathering process is an element of due diligence that all decision-makers must undertake.

Coalition building is especially important in multi-party, multi-issue negotiation. Finding out which other parties are likely to be supportive of one's own interests, what it will take to bring about other parties' buy-in to an agreement, may well yield divisions among the parties to a potential agreement. Learning how best to bring parties together beforehand, which parties need to be convinced - and what will convince them - could raise the risk of some feelings of competition. However, if the information gathered in the coalition building process is used to increase the likelihood of buy-in, a better agreement should result.

The past has no Future - or does it?

We often tell clients that, "In negotiation, the past has no future." Parties cannot change the past by negotiation - although many cling to the hope that changing others' interpretation of past occurrences will improve future relations. Whether unpleasant feelings in the past have occurred within a family or between national groups, competing for more sympathy is unlikely to change the future nearly as much as accepting that, a) different folks have contrary views of who's at fault and b) it's time to look for complementary ways to improve whatever will happen next. Old hurts don't disappear, nor can they be ignored. Rather than hold a competition over who's got the more lachrymose history, focusing on the future is far more likely to yield positive results.

In the end, the "letter C" is important

Many points of analysis in negotiation can be described using words beginning with C. Interests that underlie the positions taken by parties can be Common, Complementary, or in Conflict. The decision-making process may be Combative, Competitive, or Collaborative. Using collaborative techniques to find complementary interests can lead to Commitment, the outcome of successful negotiation.

Competitive negotiation yields winners and losers and reduces the likelihood that losing parties will be fully committed to the resulting agreement. If the agreement falls apart, the negotiation must be deemed a failure. If parties are compelled to fulfill their part of the agreement but end up with a bad taste in their mouths, they will approach future negotiations with the winner with reluctance, paranoia, and distrust. The long-term consequences of competitive negotiation are unfavorable, yielding reduced enthusiasm and commitment as well as damaged relationships. Negotiation is about how the parties are going to bring about added value from having worked together. It is not a competitive sport.