



NEGOTIATION
DYNAMICS

PRICE NEGOTIATIONS

THE DISTRIBUTIVE DIMENSION OF BARGAINING

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INTRODUCTION

Is it worth our while to analyze price negotiations in any depth?

Skilful negotiators instinctively try to get away from single issue bargaining. Rather than haggling over price, they will try to negotiate package deals. They know from experience that price negotiations tend to engender a confrontational bargaining atmosphere. When price dominates the agenda, and there's really nothing else to discuss, negotiators have a hard job to maintain a constructive climate. It is pretty obvious to both of them that whatever the buyer gains, the seller loses and vice versa. Price highlights the 'distributive' dimension of bargaining. Furthermore, the 'simplicity' and 'transparency' of the setting does not leave much room to manoeuvre. In contrast, 'complex' and 'fuzzy' situations allow negotiators to utilize their skills to the greatest advantage. Recognizing that they are stuck in a 'win-lose' negotiation, skilful negotiators will instinctively try to introduce additional issues in order to craft a complex package deal, both to create more value and to veil the distributive dimension of bargaining. Finally, they worry that a standoff over a single issue may trigger a 'Both Pay Auction', which typically leads to particularly nasty consequences for both parties (more about this later).

Certainly, many instances in which parties are haggling over a single issue could, in the hands of more skilful negotiators, be transformed into mutually beneficial multiple issue negotiations. Unfortunately, however, price negotiations cannot always be avoided. We have to face up to the fact that at least occasionally, there really is one dominant issue. When we sell our house, we mostly care about money, and so does the prospective buyer. There may be a few additional issues, and we should try to exploit them, but all said and done, how much weight do they really carry? When two parties try to reach an out-of-court settlement for compensation in a personal injury case, both sides essentially care about money. When management and a union negotiate over lay-off compensation, the dominant issue is money. In merger and acquisition talks, price is often the dominant concern.

Practitioners often draw a distinction between Price Negotiations and Contract Negotiations (see e.g. Freund, James C. (1992) *Smart Negotiating – How to Make Good Deals in the Real World*, New York: Fireside, Simon & Schuster, ISBN 0-671-86921-3., pp. 116 ff.). While many academics argue that addressing subsets of issues sequentially leads to inefficient outcomes and that negotiators should strictly adhere to the fundamental rule that "nothing is agreed until the deal as a whole is finalized", this is how, often, things proceed in real life. It is easy to see why. While multiple issues are on the table, one – price – weighs in as an elephant and the others by comparison are the size of a mouse. Parties' expectations focus on price. The process of convergence of expectations is dominated by price. The negotiation dance revolves around price. Other issues do play a role, but not in the sense that they offer the opportunity for balanced tradeoffs with price in a genuine package deal. Rather, "peripheral issues" offer opportunities to close a remaining gap, allowing the parties to make meaningful but relatively marginal changes in their positions on price in exchange for some non-price issue, and thereby avoid a stalemate. It is important to note that - contrary to conventional academic wisdom - this common practice does *not* necessarily result in inefficient outcomes. As we will see later, there

is nothing wrong with “sequentially” addressing items – as long as each item is traded against money, *i.e.* as long as “contract negotiations” involve small adjustments in price.

Finally, we must recognize that every negotiation contains an element of ‘haggling’. It would be naive indeed to believe that in the wonderful world of ‘win-win’ negotiations there is no need to negotiate over who gets what. A deal can be win-win, WIN-win, or win-WIN. Introducing additional issues will often dramatically improve the negotiating climate, and by creating joint gains both parties can be made better off. Nevertheless, the fact that the ‘pie’ can be enlarged does not do away with the necessity of agreeing on how to share it. That is, even in ‘win-win’ negotiations, the ‘distributional’ aspect of bargaining does not magically evaporate. In fact, it is not useful to stereotype negotiations as ‘win-lose’ or ‘win-win’. Even in single issue ‘win-lose’ negotiations there is a strong need for coordination among negotiators in order to avoid no agreement when reaching agreement would have been beneficial to both. And even in multiple issue ‘win-win’ negotiations there are inevitable elements of conflict. All negotiations involve both elements of cooperation and conflict.

The following sections do not address the ‘efficiency’ aspect of negotiating, or how to ‘create’ value by exploring mutually profitable adjustments and package deals. The focus is on the ‘distributive’ dimension of bargaining, or how to ‘claim’ value. The setting chosen is deliberately kept as simple as possible: two players haggle over price. However, many of the insights and tactics carry over to more complex settings where multiple issues are on the table.

THE BARGAINING RANGE OR 'ZOPA'

Not all single issue negotiations are alike. The following structural characteristics have a critical impact on the nature of the negotiation process:

1. Is the negotiation a 'one shot' encounter, or is it embedded in a long term relationship between the parties?
2. Is the single issue continuous (e.g. price) or discrete (e.g. when negotiating about a fundamental point of principle)?
3. Is there considerable 'fuzziness', or do parties have near-perfect information about each other?
4. Does the negotiation involve two or more than two parties?
5. Does delaying agreement impose substantial costs on the parties?

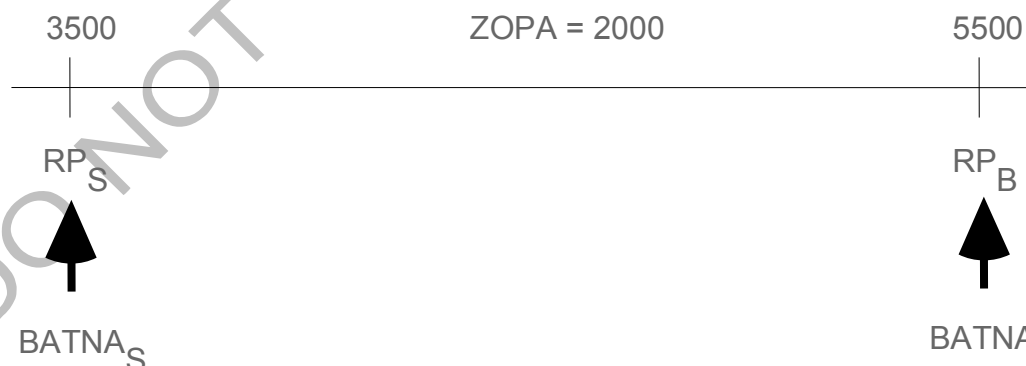
The discussion deals with 'one shot' negotiations which involve a single continuous issue, two parties, and where delaying agreement does not impose substantial costs on the parties. A typical example is buying or selling a house. In such cases, the structure of the bargaining problem is extremely simple. It hinges on four key concepts:

1. each party has a 'BATNA' (Best Alternative to Negotiated Agreement)
2. a party's BATNA determines his 'Reservation Price' ('RP')
3. the reservation prices of both parties define the limits of the bargaining range or 'ZOPA' (Zone of Potential Agreement)
4. By agreeing on a price P inside the ZOPA, buyers and sellers achieve a 'surplus':

$$\text{surplus}_B = \text{RP}_B - P$$

$$\text{surplus}_S = P - \text{RP}_S$$

In the case of the *Salty Dog*¹ we have:



¹ Lax, David A., and James K. Sebenius, Harvard Business School Case 186-157, December 1985. The "Salty Dog" is an old truck equipped for snowplowing. The buyer has been given a budget limit of \$6000; however, he has also found an equivalent truck elsewhere at \$5500. The seller can sell off the truck for spare parts at \$3500.

The problem is then 'simply': how do the negotiators divide up the ZOPA between the two of them?

In fact, the negotiating problem is not simple at all. Even when parties have near-perfect information about each other's reservation price, the problem is far from trivial. Furthermore, in many negotiation situations there is considerable 'fuzziness', not only about our opponent's RP, but about our own limit as well.

1. Determining our own RP

A 'reservation price' or RP is a walk away price: it is the point where we are just indifferent between concluding and not concluding the deal. The ultimate limit of what we can accept as a negotiated outcome depends on what alternative options we have if no agreement is reached. That is, our RP depends on our 'BATNA' (Best Alternative to Negotiated Agreement).

Consider a simple case: selling a second hand car. I would like to buy a brand new Volksmobile and sell my 1985 Wolfwagen. My neighbor likes the car, and has expressed an interest in buying it. I have checked the *prix argus*² and found that a 1985 Wolfwagen lists for 25,000 francs. What is my BATNA (and hence my RP) in the negotiation with my neighbor? It is important to notice that an average list price does *not* determine my BATNA: it provides useful information, but does not correspond to an actual alternative. In fact, the Volksmobile dealer has offered a trade-in allowance of only 20,000 francs. I feel I may be able to push up that figure a bit, but I worry that some of what I gain there may be lost when negotiating the discount on the new car. So, should I evaluate my BATNA at 20,000 francs, and set a realistic target for myself at 25,000 francs?

Unfortunately, this is not an implausible scenario. All too often, we only make a perfunctory analysis of our no-agreement alternatives. As David Lax pointed out³, we tend to go through a careful evaluation of our no-agreement alternatives only at the time when the negotiations are going very badly. The result may well be that we enter the negotiation with a reservation price which is vastly too low, and leave with a poorer settlement than if we had done a better job evaluating - and improving - our BATNA. After all, how difficult would it have been to get an offer from a second hand car dealer? And, while I was at it, why not get offers from several dealers? Getting better deals does not necessarily require sophisticated technique or the magic touch of the 'master negotiator'. Often, it is simply a matter of doing our homework properly. The simplest yet perhaps the most effective way to increase our bargaining power is to *improve our BATNA*.

Actually, there is yet another alternative: I could keep my Wolfwagen for another year or so and give it to my daughter who is about to get her driver's licence. Unfortunately, I'm inclined to ignore this alternative when it comes to determining my RP. Why? Because I can't put a figure on it. Quite frequently, we focus on the numbers and *ignore valuable alternatives which are*

² Published estimates of car values, comparable to 'bluebook value' in the US, and prices listed in the Glass Guide in the UK.

³ Lax, D., "Optimal Search in Negotiation Analysis", *Journal of Conflict Resolution* Vol. 29 No. 3, September 1985, pp 462-3.

difficult to evaluate in monetary terms. Comparing offers from different second hand car dealers is easy enough. However, what value do I put on keeping my car for another year in order to give it to my daughter? Of course, it *can* be done ... it's just more work! But if I'm prepared to drive 25 minutes to a cheaper supermarket instead of buying at the local grocery store, shouldn't I spend 45 minutes with pencil and paper to work out how much it's worth to me to keep the car?

Consider another example: settling a personal injury claim out of court. I can either settle or go through with legal proceedings. In the negotiation with the insurance company, my RP (assuming I am risk neutral) is 'simply' the expected value of the court outcome. Unfortunately, determining this figure is really not simple at all! I have to estimate legal fees, the costs for delaying, I have to assess a myriad of legal uncertainties, and so on. Furthermore, I have to collapse all of these assessments in to a single figure: my RP. Can it be done? It's certainly not easy. However the important question is: *do we have a choice?* In situations like this where the stake are high, *we just can't afford to pick a 'ballpark figure'*⁴. Unless we carry out this evaluation in a systematic way and firm up our RP we are likely to make three basic mistakes:

Mistake #1: biased assessment of uncertain no-agreement alternatives

Research has shown that professionals and non-professionals alike make unrealistically optimistic 'back of the envelope' assessments of alternatives which involve considerable uncertainty. We look at the world through pink colored glasses: Our beliefs are colored by our desires. This assessment bias has been documented in a variety of settings. For example, in her PhD dissertation, Marijke Malsch has shown that attorneys as well as their clients make biased predictions about future court outcomes (although the bias was less severe in the case of attorneys)⁵. The consequences of this bias are serious: all too often, deals fall through because negotiators start from uninformed - and unrealistic - assessments of the ZOPA. This problem is particularly severe in those negotiations where no agreement alternatives involve considerable uncertainty, such as out of court settlements and merger and acquisition negotiations.

Mistake #2: revise our RP in order to conclude a deal.

Most of us are loath to conclude a negotiation on an 'agreement not to agree'. A failure to reach a deal is typically perceived precisely as such: as a *failure*. We haven't been able to resolve the tension generated by the bargaining process. This tension which exists between the negotiators as long as disagreement persists tends to push us towards agreement. Given the very strong pressures to reach a deal, we naturally look for ways to make it possible. "Maybe I could buy for \$6000. After all, I do have the authority to spend up to \$6000. It isn't really all that clear-cut." We

⁴ Drawing a 'decision tree' is an extremely useful technique which helps a negotiator to:

- systematically map out the various alternatives and sources of uncertainty
- assess and 'harden' his RP
- create options for bargaining
 - experimentation with different 'trees' suggests alternative ways to structure the problem
 - sensitivity analysis uncovers points of leverage

⁵ Malsch, M. , *Voorspellingen van Rechterlijke Beslissingen door Advocaten*, Rijksuniversiteit Leiden.

are masters at deluding ourselves: unless we do our homework properly, unless we have a *firm* RP, a figure which is backed by solid analysis, we'll find ways to convince ourselves that there are good reasons to revise it...and regret it later on!

Mistake #3: dismiss alternatives which involve considerable uncertainty as "too risky".

Consider a common example: selling a house. I have received a firm offer of FF 1.4 million for my house from Mr. Milhaud. Assume this is an offer I could live with. Mr. Milhaud needs an answer within a week. Do I accept, or do I continue to search for another prospective buyer who might offer more?

If I accept the offer, I avoid uncertainty: I know precisely what I'll get, and I'll get it for sure. If I decide to search out other buyers, I incur additional costs: search costs, plus the opportunity cost of the money tied up in the house. More importantly, I am confronted with uncertainty. Will there be another buyer? If so, when will he show up? Within a week, two weeks, a month, ...? Will he offer about the same, more, or less? Confronted with a choice between an acceptable alternative which is riskless and another alternative which might be better but which is uncertain, we typically go for the riskless option: "A bird in the hand is better than two in the bush". *But is it?*

The problem is nicely illustrated by the "Choosing the most beautiful woman" problem (see Howard Raiffa, *The Art and Science of Negotiation*, pp. 79-80. For a more technical discussion, see David A. Lax, "Optimal Search in Negotiation Analysis", *Journal of Conflict Resolution* Vol. 29 No. 3, September 1985, pp 456-472.). You are a judge in a beauty pageant. Your aim is to try and choose the most beautiful out of one hundred contestants. The only difficulty: you get to see the contestants only one by one, and you must make up your mind on the spot. That is, you can't, after seeing # 43, go back and pick # 27 as the most beautiful. (This corresponds with the situation where, after rejecting one buyer's offer, you can't go back and accept the same buyer's offer later.) Being a judge, what is your strategy to try and pick *the* most beautiful?

The following three-step procedure is often suggested:

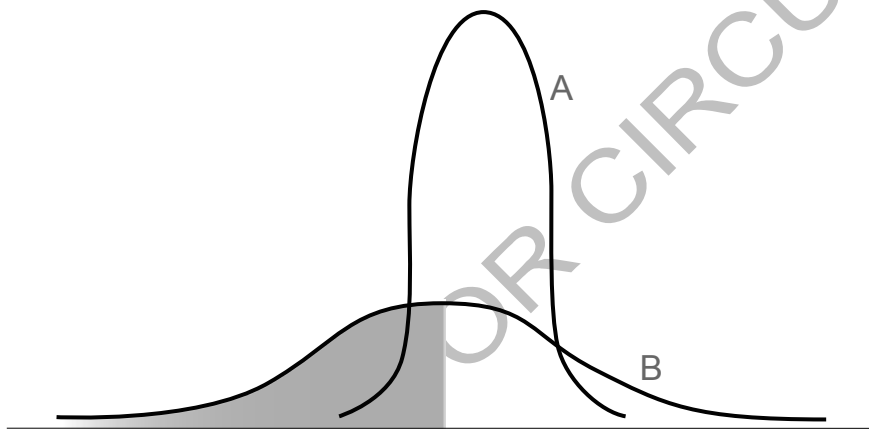
1. Define criteria for evaluation
2. Set standards for each of the criteria
3. Pick the first contestant who meets or exceeds the standards on all of the criteria.

Assume that the first woman is stunningly beautiful. She clearly exceeds the standards on all of the criteria. In fact, she is far more beautiful than you had imagined. Do you pick her? The fact that she is far more beautiful than you had expected should give you some pause for reflection: *maybe there is something wrong with the standards*. The very fact that you are surprised should tip you off: on what basis did you set the standards? Are they appropriate for judging this particular population? It turns out that generally, the optimal policy involves *taking a sample in order to obtain appropriate bench-marks for evaluating the population*.

Going back to the problem of selling my house. Let's assume that the first offer I get is higher than I had expected. Do I take it? Again, the fact that I was surprised should tell me something: perhaps, there is something wrong with the target which I had set. If so, shouldn't I consider

further searching in order to get a better feel for the market? Of course, there is not necessarily something wrong with my target just because I get a pleasant surprise. (After all, the first woman could have been the most beautiful of them all.) But the odds are against it: on average, some further search yields higher sales prices. Search theory suggests that the problem is not so much that I go for the first 'acceptable' offer but rather that the basis for judging an offer 'acceptable' is incorrect: in calculating my RP I should take into account the expected value of continued search.

There is yet another angle from which we may want to approach the same problem. Assume the expected value of continued search is *lower* than your current offer. The search alternative now has a poorer expectation and entails higher risk than accepting now. Does it ever make sense to continue to search? Let's look at the problem more generally. The two distributions depicted below represent our beliefs about the possible outcomes of two alternative choices.



Alternative A has both a higher expectation and involves less risk than alternative B. Would we ever choose B? Of course not (unless we are risk-seeking and love the thrill of greater uncertainty). Yet, alternative B is not entirely unattractive. Its very uncertainty also entails upside potential which the seller may want to explore. Indeed, it is entirely possible that the actual outcome under alternative B would exceed X. Notice that the attractiveness of this alternative exclusively stems from its *variance* (since its expected value is only Y).

Now let's assume that somehow we could *truncate* distribution B and thereby eliminate (some of) the downside involved in picking that alternative (shaded area). Wouldn't that change our decision? And if so, isn't the right to truncate part of the distribution something valuable, something that we may want to acquire and pay for?

Analytically, the right to truncate the distribution at a particular price is an *option* with a particular *exercise price*⁶. Thus, as an alternative to accepting or rejecting Mr. Milhaud's offer I could propose to pay him a certain amount to maintain his offer for another month. This is like buying a put option at FF1.4 million. Paradoxically, obtaining such an option may make sense even if on the whole I am not very optimistic about the likely outcome of continued search (mean lower

⁶ More specifically, *real* option as opposed to a financial option. For valuation of real options, see Trigorgis, L. [reference missing].

than FF1.4 million), provided this outcome is sufficiently uncertain! While the exact valuation of options is no easy matter, the fundamental intuition is clear: *the value of an option increases with uncertainty*.

Unfortunately, uncertainty is almost automatically equated with risk. Such a negative perspective is totally unwarranted. Uncertainty should also be viewed positively, for the upside potential that it holds. Acquiring options is a natural way to explore the upside potential of highly uncertain alternatives while eliminating the downside risk.

Consider another example. I want to sell a sailboat. I have received a firm offer from Mr. Lully for FF100,000. He said this was a good price, and he wants an answer from me tomorrow. However, I have just advertized the boat in a specialized magazine. I was told that buyers who are really keen on this particular type of boat are likely to get in touch with me within a month. If that is the case, I will probably get a very good price. Conversely, if the boat is not sold within a month, I may infer that the price I will be able to get is likely to be quite a bit lower. Specifically, my beliefs are given by the table below:

OUTCOME	PROBABILITY	PRICE
Sold \leq 1 month	60%	FF 110,000
Sold $>$ 1 month	40%	FF 80,000

Assume I am risk neutral. What should I do?

In 'simple' problems like these, our initial reaction is to choose between two obvious options: *sell now* to Lully (FF 100,000) and *wait* ($EV = .6 \times 110,000 + .4 \times 80,000 = FF 98,000$). Since selling now has a higher expectation than waiting and is totally riskless, it seems plain as day that I should sell now.

However, I could also propose a *put option* to Mr. Lully at a price S , in order to allow me to explore the upside potential of waiting while limiting the downside. The maximum amount S_{max} I could offer is given by $.6 \times 110,000 + .4 \times 100,000 - S = 100,000$, hence $S_{max} = FF 6,000$.

There are other alternatives that I could explore. A problem with this put option is that I have to pay in all cases, even though there is only a 40% chance that I will actually exercise it. Hence, I may want to consider an alternative arrangement: a *conditional rebate* R . The idea is the following: I tell Lully that I would like to get FF 110,000, but that if the boat is not sold within a month I will sell it to him for FF 110,000 - R . It is easy to see that I could offer a conditional rebate of up to FF 15,000 -- quite an attractive proposition. The problem with this arrangement, however, is that I cannot be 100% sure that Lully will in fact be willing to buy at 100,000 - R if, one month from now, my boat is not sold. He may have bought another boat in the mean time, or he may bargain for a bigger rebate.

Perhaps, then, I could offer to sell the boat at FF 100,000, but obtain the right to buy it back from him within one month at a price of FF 100,000 + C (i.e. obtain a *call option*). Etc. Unfortunately, negotiators often fail to explore vast array of arrangements that can be devised in 'simple' situations like these.

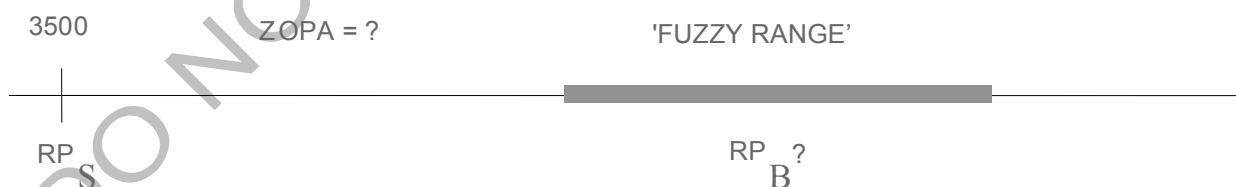
Lou, a friend of mine, proved to be a happy exception to the rule during a yard sale when he was moving from MIT to Stanford. His entire yard was full of old junk which he had amassed over the years. All items bore neatly written price tags. The old ladies - professional bargain hunters with great experience - proved to be Lou's most worthy opponents. "Ten dollar for this chair (marked \$15), young man." Affably, Lou would reply "I was really looking for fifteen dollar Ma'am. But I'll note your offer of 10 dollars and if it isn't sold by six o'clock tonight you may have it for eight."

Summary

- The simplest way to increase our bargaining power is to work on our BATNA.
- If we lack confidence in our RP we will accept deals we should have rejected.
- We are prone to making unrealistically optimistic assessments of alternatives which involve considerable uncertainty.
- In calculating our RP, we should not ignore an alternative simply because it's hard to put a number on it.
- If we systematically take the first 'acceptable' offer we're likely to sell too low. Our RP should reflect the expected value of further search.
- All too often, alternatives are summarily dismissed as "too risky". Uncertainty involves 'upward potential' as well as 'risk'. Options are a natural way to explore the upside of highly uncertain alternatives while limiting the downside risk.

2. Uncertainty about our opponent's RP

One of the main challenges in many negotiations is precisely the fact that *we do not know our opponent's RP* (and that he doesn't know ours). Let us assume we are the seller of the Salty Dog. Our problem then looks as follows:



We can't assess our opponent's RP with pin-point accuracy: it will be somewhere inside a 'Fuzzy Range'.

In some cases, it will be relatively easy to assess our opponent's RP. In other cases, there will be considerable uncertainty about his RP. That is, the width of the 'Fuzzy Range' depends on the amount of information that we have about our opponent's RP. If we are very uncertain, the

fuzzy range will be very wide. If we have a fairly good idea of our opponent's RP, it will be much narrower. Consider the following two cases:

Case A:

You are the owner of a 3 year old 'pavillon' (a small low-cost free-standing housing unit) located near Fontainebleau in a major new housing development which consists of 200 similar units. As is typically the case with this type of construction, your pavillon was designed to provide a maximum of convenience and comfort at a moderate cost. Turnover of this type of housing unit is high.

Case B:

You are the owner of an old farmhouse located in the small rural village of Larchant 16 km south of Fontainebleau. The area around Larchant is extremely scenic. The village borders a marsh, and is surrounded by forest. In the springtime, nightingales and dozens of other species of birds are nesting in the area. In the summertime, however, the area is infested with mosquitoes. The farmhouse itself was built in 1830. You have completely renovated the entire house while trying to maintain its original charm.

Clearly, the fuzzy range is quite narrow in case A (say about 10%). It will be much larger in case B (say about 50%). The pavillon is a fairly standardized type of housing unit for which market data are readily available. In contrast, judgement plays a critical role in appraising the farmhouse. Since this property is one of a kind, market data only provide rough guidelines. Different potential buyers (e.g. an ornithologist or a plumber!) are likely to place a very different value on this kind of property which the French aptly call *une maison de caractère*.

Practically all transactions that we complete every day either take place at fixed prices or involve price ranges that are very narrow. We don't bargain at supermarket check-out counters, in restaurants or in record stores, and taxis are paid metered fares. There is a danger that our daily experience colors our expectations when we are confronted with a problem which is potentially very different in nature, such as buying or selling a house⁷. Unless we carefully examine each case on its own merits, we will naturally assume that the fuzzy range is of the same order of magnitude as what we are used to -- and hence run the risk of dramatically underestimating the degree of uncertainty which could be inherent to the particular case at hand.

1. 'Best guess' or 'Fuzzy range'?

When we try to guess our opponent's RP, we typically come up with a single number, our 'best estimate'. We say: "It's really hard to tell, but my best guess is about 6000". That is, we make a single point estimate, we do not assess a 'confidence interval' (a fancier, more scientific term for our 'fuzzy range').

⁷ or a company. In 1978, the average premium over the target's market value paid by acquiring companies was 70% (Jensen, M. C. and R. S. Ruback, "The Market for Corporate Control: The Scientific Evidence", *Journal of Financial Economics*, 1983, 11, pp. 5-50.)

While it is not something which comes naturally to most of us, it is extremely useful to think about our opponent's RP in terms of a range rather than in terms of a single number. The degree of uncertainty about our estimate of our opponent's RP is a critical factor in determining the nature of our opening offer and the ensuing bargaining process. If we believe that our estimate is pretty accurate, we can confidently pitch a fairly definite opening offer just inside the ZOPA and basically stick to it. If we are not confident at all about the accuracy of our estimate, we will have to come in with a 'trial balloon' type opening offer and be prepared to be more flexible (more about this later). A single point estimate ('6000') obscures the uncertainty surrounding our estimate of our opponent's RP. By thinking in terms of fuzzy ranges ('4000-6000') we force ourselves to address this critical factor head on.

2. *Biases in estimating the fuzzy range.*

Before reading on, take pencil and paper and try to your hand at the following quiz⁸:

Listed below are 10 uncertain quantities. For each, write down your best estimate. Next, estimate a 'fuzzy range' such that you are 90% confident that the actual value will be between its lower and upper bound.

- a. The population of Indonesia in 1989
 - b. The number of countries (members of the UN) on the African continent
 - c. The area of Brazil (in km²)
 - d. The number of firms involved in pharmaceutical research in the US
 - e. The money market rate in Japan in 1987 (average for the year)
 - f. The average density of the earth (in g/cm³)
 - g. The number of French tourists visiting Spain in 1976
 - h. Mobil Oil's sales in 1980
 - i. The number of species in the oak (*Quercus*) family
 - j. The gross domestic product of France in 1985 (in Francs)
- (answers on next page)

How many times did the actual value fall inside your estimated 'fuzzy range'? It should be 9 times out of 10, since you were 90% confident that the actual value would be between its lower and upper bound. If that was the case, you are pretty good at assessing the degree of uncertainty involved in various problems. However, most of us are too confident in our own ability to provide reliable estimates⁹. We believe we have a better grasp of things than we do in reality. We do not sufficiently recognize the inherent 'fuzziness' of estimation or valuation problems.

Research has shown that there is a systematic tendency to *underestimate the width of the fuzzy range*.

⁸ Adapted from Bazerman, M., *Judgement in Managerial Decision Making*, pp. 32-33.

⁹ Interestingly, this proved also to be the case for those subjects who had explicitly complained about the difficulty of coming up with a reasonable estimate: they still came up with confidence intervals which were far too narrow.

The most well-established finding in the overconfidence literature is the tendency of people to be overconfident in answering questions of moderate to extreme difficulty [references omitted]. Hazard and Peterson (1973) found the effect in the armed forces, whereas Cambridge and Shreckenhorst (1980) found extreme overconfidence in CIA agents. Finally, Fischhoff, Slovic and Lichtenstein (1977) provide extreme evidence for the overconfidence effect: Subjects who assigned odds of 1000:1 of being correct were correct only 81 to 88 percent of the times; for odds of 1,000,000:1, their answers were correct only 90 to 96 percent of the time!

Does overconfidence always exist? No, overconfidence is most common when subjects are more uncertain of the value of the quantity. That is, as the subject's knowledge of a question decreases, it does not sufficiently decrease its level of confidence [references omitted]. Subjects typically demonstrate no overconfidence, and often some underconfidence, to questions with which they are familiar. Thus, you should be most alert to overconfidence in areas outside your expertise.

Bazerman, Max, *Judgement in Managerial Decision Making*, pp. 33-34.

Awareness of this systematic bias may go some ways to help avoid it. What else can we do? Getting an estimate from an expert does not necessarily help. Experts themselves are not immune from the overconfidence bias. Furthermore, many 'experts' come up with point estimates. In that case, there is a serious risk that our views may become unduly anchored around the expert's figure. However, getting independent assessments from *several* people does help. Even if experts disagree (which is not uncommon) we learn something. The fact that there are important discrepancies between their estimates, is extremely informative: it allows us to conclude that the fuzzy range is wide.

Summary

- When assessing our counterpart's RP, it is critical to obtain an estimate of the *fuzzy range* of potential outcomes rather than simply making a 'best guess'.
- The ubiquitousness of market prices lies at the heart of two very common misperceptions. The first is that the 'true' value of an item is given by its market price; the second is that variance in individual valuations is usually quite small.
- We have a systematic tendency to underestimate the width of the fuzzy range (overconfidence bias).

SETTING AN APPROPRIATE TARGET

A common problem in setting a target is perhaps best illustrated by the following example¹⁰.

1912 Presidential Campaign. Theodore ('Teddy') Roosevelt is planning a final whistle-stop journey "Confessions of Faith" and bearing a 'Presidential' picture of himself. Three million copies were printed when it was discovered that the picture was copyrighted by Moffett Studios in Chicago. The penalty for copyright infringement: \$1/copy. Roosevelt's options are few. There is not enough time left to print a different set of pamphlets using a non-copyrighted picture. Not distributing the pamphlet would hurt the candidate's chances for election in an extremely tight race. Simply going ahead and distributing the picture without the consent of the copyright owner would expose the campaign to a staggering liability. A final option is to negotiate with Moffett studios the right to use the picture. Not surprisingly, Roosevelt chooses the last option. He asks George Perkins, his campaign manager, to carry out the negotiations on his behalf.

George goes at it right away. He immediately sends the following cable to Chicago: "We are planning to distribute many pamphlets with Roosevelt's picture on the cover. It will be great publicity for the studio whose photograph we use. How much will you pay us to use yours? Respond immediately." The same day, Moffett Studios wires back its reply: "We've never done this before, but under the circumstances, we'd be pleased to offer you \$250."

This story makes an important point. In setting our aspiration level, we tend to focus on our own situation. We would have been happy to settle for half a million. Our basic mistake: we were setting our target by staring at our own navel. Moffett Studios, of course, made the same mistake. But George Perkins didn't: he set his target by looking at the problem from the other side's perspective. The danger of falling into this trap is real. We understand our own position, know little about the other side's, and set out target based on what we know. We calculate our costs, and tag on a reasonable profit margin. We work out our RP and figure that anything in excess of that is gravy. To avoid the trap, we have to look outward: what is *their* perception of the problem, what options do *they* have?

¹⁰ See Lax, D., J. Sebenius and Th. Weeks, [reference missing].

Quiz Answers: a: 179,000,000; b: 52; c: 8,456,511 km²; d: 700; e: 3.51%; f: 5.5 g/cm³; g: 9,476,000; h: \$59,510,000,000; i: 450; j: 4,700,000,000,000 Francs.

TACTICAL OBJECTIVES

The main objective pursued by most negotiators is to *convince* the other side. As a result, they focus their attention on developing persuasive arguments. Preparation for negotiation typically consists of the following three steps:

1. Define a position
2. Develop arguments to show that this position is 'fair', 'reasonable', etc.
3. Anticipate and refute possible objections

The implicit model behind this approach is that the negotiation is a "debate" which is won by the party who can marshal the more cogent arguments.

The chances of convincing another negotiator by the logic of our arguments are slim, however¹¹. How often have *you* been convinced in a negotiation by your opponent's arguments? Words are cheap, particularly in the context of a negotiation. Negotiators tend to have more faith in what they infer than in what we say. They realize that our arguments, however "principled" they may appear, are ultimately self-serving.

By adopting an argumentative approach to negotiation, we:

1. Convince ourselves, but irritate the other side
2. Require the other side to concede *twice*: to meet our demands, and to admit he was "wrong"
3. Throw away information¹², and fail to pick up information thrown away by an equally argumentative opponent.

An alternative approach view verbal exchanges between the parties a *lubricant* of the negotiation process rather than as its engine. In this view, negotiated outcomes are driven primarily by:

1. information conditions: who knows what? (*probing*)
2. inferences drawn from non-purposive behavior (*signalling*)
3. prominent characteristics of the situation itself (*focal points*)
4. the ability of a party to 'dig in' (*commitment*)

Negotiated outcomes are to a large extent conditioned by what each party knows about the other. If somehow we could replace the question marks surrounding our opponent's reservation price by a specific figure, say \$5500, while leaving him in the dark about our own RP, we should be able to strike a deal pretty close to \$5500. It follows that our number one tactical objective should be to

¹¹ For a different view, see e.g. Zartman and Berman, *The Practical Negotiator*, Yale University Press, 1982; Fisher and Ury, *Getting To Yes*, Arrow Books, 1990. The role of principled justification in negotiation will be taken up in greater detail *infra*, pp. 43 ff.

¹² As Pruitt (1981: 173) points out, "One party makes remarks that, perhaps unwittingly, provide information about his or her motivational scheme, and the other draws conclusions about this motivational scheme. This is, perhaps paradoxically, one of the most important functions of argumentation."

1. Obtain information about the other side's RP (*Probing*).

Conversely, we should take care not to inadvertently disclose our own RP, and carefully

2. Manage our opponents beliefs about our own RP (*Signalling*).

(This may pose ethical questions which will be taken up later.)

Furthermore, we should try to map out where the bargaining process might lead us.

Conceivably, a settlement could be reached at any point inside the ZOPA; however, some outcomes are more plausible than others. Hence, we should

3. Identify the most likely candidates for a negotiated agreement (Focal points)

To avoid the 'slippery slope', we should:

4. Find ways to 'dig in' and resist demands for concessions (Commitment)

Finally, we should:

5. Make it easier for our opponent to concede

Specifically, since personal animosity turns any negotiator into a stubborn opponent, we should maintain a courteous negotiating climate.

The relative importance of these tactical objectives in any given negotiating situation depends on the degree of fuzziness which surrounds both parties' reservation prices. Consider cases (i) and (ii) depicted below.

?????? ???? ??

case (i)

?? ————— ??

case (ii)

When reservation prices are highly *uncertain*, *probing* (gathering information about the other party's alternatives) and *signalling* (influencing your counterpart's beliefs about your own limit) are key elements in the negotiator's tactical game. In contrast, when limits are known¹³, there is nothing to probe and nothing to signal. In such cases, as Thomas Schelling has argued, negotiated outcomes are primarily driven by *focal points* and *commitment*.

¹³ More generally, when uncertainty is small relative to the width of the ZOPA.

TOOLS

1. Focal points

This section as well as the next section on commitment draws heavily on two brilliant essays by Thomas Schelling: “An Essay on Bargaining” and “Bargaining, Communication, and Limited War” (*The Strategy of Conflict*, Harvard University Press, 1980, pp. 21- 52 and pp. 53-80).

1.1 ‘Tacit bargaining’

Thomas Schelling introduces the notion of focal points with a rather incongruous example.

You are to meet somebody in New York City. You have not been instructed where to meet; you have no prior understanding with the person on where to meet; and you cannot communicate with each other. You are simply told that you will have to guess where to meet and that he is being told the same thing and that you will just have to try to make your guesses coincide.

You were told the date but not the hour in [the previous problem]. The two of you must guess the exact minute of the day for the meeting. At what time will you appear at the meeting place that you elected in [the previous problem]?

“Bargaining, Communication, and Limited War”, p. 56.

How can you and this complete stranger achieve a ‘meeting of the minds’ and select the same time and place for the meeting when you can’t even communicate with each other? At first glance, this seems worse than looking for a needle in a haystack.

However, the problem of meeting each other is not nearly as impossible as it appears. When asked what time they would choose for the meeting, people invariably answer “12 noon”. So far, nobody has chosen “4:21 PM”. As to the place, a surprisingly large number of people choose one of the following: Grand Central Station, the Empire State Building (observation deck), the Statue of liberty, Rockefeller Center (skating rink) or the Plaza hotel. So far, nobody has chosen ‘Angulo’s Pizza’. Actually, by hiring a dozen or so people armed with photographs, one could almost guarantee that the meeting will take place!

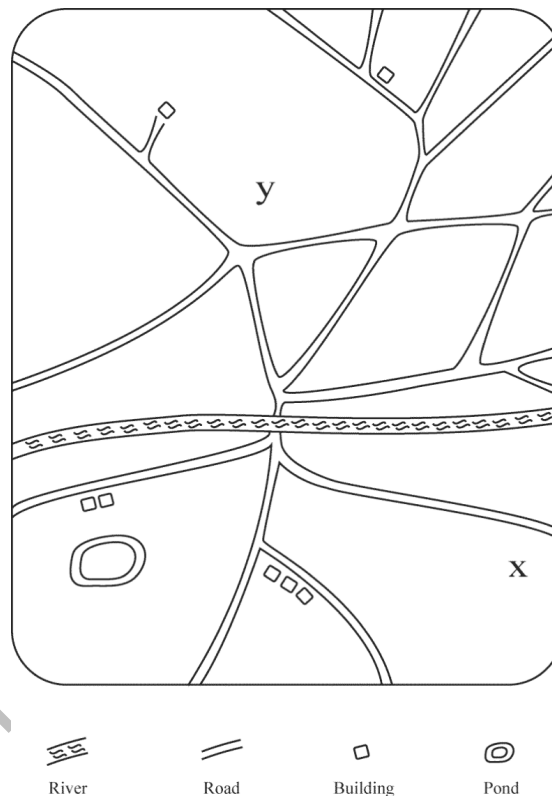
Schelling’s example deals with tacit coordination of expectations when there is no conflict of interest. The problem posed by explicit bargaining as in the *Salty Dog* appears to be quite different, however. In the Salty Dog, you can communicate directly with your counterpart, and conflict of interest is very strong. At first glance, both cases appear to have nothing in common. Schelling has argued, however, that:

- Convergence of expectations lies at the heart of any bargaining process, and
- It is largely driven by non-verbal clues embedded in the factual situation itself rather than by explicit verbal arguments made by the parties.

Consider Schelling's second example:

Two opposing forces are at the points marked X and Y in a map. The commander of each force wishes to occupy as much of the area as he can and knows the other does too. Each must send forth his troops with orders to take up a designated line and to fight if opposed. Once the troops are dispatched, the outcome depends only on the lines that the two commanders have ordered their troops to occupy. If the lines overlap, the troops will be assumed to meet and fight, to the disadvantage of both sides. If the troops take up positions that leave any appreciable space unoccupied between them, the situation will be assumed 'unstable' and a clash inevitable. Only if the troops are ordered to occupy identical lines or lines that leave virtually no unoccupied space between them will a clash be avoided. In that case, each side obtains successfully the area it occupies.

"Bargaining, Communication, and Limited War", p. 62.



You command the forces located at the point marked X. Where on the map do you draw the line? Are you happy?

The answers to these questions are inevitably "at the river" and "no!". But if we are unhappy about the outcome, why then do we stop at the river? Because we have to. We feel we don't have a choice, since commander Y would invariably go as far south as the river. But why is he so confident in moving that far south? His response, if we could ask him, would be "because you would never cross the river, would you?". This entire reasoning process is, of course, completely circular. And it is precisely this circularity which is the essence of 'convergence of expectations' which locks in a particular outcome. Even though there is a strong conflict of interest between the two opposing parties, there is an overriding need for coordination. Since

drawing a common line at the river is better than not drawing a common line at all, even the disadvantaged party is disciplined by the message that the focal point provides for the tacit coordination of expectations.

1.2 *Why do we accept a deal?*

There is a striking parallel between dividing the total surface area of the map and dividing the ZOPA. In both cases, agreement is reached at a focal point. Conceivably, commanders could draw a common line somewhere else on the map. Negotiators could agree on a price of \$4230. They never do. It's about as likely to happen as meeting at Angulo's at 4:21 PM.

In the example of the map, executives occasionally argue that the river is chosen because of its military significance. But would the choice be any different if both commanders knew the river is only one foot deep? In the *Salty Dog*, negotiators make all kinds of sophisticated arguments about depreciation schedules, the condition of the tires, engine noise, rust spots on the body of the truck, and so on. But all said and done, they split the difference, or settle on some other focal point. This observation raises a fundamental issue: *why do we accept a deal?* Is it because we are convinced by the logic of our counterpart's arguments? Occasionally, this may in fact be the case. More frequently, we try to convince ourselves that this is the case. But the basic truth is that we agree because we sense that insisting further would be useless. All of us have accepted deals we didn't like because of this fundamental realization: "They won't yield because they know that I will." We have no heart left for further bargaining: the outcome has been locked in by convergence of expectations.

When [a] business is finally sold to the one interested buyer, what price does it go for? When two dynamite trucks meet on a road wide enough for one, who backs up?

These are situations that involve an element of pure bargaining - bargaining in which each party is guided mainly by his expectations of what the other will accept. But with each guided by expectations and knowing that the other is too, expectations become compounded. A bargain is struck when somebody makes a final, sufficient concession. Why does he concede? Because he thinks the other will not. "I must concede because he won't. He won't because he thinks I will. He thinks I will because he thinks I think he thinks so. ..."

"An Essay on Bargaining", p. 21.

1.3 *If not here, where?*

Convergence of expectations is the very heart of any bargaining process. The question remains, however, *where* do expectations converge?

Most bargaining situations ultimately involve some range of possible outcomes within which each party would rather make a concession than fail to reach an agreement at all. In such a situation any potential outcome is one from which at least one of the parties, and probably both, would have been willing to retreat for the sake of agreement, and very often the other party knows it. [...] The final outcome must be a point from which neither expects the other to retreat; yet the main ingredient of this expectation is what one thinks the other expects the first to expect, and so on. Somehow, out of this fluid and indeterminate situation that seemingly provides no logical reason for anybody to expect anything except what he expects to be expected to expect, a decision is reached. These

indefinitely reflexive expectations must somehow converge to a single point, a point at which each expects the other not to expect to be expected to retreat.

If we then ask what is it that can bring their expectations into convergence and bring the negotiation to a close, we might propose that it is the intrinsic magnetism of particular outcomes, especially those that enjoy prominence, uniqueness, simplicity, precedent, or some rationale that makes them qualitatively differentiable from the continuum of possible alternatives. We could argue that expectations tend not to converge on outcomes that differ only by degree from alternative outcomes but that people have to dig in at a groove in order to make a show of determination. One has to have a reason for standing firmly on a position. And along the continuum of qualitatively undifferentiable positions one finds no rationale. [...]

There is perhaps a little more to this need for a mutually identifiable resting place. If one is about to make a concession, he needs to control his adversary's expectations; he needs a recognizable limit to his own retreat. If one is to make a finite concession that is not to be interpreted as capitulation, he needs an obvious place to stop. [...] If one has been demanding 60 per cent and recedes to 50 per cent, he can get his heels in; if he recedes to 49 per cent, the other will assume that he has hit the skids and will keep sliding.

If some troops have retreated to the river in our map, they will expect to be expected to make a stand. This is the one spot to which they can retreat without necessarily being expected to retreat further, while, if they yield any further, there is no place left where they can be expected to make a determined stand. Similarly, the advancing party can expect to force the other to retreat to the river without having his advance interpreted as an insatiable demand for unlimited retreat. There is stability at the river, and perhaps nowhere else.

"Bargaining, Communication, and Limited War", p. 71.

The final point "there is stability at the river, *and perhaps nowhere else*" is critical. A focal point is all the more compelling if it is clear to both parties that once this barrier is broken, there is no longer any reasonable alternative where the retreating party can hope to make a stand. Hotels require guests check out at 12:00 noon, knowing that specifying any other time would probably result in endless haggling. Central banks intervene in foreign exchange markets to keep their currencies above critical parities with the Dollar or the D-Mark, knowing that breaking a 'psychological barrier' will send a currency spiralling downward. And reaching 'double digit' inflation almost invariably fuels inflationary expectations.

One draws a line at some conspicuous boundary or rests his case on some conspicuous principle that is supported mainly by the rhetorical question, "If not here, where?" The more it is clear that concession is collapse, the more convincing the focal point is. The same point is illustrated in the game that we play against ourselves when we try to give up cigarettes or liquor. "Just one little drink" is a notoriously unstable compromise offer; and more people give up cigarettes altogether than manage to reach a stable compromise at a small daily quota. Once the virgin principle is gone, there is no confidence in any resting point, and expectations converge on complete collapse.

"A Reorientation of Game Theory", pp. 112-113.

1.4 focal points: a source of bargaining power

Focal points play a critical role in determining negotiated outcomes. An estimate from a real estate 'expert' will have a decisive influence on the negotiated price of a house. Is it because his estimate reflects 'market value'? I doubt it. In any case, even if his estimate did *not* reflect market value (because he is not an expert, or because the house is one of a kind) it acts as an irresistible focal point.

In bargains that involve numerical magnitudes [...] there seems to be a strong magnetism in mathematical simplicity. A trivial illustration is the tendency for the outcomes to be expressed in 'round numbers'; the salesman who works out the arithmetic for his 'rock-bottom' price on an automobile at \$2,507.63 is fairly pleading to be relieved of \$7.63. The frequency with which final agreement is precipitated by an offer to 'split the difference' illustrates the same point, and the difference that is being split is by no means always trivial. More impressive, perhaps, is the remarkable frequency with which long negotiations over complicated quantitative formulas or *ad hoc* shares in some costs or benefits converge ultimately on something as crudely simple as equal shares, shares proportionate to some common magnitude (gross national product, population, foreign-exchange deficit, and so forth), or the shares agreed on in some previous but logically irrelevant negotiation.

Precedent seems to exercise an influence that greatly exceeds its logical importance or legal force. A strike settlement or an international debt settlement often sets a 'pattern' that is followed almost by default in subsequent negotiations. Sometimes, to be sure, there is a reason for this measure of uniformity, and sometimes there is enough similarity of circumstances to expect similar outcomes; but more often it seems that there is simply no heart left in the bargaining when it takes place under the shadow of some dramatic and conspicuous precedent. In a similar fashion, mediators often display a power to precipitate agreement and a power to determine the terms of the agreement; their proposals often seem to be accepted less by reason of their inherent fairness or reasonableness than by a kind of resignation of both participants. 'Fact-finding' reports may also tend to draw expectations to a focus, by providing a suggestion to fill the vacuum of indeterminacy that otherwise exists: it is not the facts themselves, but the creation of a specific suggestion, that seems to exercise the influence.

There is, in a similar vein, a strong attraction to the *status quo ante* as well as to natural boundaries. Even parallels of latitude have recently exhibited their longevity as focal points for agreement. Certainly, there are reasons of convenience in using rivers as agreed stopping places for troops or using old boundaries, whatever their current relevance; but often, these features of the landscape seem less important for their practical convenience than for their power to crystallize agreement.

These observations would be trivial if they meant only that bargaining results were expressed in simple and qualitative terms or that minor accommodations were made to round off the last few cents or miles or people. But it often looks as though the ultimate focus for agreement did not just reflect the balance of bargaining powers but provided bargaining power to one side or the other. It often seems that a cynic could have predicted the outcome on the basis of some 'obvious' focus for agreement, some strong suggestion contained in the situation itself, without much regard to the merits of the case, the arguments to be made, or the pressures to be applied during the bargaining.

"Bargaining, Communication, and Limited War", p. 67.

1.5 Critical tasks for the negotiator

Schelling argues that the essence of any bargaining process - convergence of expectations - is largely driven by focal points, *without much regard to the merits of the case, the arguments to be made, or the pressures to be applied*. What scope then is left for 'negotiation'? If the negotiated outcome is determined by the situation itself, what role is there for a negotiator to play?

At first glance, the fact that the outcome is often largely determined by the situation itself would seem to reduce the scope for bargaining skill.

But perhaps, what it does is to shift the locus where skill is effective. The 'obvious' outcome depends greatly on how the problem is formulated, on what analogies or precedents the definition of the bargaining issue calls to mind, on the kinds of data that may be available to bear on the issue in dispute.

"Bargaining, Communication, and Limited War", p. 69.

Imagine that instead of Schelling's map *another* map of the same geographic area was shown. This second map does not indicate rivers but only different classes of motorways and railroads. Given a different map, the 'obvious' focal point from which neither party will be expected to retreat may be a railroad, or the only toll highway, etc., but *not* the river.

It is important to realize a negotiation over a single issue can usually be framed in a number of different ways. A wage increase can be negotiated on the basis of 'cents' or 'percents'; the price of office space can be discussed in '\$' or '\$/sq. ft'; the price of a company can be negotiated in terms of '\$', '\$/share', '% premium over market value', 'P/E multiple'; etc. Focal points, and hence the loci where expectations may converge, will differ depending on the framework that was chosen. Occasionally, there may be such a powerful focal point in a particular framework that the outcome is locked in even before the 'negotiation dance' starts.

In a negotiation over layoff compensation involving more than 1100 workers, management and the union devoted several weeks to 'procedural matters', including the proper framework for discussing compensation figures. Ultimately, it was agreed to negotiate on the basis of a number of 'days' per year that a worker had been employed by the company. In an earlier case, where only 12 workers were laid off, one of the negotiators on management's team had struck an agreement with one of the union representatives sitting across from him at the bargaining table. They had agreed on 20 days. When the union stated their opening offer of 34 days, the management negotiator replied that the union had an elephant sitting with them at the table. Puzzled by this comment, union representatives inquired what was meant by this "elephant". "You know its sitting there. You wish we didn't see it, but you know we do. Its sitting there, and its huge." "OK, enough of this. What is this elephant?" "20 days."

A critical skill of a negotiator then is to set the stage, to frame the negotiation in such a way as to give prominence to some particular 'natural' outcome that would be favorable.

Conversely, if we have not been successful in framing the problem such that the 'obvious' outcome is near our own preferred position, we should add 'noise' to drown out the strong signal contained in the original formulation. This is done by suggesting alternative frames, by

showing that “it’s just a matter of degree”, by proposing multiple definitions of all terms, by changing the composition of the negotiating team to weaken the power of precedent, etc.

1.6 Summary

First, *negotiated outcomes are locked in by convergence of expectations.*

Second, *verbal arguments matter less than we are inclined to believe; convergence of expectations is driven largely by tacit coordination mechanisms.*

The numbers themselves are just as important as the principled justification which supports those numbers. Often verbal arguments on the merits of the case don’t drive concessions, but merely facilitate concessions. They keep the negotiation machinery lubricated, they make it easier for our opponent to concede, but they are not the primary motivating force behind concessions. Ultimately, concessions are driven by what one negotiator expects the other to accept.

Third, expectations converge only at focal points.

The ZOPA is not a continuum of possible outcomes: there is only a limited set of discrete points where agreement can be reached.

Fourth, *the location of focal points depends on the way the problem is framed.*

Negotiated outcomes depend on the ‘map’ that both negotiators are looking at. By casting the negotiation in a different frame, a different set of focal points is generated. A critical task, then, is to cast the negotiation in an appropriate frame in order to give prominence to some particular ‘natural’ outcome. Conversely, if we have been unsuccessful in this task, we should add ‘noise’ in order to drown out the signal contained in our counterpart’s formulation.

Finally, *it will be harder to reach agreement when negotiators (because of different cultural background, experience, etc.) work with different ‘mental maps’.*

Without a common ‘map’, without a shared perception of the focal points in a given situation, convergence of expectations will be harder to achieve.

2. Commitment

2.1 Throwing away the steering wheel...

Consider the following problem (adapted from Schelling, “An Essay on Bargaining” p. 21). Two dynamite trucks, A and B, are driving toward each other on a road wide enough for one. The drivers can communicate with each other by CB radio. Each driver can either go straight ahead or pull over into an emergency area large enough for one truck. The driver who pulls over into the emergency area is fined \$1000,000.

Schelling has the following advice for driver A: “break off the steering wheel and throw it out of the window!” Once driver A has thrown away the steering wheel, he manifestly no longer has any control over his vehicle. B has no choice but to go for the emergency area. Avoiding a

deadly crash is now entirely in his hands. Having thrown out the steering wheel, A can credibly claim: “The ball is your court!”

This is the classic example of a class of tactics known as commitment tactics.

The essence of these tactics is some voluntary but irreversible sacrifice of freedom of choice. They rest on the paradox that the power to constrain an adversary may depend on the power to bind oneself; that, in bargaining, weakness is often strength, freedom may be freedom to capitulate, and to burn bridges behind one may suffice to undo an opponent.

“An Essay on Bargaining”, p. 22.

2.2 Commonly used commitment tactics

In actual negotiations, it rarely possible to ‘mechanically’ exclude any possibility to change one’s mind¹⁴. There are however, innumerable other ways in which negotiators attempt to ‘tie their own hands’. Much depends on the institutional and cultural context of the negotiation. Listed below are some common variations on a few basic themes:

Conditional self-imposed penalty

Imagine you are haggling over price with a buyer. Someone is pointing a gun at your head and is determined to blow out your brains if you drop your price by a penny. Under these circumstances, you will have little difficulty in holding your ground. The fact that you are ‘negotiating at gunpoint’ strengthens your bargaining position: seeing the gun, the buyer realizes that it is useless to insist.

The basic idea is then is to *arrange to have a gun pointed at your own head*. That is, you make sure that if you give in, you will incur a self-imposed penalty. In order to be credible, the penalty must be sufficiently large to ensure that ex-post, you would prefer to stick to your proposal rather than abandon it and incur the penalty. There are many examples of this:

1. Public statements.

After publicly stating one’s position, conceding would be costlier, as it would entail loss of face or a loss of reputation. This tactic is a favorite of politicians (e.g. Margaret Thatcher!) and is used quite often in business settings as well:

- “I’ve already told my boss that we could count on a two week delivery period”
- “I will never settle for less than \$2/hour”, a union official announces to an assembly of workers, adding that he will resign if he is not able to deliver on his promise.

Fisher and Ury characterize ‘lock-in’ or commitment tactics as ‘dirty tricks’. They recommend to develop a reputation as a ‘principled negotiator’ and to counter such ‘lock-in’ tactics by saying, “My practice is never to yield to pressure, only to reason. Now, let’s talk about the merits of the

¹⁴ One can think of some examples, e.g. artists selling a limited edition of prints of a lithograph destroy the plates in order to credibly commit themselves not to run off a second batch of prints after the first lot is sold.

problem" (*Getting to Yes*, p. 145-146). Interestingly, the counter-tactic recommended by Fisher and Ury namely putting one's reputation on the line is, of course, a commitment tactic as well!

2. Appeals to precedent, principles, emotion, fairness, etc.:

- "This is not just a matter of dollars and cents. If it were, it would be easy enough for me to give you a break. What is at stake here is the principle ..."
- "It is our policy to strictly adhere to our published list prices."
- "If you get a discount, I'll have to give one to all of my customers."
- "I'm afraid it could set a bad precedent."
- "I can't do this. I would dishonor my father's memory."

By referring to principles, policies, setting a precedent, by appealing to emotion or fairness, negotiators attempt to put themselves in a situation where the costs of making concessions would be prohibitive. Thus, a negotiator may attempt to resist a relatively minor concession by turning it into a 'fundamental point of principle', by publicizing the issue such that conceding would set a bad precedent, etc.

3. 'Fait accompli'.

A negotiator may manoeuvre himself in a position from which retreat would be costly by starting performance under an agreement which is not yet finalized, by going ahead without awaiting necessary instructions etc.:

- An engineering company has started pre-engineering work before the contract is awarded and states that "to change specifications now would dramatically increase costs."
- "I thought you wanted the kitchen painted purple. Of course, I could paint it all over again, but ..."
- "We were running short of time so I've gone ahead and ordered ..."

4. Lying.

Unfortunately, it is not uncommon for inexperienced negotiators to inadvertently commit themselves by lying. Since loss of face prevents them from backing out of a lie, they are effectively committed.

Lack of authority, lack of control.

Perhaps the most common ploy used by negotiators is to claim lack of authority to make a particular concession.

- "My boss will never approve this."
- "I'd like to give you a cash discount but I'm not allowed to. Company policy."
- "Technical specifications are set by our Product Development Department and can't be altered without their approval."
- "On this one I need your help John, really ...My hands are tied."
- "We can't cut military spending. Nato obligations."

Union officials invariably insist they do not have the authority to conclude an agreement. The final decision rests with the Assembly of Workers. This allows for a variety of responses to management's proposals. If the proposal is viewed favorably:

"We will submit it to our members."

If the proposal is not to their liking:

"It's useless to submit this proposal to our members. They won't approve it."

If the proposal is *really* not to their liking:

"I can't submit that to my people. They're not going to put up with this crap. If you don't come up with a real proposal, I can't stand for the consequences. You've seen the guys out there. I'm afraid things will be getting out of hand ..."

If a negotiator represents a committee, a Board of Directors, etc., he may stress the internal difficulties of these bodies in reaching a consensus:

- "I would be happy to transmit your counter-proposal for consideration by the Board, but I'm afraid we're not going to get an answer from them soon. It seems to be impossible to get our Company to move on anything. It will probably take a month before we get the Board together."
- "I'm afraid I'll have to submit this request to the Committee on Policy and Planning which coordinates the efforts of the Materials Development and the Product Design groups. The only problem is ... you know how it is with these committees, it takes them forever to decide on anything."
- "My proposal represents the position of the Executive Committee. You know it represents a delicate balance between the various factions within the Committee. They're always at loggerheads with each other. I don't think it would be wise to ask approval of a modified proposal. It was bad enough to get them to agree on anything at all."
- "This will never make it through Congress". The US Constitution requires ratification by Congress of treaties negotiated by the Executive branch. The position of US negotiators is further strengthened by the fact that several treaties signed by the US have never been ratified.

Cutting communication channels

Cutting communication channels to decision makers and hiding where decision-making authority lies are two standard ploys by which complex administrations lock in the *status quo*. In the same vein, a negotiator may attempt to commit himself by leaving an offer on his opponent's telephone answering machine and arrange to be 'unreachable'. By cutting communication channels, he has irreversibly committed himself to his own offer. His counterpart has no other choice but to take it or leave it, as he is unable to communicate a counter-proposal.

- A few years back, the French Minister of Public Transportation made a final offer to the Air Traffic Controllers on a Friday evening. A strike was announced for next Monday at 8 am. Nobody in the Ministry could be reached over the week end¹⁵.
- Even though INSEAD has a policy that faculty cannot change grades ('lack of authority'), some of my colleagues find it opportune to leave on vacation after they have turned in their exam grades.

A secretary provides a convenient mechanism to cut communication channels:

- "I'm sorry but Mr. Schumann is in a meeting right now. Can he call you back?"
- "I'm sorry but Mr. Strauss keeps his own diary. All I know is he'll be back next Thursday."

In contrast, having a 'hot line', a telephone number where one can always be reached may, in negotiation, be a clear *disadvantage*.

Deadlines

An imminent deadline transforms a proposal into an ultimatum if too much time is required either to discuss a counter-proposal or to have it approved.

- "John, I've got a plane to catch in half an hour. I'm afraid we have to decide now. This is my final proposal."
- "A change of terms must be approved by the Board. I don't think we have time for that."

Zartman and Berman cite a beautiful example where a deadline was used to commit to a final proposal:

The United States and the Soviet Union were under time pressure to have a draft treaty on nonproliferation to head off a U.N. initiative for a conference in the absence of any movement from them - an external deadline. The American negotiator recounted his decision to wait as long as possible before putting his last offer on the table - enough time to get confirmation from the Soviets, but not enough time for them to counter. He wanted to avoid the situation of putting forward a last offer and then seeing that offer "nicked and dimed" by the other side's requests for several last concessions.

The Practical Negotiator, p. 196.

Representation by an agent

Very often, the person who has the ultimate authority to accept or reject an agreement chooses not to be present at the bargaining table but prefers to be represented by someone else. By negotiating 'par personne interposée', the principal may be simply looking to have his interests represented by someone who is more skilful, or who is 'tougher' in dealing with tension and conflict.

¹⁵ Predictably, the union went on strike. That is, the commitment tactic 'failed'. However, the Minister's intention had not so much been to gain the unions' acceptance of his proposal. Rather, his objective was to ensure that in the public eye, the responsibility for the strike would squarely lie with the unions.

- The story goes that French cardinal Richelieu found it extremely difficult to refuse personal favors which were constantly being asked of him. Richelieu dealt with the problem by gracefully referring such requests to his personal secretary, a particularly unpleasant and obstinate man whom he had picked for his natural inclination to respond negatively to such requests. Perhaps, in today's age of the electronic office, secretaries should be seen primarily as commitment devices: 'gatekeepers' whose job it is to 'cut communication channels', and 'bargaining agents', whose job it is to say "no!" when their boss would not be able to stand firm!
- Your neighbor rings the doorbell. You know he's going to ask you a favor. You ask your spouse to answer the door.

Alternatively, a party may choose to be represented by a bargaining agent who operates under a *different* set of incentives or who pursues different objectives than his own.

- In a negotiation, an attorney may credibly threaten to go to court even when his principal could not, precisely because his interests do *not* coincide with those of his client.
- It is quite common for union members to elect union officials whose views are more radical than their own.
- In negotiations with Western corporations, it is common practice of the Chinese side to use distinct negotiating teams. Each has limited authority to deal with a subset of issues (e.g. 'technical' vs. 'commercial' issues). Each team has different constraints, is responding to different pressures, and reports to different administrative hierarchies. Similarly, in licensing agreement negotiations, for example, it is not unusual for one side to be represented by two different negotiating teams, one dealing with technical issues (design, technical specs, ...), the other dealing with commercial and legal issues (payment terms, liquidated damage clauses, ...). Both teams act independently from one another, and may even report to different people in their own organization¹⁶.

2.3 Difficulties in establishing effective commitments

In order to look at some difficulties in implementing commitment tactics, let us go back to the dynamite trucks.

A major drawback of throwing away the steering wheel is that it no longer leaves any flexibility in case something goes wrong. A has completely given up all control over his vehicle. Is there a better solution? If A could convincingly *pretend* he has lost control over his truck, he would have the best of both worlds: B would *believe* A was committed, whereas *in fact* A would retain control. Couldn't A call B over the CB radio and tell him his steering wheel got stuck?

¹⁶ If you are confronted with this situation, I recommend two simple rules. First, "Don't negotiate with the messenger boys": you run the risk that talks with each individual team are merely setting a floor. Establish authority level first. Second, "Aim your artillery in the right direction". Whom are you *really* negotiating with? Make sure that your proposals target the key decision makers even though they may not be present at the bargaining table.

The difficulty, of course, is that B would not necessarily believe him. In fact, anything A says will be greeted with extreme scepticism. Words are cheap. To convince B, A has to do more than just talking: he has to physically disable the steering mechanism.

How does one person make another believe something? The answer depends importantly on the factual question, "Is it true?" It is easier to prove the truth of something that is true than of something false. [...]

When one wishes to persuade someone [...], what can he do to take advantage of the usually superior credibility of the truth over a false assertion? Answer: make it true.

"An Essay on Bargaining", p. 24.

B is not inclined to take anything A says at face value. Since A has strong incentives to bluff, B has good reasons to be sceptical. Usually, what is required to convince B is nothing short of a *radical demonstration of the truth*.

Unfortunately, even in the hypothetical case of the two dynamite trucks providing such a radical demonstration of the truth may not be such an easy thing to do. What if visibility is very poor because of heavy fog? Driver A throws his steering wheel out of the window but B - visibility being very poor - does not actually see a steering wheel but only an indefinite *blur*.

"What happened?" "What do you mean, what happened? Didn't you see?" "I saw you threw something out of the window, your shirt I guess" "My shirt??! It was my steering wheel!" "Aha, your steering wheel. Nice try. Very clever." "I'm telling you, it was my steering wheel! I threw it out. It's *gone*!" "All right, all right, don't get excited. It was your steering wheel. Sure. We both believe in Santa Claus, don't we!"

What if B is near-sighted and isn't wearing his glasses when A throws out the steering wheel? Of course, if A *knew* that B was near-sighted and was not wearing his glasses, he wouldn't even attempt to commit himself by throwing away the steering wheel. A cannot credibly commit himself by throwing away the steering wheel, since B wouldn't be able to see it anyway. B's poor eyesight protects him from coercion or intimidation. Again, we see (sorry!) that in negotiation, weakness is often strength.

There is, unfortunately, an obvious parallel between the story of the dynamite trucks and the events that ultimately lead to the first Gulf war. President George H Bush (the senior Bush) and Saddam Hussein were clearly on a collision course. One of them had to back out, at considerable cost, in order to avoid a dreadful collision. Through a number of explicit public declarations, Mr. Bush in effect 'threw away the steering wheel'. It is not clear, however, that Mr. Hussein actually saw it. Nor is it clear that observers throughout the world saw it. In absolutely unambiguous language, Mr. Bush publicly announced that there would be "no compromise, no negotiation, no secret diplomacy" at the Geneva meeting between Mr. Baker and Mr. Aziz. In effect, at the Geneva meeting Mr. Baker was simply to 'deliver the steering wheel'. However, as the meeting proceeded, financial markets all over the world rallied: news that the meeting went on longer than expected was taken as a 'hopeful signal' that some compromise was being worked out. If financial markets failed to see that Mr. Bush was not bluffing, it is perhaps not surprising that Mr. Hussein failed to see Mr. Bush's commitment as well.

These examples illustrate two problems with using commitment tactics. First, there is an inherent difficulty to credibly communicate our commitment to a sceptical counterpart. He suspects that we are just bluffing. He realizes that we are reluctant to lock ourselves in completely, absolutely, and irreversibly. He suspects that we've left ourselves some way out, that we have attached some invisible 'lifeline' to the steering wheel. A second problem is that our counterpart's reaction may not be as 'rational' as we expected. In fact, many negotiators would be so infuriated by the blatant use of 'lock-in' tactics that they would respond by throwing their own steering wheel out as well. Many people would prefer to have their noses cut off rather than yield under the pressure of 'dirty tricks' of their opponent.

To establish an effective commitment, we must try to reconcile two conflicting demands. At the one hand, we must communicate our commitment with almost brutal clarity in order to dispel any beliefs that we might just be bluffing. At the other hand, we must either artfully camouflage the tactic, or ensure that it is perceived as legitimate in order to avoid that our opponent does something foolish out of pure spite. Since it is by no means always easy to devise a commitment mechanism which is both credible and 'innocent', we may get caught between a rock and a hard place.

Nevertheless, commitment tactics have been used with stunning success. When the US and Egypt were about to negotiate the renewal of the US-Egyptian friendship treaty, American and Egyptian views differed sharply about how US financial aid should be put to use. President Anwar Sadat argued that Egypt needed US aid in part to help support the burden of a massive program of subsidies on a variety of basic food items. The US felt that subsidies were economically wasteful, and that financial aid provided by the US should not be used to perpetuate distortions in market prices. Sadat countered that low food prices were a political necessity. A few weeks before the talks were scheduled to start, the Egyptian administration sharply cut subsidies on bread. The reaction in the streets of Cairo and Alexandria was immediate and violent. Several people were killed in some of the worst rioting Egypt had known in a long time. Mr Sadat's position at the bargaining table was considerably strengthened, however. The riots provided a dramatic demonstration of 'lack of control', and did so in a way which didn't appear contrived or artificial.

In sum, a commitment is more likely to be effective when it is:

- (1) irreversible and 'undoable'
- (2) perceived as
 - legitimate: supported by a strong 'principled' rationale
 - or
 - 'innocent' (the 'helpless' ploy, 'things are out of control')
- (3) communicated credibly
- (4) communicated timely
 - not pre-empted by an earlier commitment
 - after some initial give-and-take:
 - allows gathering of necessary information about the other party's limit
 - tends to reduce the likelihood that the other will be antagonized
- (5) phrased in a non-threatening, non-authoritative way
 - not: "take it or leave it!"
 - but: "I'm sorry but you'll understand I really have no choice on this issue"
 - "I really need your help on this one; my hands are tied"

3. Probing and Signalling: The 'Negotiation Dance'

Under the heading 'the negotiation dance' we will discuss a variety of tactical issues when parties 'dance' toward a common price:

- Amount of opening offer
- Reacting to outrageous opening offers
- Moving first or second?
- Concession patterns

3.1 Amount of opening offer

Leaving aside for a moment whether we should go first or whether we should let the other party make the first offer, we have to resolve a critical question: Which price do we quote? Many people favor a 'moderate' opening offer. Others hold a radically different view:

If agreement is usually found between the two starting points, there is no point in making moderate offers. Good technique would suggest a point of departure far more extreme than one is willing to accept. The more outrageous the initial proposition the better is the prospect that what one 'really' wants will be considered a compromise.

Kissinger, Henry A., *The Necessity for Choice*, New York, N.Y., Harper and Row, 1961, p. 205.

Kissinger's basic point seems to be well taken: it is important to position ourselves favorably for the 'negotiation dance' which follows the exchange of initial offers. Kissinger overstated his case, however, at least regarding commercial negotiations. An *outrageous* initial proposition is likely to antagonize our opponent and to induce stubbornness. We are almost certain to lose credibility when asked to justify an opening offer which we know is ridiculous. And by taking a point of departure "far more extreme than one is willing to accept" we may be putting ourselves in a position where we will have to make a series of lop-sided concessions in order to reach a deal. Last but not least, even if we manage to reach agreement in this negotiation, there are likely to be severe negative spill-over effects for future negotiations¹⁷.

The basic problem with an 'outrageous' opening offer is not that it is *not acceptable*, but that it is *not credible*. There is difference between an offer that the other party cannot accept but is willing to discuss and an offer that will be dismissed out of hand. Since the practical implications are serious, it is important to be clear about the exact nature of the difference.

It is clear enough when an offer cannot be accepted: when it is outside the ZOPA. It is not so clear when an offer will be deemed not credible. Why is an offer regarded as 'insincere'? When a buyer reacts to an opening offer with an angry outburst "that's outrageous!", is it simply

¹⁷ It should be noted, however, that Kissinger was referring to diplomatic negotiations. These negotiations present two important structural differences with most negotiations taking place in a business context. First, negotiators perform before an 'audience' which may require them to engage in some initial posturing. Second, there is no alternative negotiating partner. If South Korea feels North Korea's offer is 'outrageous', it can't tell the North Koreans to "get lost" and open negotiations with Zimbabwe. Both characteristics are also present in e.g. management-union negotiations, where (perhaps not coincidentally) 'outrageous' opening offers are quite common.

because the offer exceeds his RP? I do not think so. It is entirely possible that a buyer receives an offer which he cannot accept but which he nevertheless takes as an offer made in good faith. What makes an offer 'outrageous' is not the fact that the buyer can't accept it, but the fact that *the buyer realizes that the seller knew (or should have known) that he was making an unacceptable offer.*

The notion of credibility is quite subtle: it hinges on the buyer's perception of the seller's uncertainty in assessing the buyer's RP. Let's look at the simple case where the buyer's RP is common knowledge. The buyer's RP for a 'widget' is \$5500. The seller knows the buyer's RP, and the buyer knows that his RP is known to the seller. Can the seller make a credible opening offer at, say, \$7000? Clearly not. The buyer knows that the seller could not possibly believe that he would go as high as \$7000. Because the buyer knows that the seller knows he can pay at most \$5500, any offer higher than \$5500 is not credible: in a world of perfect information, an offer must be acceptable in order to be credible.

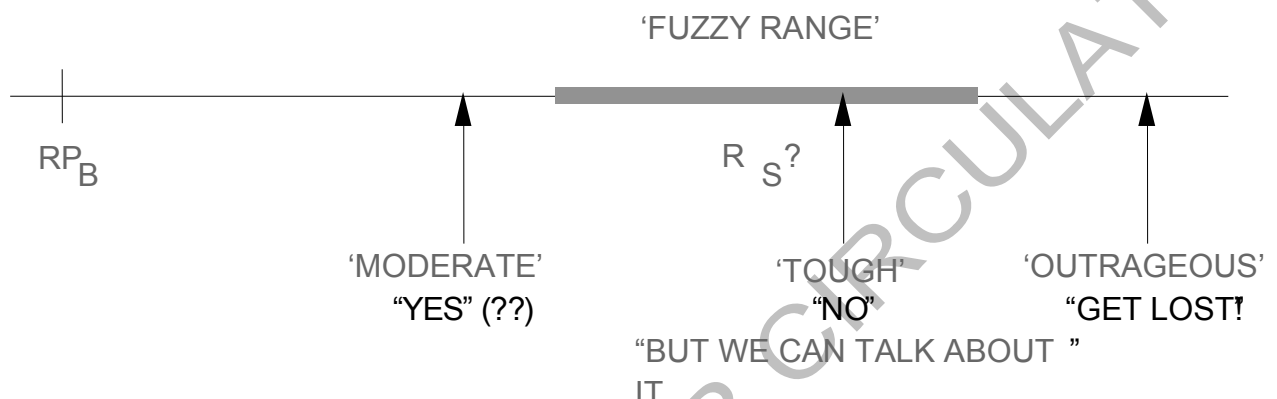
Now let us introduce uncertainty and look at the more realistic case where the seller does not know the buyer's RP (and the buyer knows that he doesn't know). How would the buyer now react to an offer of \$7000? Of course, he won't accept. But would he refuse to discuss it? Not necessarily. Assume that the 'widget' which is offered for sale is of a very peculiar kind, and that nobody really knows what it might go for. Would the buyer dismiss an offer of \$7000 as 'not credible' or 'insincere'? Highly unlikely. He realizes the seller had to make a rough guess at his RP. It is entirely possible that the seller was under the impression that the buyer would have been willing to pay as much as \$7000. Now let's assume that the 'widget' is a commodity which is available at prices between \$5200 and \$5800. Now, the same offer of \$7000 is not credible. The reason is not that an informed buyer would never pay that much, but that the buyer realizes: "He must have known that." What is damaging is not that the offer was not acceptable, but that the buyer realizes that the seller knew (or should have known) that he was making an unacceptable offer. This realization immediately prompts the following question: "Why the hell then was he asking \$7000?" There are two possible answers, neither of which is very flattering for the seller: "He doesn't know his business" or "He thinks I don't know my business and he's trying to take advantage of me".

Summarizing, in the absence of uncertainty an offer has to be acceptable in order to be credible. However, uncertainty drives a wedge between what is 'acceptable' and what is 'credible': it is because of the 'fuzziness' of the situation that a negotiator *can* make an offer which is not acceptable but which is nevertheless credible. It is also because of the 'fuzziness' of the situation that there is a *need* to probe the limit of the other side. How far can he go without 'getting caught'? It depends entirely on the width of the *fuzzy range* or more precisely, the *buyer's perception* of the width of the fuzzy range. Consequently, two factors come into play:

- the inherent difficulties in putting a value on the deal, and
- our opponent's perception of the amount of information that is available to us.

We may be able to influence our opponent's perception to our advantage. Some sellers in *The Salty Dog* have cleverly played up their own ignorance in order to get away with more extreme opening offers: "I haven't sold a truck like this before. Does something in the range of \$9000 to \$10000 seem reasonable to you?" This tactic, known as the 'Columbo play'¹⁸, reminded an MBA participant of the following line by Groucho Marx in *Duck Soup*: "Gentlemen, this is my brother. He looks stupid, acts stupid, and talks stupid. But don't let that mislead you: He *is* stupid."

If we reject 'outrageous' offers as inappropriate, we are left with two alternatives, a 'moderate' offer and a 'tough' offer (see diagram below).



A 'moderate' offer is targeted inside the ZOPA. It is designed to be immediately acceptable. A 'tough' offer is targeted *outside the ZOPA but inside the fuzzy range*. It's a kind of hybrid between a tough and a moderate offer which is designed to be *credible but not acceptable*.

We can illustrate the three basic opening strategies by means of a simple example. Ms. Delius is interviewing for a job as a multi-lingual receptionist at INSEAD. She does not know precisely how much INSEAD would be willing to pay for someone with her language skills in that position. She believes it could be between 6000 and 8000 francs per month, her best guess being 7000 francs. The personnel manager asks her what she expects in terms of salary. "10,000 francs" would be an 'outrageous' opening offer. The most likely reaction: "Thank you. We'll be in touch." "About 6000 francs" would be a 'moderate' offer, as Ms. Delius believes this is within INSEAD's pay range. "About 8000 francs" would be a 'tough' opening offer, Ms. Delius expecting a response: "That is a bit more than we had in mind, but we can talk about it."

'MODERATE' OR 'TOUGH'?

There are two obvious drawbacks to making a 'moderate' opening offer:

- we leave ourselves little bargaining room (cf. Kissinger's argument)
- by choosing to make an initial offer which exceeds our opponent's RP we knowingly 'leave money on the table'.

A problem which is perhaps less obvious is illustrated by the following exchange of offers between two fairly senior executives in *The Salty Dog* :

¹⁸ After the well-known detective series starring Peter Falk as Inspector Columbo.

	[5500] B	S [3500]
?		≈9000
	4000	
??		8000
	4500	
???		7000
	5000	
	LONG DISCUSSION	
		6200
	5250	
	"I'LL MEET YOU HALF WAY"	
-225	"DEAL"	[= 5725]

Let us evaluate the tactical position of both negotiators after the initial exchange of offers. The seller feels great: he has already made \$500 (the buyer's opening offer of \$4000 exceeds his RP by \$500). He knows for sure that an agreement can be reached. The security of that knowledge puts him in a comfortable negotiating position. He has the option to lock in the deal at any moment he chooses to. Should he be anxious to conclude the deal quickly? Not at all. The chances are that the longer he can play out the negotiation process, the more concessions he'll be able to squeeze out of the unfortunate buyer. There is very little pressure on the to make concessions. He can afford to "stonewall". His main purpose in making concessions is to squirt a bit of oil in the bargaining machinery to avoid that it would grind to a halt.

Now let's evaluate the position of the buyer. The buyer does not feel good at all. He has real doubts as to whether agreement is feasible (his RP is \$5500, and the seller is asking about \$9000). Perhaps, the ZOPA simply doesn't exist. Unless he is so discouraged that he gives up right away, he has to take an active role in 'leading' the negotiation process to explore the feasibility of an agreement. He looks for other ways to approach the problem, voices concern about a no deal situation, pleads for reasonableness, suggests the possibility of error, and makes concessions to try and entice the seller to reciprocate.

Thus, right from the start a fundamental asymmetry is created. The seller is in the 'comfort zone', knowing he can close the deal at any moment. He can afford to 'sit back and relax' while the buyer must make concessions to try and entice the seller to reciprocate. The situation does not materially change as both parties continue to exchange offers: the buyer makes more and more money (+500, +1000, +1500), whereas the seller is getting increasingly worried that a deal simply won't be feasible. After three exchanges of offers, there is a long discussion. Not surprisingly, it is the seller who does all of the talking. "This is useless. We're wasting our time. I don't think a deal can be reached here. We're still very far apart and I'm getting close to my limit." The buyer nods understandingly but is not quite convinced. After the seller moves up to \$5250, the buyer proposes to split the difference. This proposal (5725) is accepted by the buyer.

Four important lessons can be drawn from this simple example:

1. The fact that we make a 'moderate' opening offer does *not* at all guarantee that our counterpart will accept (even though he could) nor that he will bargain in the same spirit of 'moderation'. By opening inside the ZOPA we expose ourselves to being 'stonewalled' by the other party. It is critical that we do not jump straight away inside the ZOPA. Edward Peters put it this way:

"Sure," I said, "It's possible to come out on the short end by dropping down too fast, but you're so far away from the real bargaining area, you haven't even come to grips with the employer yet. The time to get cagey is when the dentist's drill is near the nerve."

Peters, Edward, *Strategy and Tactics in Labor Negotiations*, National Foremen's Institute, New London, Conn., 1955, p. 114.

Translating this (rather colorful) language into (rather dull) language of negotiation analysis: Even though early concessions are part of the 'ritual' and even though they may set a pattern, they usually do not have much of an impact on the final outcome. "The time to get cagey is when the dentist's drill is near the nerve", i.e. when you and/or your counterpart are approaching the ZOPA. Try not to be the first party to enter this 'danger zone'. Otherwise, your opponent may 'stonewall', secure in the knowledge that he has the option to close the deal whenever he wants.

2. Probably few of us would react the way the buyer did. What happens when we receive an offer which exceeds our RP? Our adrenaline level drops precipitously. We breathe more easily. We relax. The problem is not only that we *feel* a great sense of relief, but also that it *shows*: The tension visibly ebbs out of our body. Clearly, we should learn to better control ourselves. But maybe we shouldn't even allow ourselves to feel a sense of relief. Rather than letting up right away, we should perhaps
 - recognize the tactical opportunity which is offered to us
 - maintain our drive long enough to exploit this opportunity.
3. The deal was closed after the seller proposed to split the difference. Coincidence? Probably not. By then, the seller was quite happy with his surplus, and he felt that it would be difficult and hazardous to try and squeeze out more. He wanted to close the deal, and close it quickly and cleanly. The simplest way to do it: "Let's split the difference". Personally, I see such a proposal as a warning signal that I have given away too much already! My standard reaction: "I'm sorry, I'm not prepared to do that."
4. The buyer ultimately accepted a deal (5725) which he should have rejected. While he was given a budget of \$6000, he had found a perfectly equivalent truck for \$5500 (hence $rpb = 5500$). Moreover, he felt pretty good about the deal. Why? Reaching agreement resolves the tension generated by the bargaining process and allows us to feel good about the other side. In contrast, when we are unable to end this process on a positive note we are left with a sense of failure and frustration. Because we want to reach agreement, we will look for ways to justify accepting a deal even when deep down we realize we should reject it. In this case, the buyer thankfully made use of the 'budget' argument to convince himself that 5725 was acceptable after all. In the Salty Dog game, where both parties are given crisp rps such

instances of self-delusion are relatively rare. But in actual negotiations, when we are painfully aware of the fact that our limit is fuzzy, it is very difficult indeed to resist the temptation to revise it. Often, our rp is 'just a number' which is not backed up by solid analysis. Lack of confidence in our walk away price fatally undermines our bargaining position. It allows us to talk ourselves into deals that we should have rejected. While haggling over price may never become a truly comfortable experience (particularly when the stakes are high), we can considerably reduce discomfort by giving ourselves some solid ground to stand on. I know managers who are extremely professional when preparing a budget but unbelievably sloppy when preparing for a negotiation. They argue that bargaining is a matter of 'interpersonal chemistry' or 'fingerspitzengefühl'. True enough. But it is also a matter of doing one's homework properly.

NEGOTIATING WITH OURSELVES ...

So far, we have reviewed three strong arguments in favor of a 'tough' opening position: you leave yourself 'room' for bargaining, you don't leave money on the table right away, and you avoid a completely asymmetric situation where you would have to do most of the talking -- and make most of the concessions. In spite of this, many of us are inclined to come in with a 'reasonable' offer. Even though initially we may have had the intention to make a daring opening offer, we ultimately tend to give in to a very powerful urge to be 'reasonable'. Why? Because we believe we will have a better chance of closing the deal if we start off with a 'moderate' offer. We worry that a 'tough' offer might result in an unpleasant and tense bargaining atmosphere and, ultimately, deadlock.

Before we even start negotiating with our counterpart, we are already engaged in another negotiation, which is perhaps even more critical: we are negotiating with ourselves. First, my 'ambitious self' asserts itself: "Ingemar, you deserve 100. You know you can get 100 if you give it an honest try. Go for it!". However, as soon as my 'ambitious self' has spoken, my 'prudent self' sounds a warning note: "You got to be reasonable. If you want to get 100, you will have to start off with 120, or perhaps even 130. Now how do you think he'll react to *that*? He won't like it, that's for sure. The deal may fall through. Even if it doesn't, the atmosphere will be icy. The negotiation will take forever, and every minute of it will be painful. Now wouldn't it make more sense to start with a more reasonable offer?" If I do not watch myself, it may well be that by the time my 'prudent self' is done with me, I may come in and ask for 70!

This internal negotiation is often much tougher and far more consequential than the negotiation with the other side. Every time we prepare for a negotiation, we are torn between the desire to achieve and the fear of not reaching agreement.

A typical scenario:

- Before the negotiation we 'wimp out'.
- In the negotiation we get less than we want.
- After the negotiation we're mad at ourselves.

Unless we can successfully complete that internal negotiation, we will achieve nothing but mediocre results. Perhaps we need to keep in mind that in a negotiation we should not expect to get what we are not prepared to ask.

Furthermore, it remains to be verified whether the basic intuition that pushes us towards more 'moderate' opening offers is indeed empirically valid. Is it true that 'moderate' or 'reasonable' offers facilitate reaching agreement? Conversely, is it indeed correct that a 'tough' opening offer will result in a tough bargaining climate and thereby increase the chance of deadlock? Probably there exists no such mechanical link between the amount of one's opening offer and the probability of deadlock. There is *no* clear empirical evidence that 'tough' opening offers entail a higher incidence of no deal outcomes than 'moderate' offers¹⁹. In fact, in hundreds of negotiations carried out during my Negotiation Analysis course, I have observed numerous cases where negotiators deadlocked after both of them made very 'reasonable' initial offers. Why is it that two negotiators deadlocked after they made opening offers of 3500 and 5000 even though the ZOPA was [3500, 5500]?

No deal outcomes seem to be related to a variety of other factors:

- Assessment bias (*cf. supra* p. 9): both parties start the negotiation on the basis of an unrealistic assessment of the ZOPA. Assessment bias is a major cause of deadlock in those negotiations where no agreement alternatives involve considerable uncertainty, such as out of court settlements, and merger and acquisition negotiations.
- Inadequate probing (*cf. snfra* p. 42). It is a remarkable empirical property of the bargaining process that negotiators seem to be able to reach agreement even when the ZOPA is very narrow and even though assessments of RPs are very 'fuzzy' -- provided enough time is allowed to let the process run its course. The 'width' of the ZOPA or the fuzziness of the negotiating problem are not the direct cause of failure to reach agreement. However, more extensive probing is required to find an agreement when the ZOPA is narrow and the Fuzzy Ranges are wide. The reason for inadequate probing is not simply lack of time, but the fact that most negotiators feel awkward when making successive concessions on a single issue.
- Poor management of the process: the negotiation takes on personal and emotional overtones, degenerates into a battle of egos, etc.
- Parties start off the negotiation with very strong preconceived notions about each other; when observed behavior conflicts with these prior beliefs, surprise leads to distrust, and distrust leads to a breakdown in the negotiation²⁰.
- Both parties announce incompatible (false) RPs.
- 'Boulwarism': a negotiator unilaterally determines what is a fair and reasonable proposal, then makes a first and final offer.

¹⁹ It is critical to keep in mind the distinction between 'tough' and 'outrageous' opening offers. An outrageous opening offer undermines our credibility, and results either in deadlock or in a series of lop-sided concessions.

²⁰ Each of those factors leading to deadlock suggests a 'No-No' in negotiations. For example, "do not make strong assumptions about your partner" Instead, start off a negotiation with an open mind, ready to learn about the other side through observation.

This last factor merits to be looked at more closely. The strategy adopted by Mr. Lemuel Boulware, a former vice president of the General Electric Company, was as follows. First, he would spare time nor effort to get as much objective information as possible, spending months collecting data, talking to workers, etc. Second, Mr. Boulware tried to put together the best possible package, that is, a package which was both efficient and fair to all parties involved. It should be emphasized that his purpose was to be fair in an absolute, objective sense, not to be 'particularly fair' to management. Third, Mr. Boulware explained his proposal in excruciating detail, painstakingly going through all of the factual information he had collected, and candidly explaining why his proposal was the best possible offer he could come up with. Fourth, he told union leaders: "Gentlemen, this is the best I can do for you. This is my first and final offer."

Not surprisingly, union leaders rejected the offer. They felt they had no input in the bargaining process. They didn't appreciate the fact that a package was being shoved down their throats, even though in substance it might have been fair. In effect, Mr. Boulware was 'playing God', unilaterally dictating fairness, and forcing the union to make all concessions. The substance of his offer might have been reasonable enough, but the process was unacceptable. To the union, as to most negotiators, fairness of the negotiating process mattered just as much (if not more) as fairness of outcomes.

Boulwarism has proven to be a totally ineffective negotiating strategy. Yet, deep down inside, the approach has some appeal to all of us. It is a very 'macho' way of bargaining: get the facts, decide what is fair, explain why this is the best you can do, and then tell them to take it or leave it. However, is it really the confident, strong-willed negotiator who takes to Boulwarism? Or is it rather a person who feels awkward and uncomfortable with the tension which is inevitably generated by a bargaining process? I believe it is often the negotiator who is not very confident, who hates bargaining, who worries that he might not be able to hold his ground, whose own self-image is very much tied up in the negotiation process, and who sees a concession not as tactical move but as bending under the other negotiator's will. Such a person shies away from conflict and takes refuge in a very 'reasonable' but extremely inflexible bargaining position.

'Quasi-Boulwarism' - a milder version of Boulwarism where a negotiator makes a very reasonable opening offer but then shows very little flexibility during the negotiation - is often inspired by similar motivations. Negotiators who adopt this approach don't see a reason to make important concessions: isn't their opening offer reasonable? In the internal negotiation which precedes the negotiation with their counterpart, their 'prudent self' got the upper hand. Not only are they convinced that their opening offer is reasonable, they already have made whatever concessions they 'should' make. When both negotiators adopt this self-righteous attitude, it is easy to see how the bargaining process could break down.

CUTTING A LONG STORY SHORT ... WHAT KIND OF OPENING OFFER DO WE MAKE?

As a general rule, we should start off with a 'tough' opening offer. We should try to pick an offer which is *outside the ZOPA* but *inside the Fuzzy Range*, that is, an offer which is *not acceptable* but nevertheless *credible*. This opening strategy implies more 'daring' offers in situations which are inherently more fuzzy than in situations where more information is available. This makes

sense: lack of information and the concomitant valuation difficulties create both the need and the opportunity to make a more 'daring' offer.

Does this mean that we should always mechanically choose a 'tough' opening offer? Certainly not. Every situation should be evaluated on its own merits. However, if we choose a different opening strategy we should be very clear and very specific why we choose not to follow the general rule. There are solid arguments in favor of a 'tough' offer. If we decide on a different strategy, the burden of proof is on us. We should also be sceptical. Our 'prudent self' is devious. It knows a myriad of cunning ways to convince us that we should take the easy way out²¹. We should be honest with ourselves. "It will take too much time" really means "It will be painful". A negotiator's capacity for self-delusion is legendary. Before the start of a negotiation, we can easily talk ourselves into wimping out. After we concluded a mediocre deal, we have no trouble convincing ourselves that a better outcome really wasn't in the cards anyway. No guts, no glory!

3.2 Dealing with Boulwarism

How do we deal with Boulwarism or 'Quasi-Boulwarism'? Consider the following example:

You are negotiating to buy a second hand micro computer. The owner has made you an offer which he obviously believes is utterly reasonable. "I just checked how much these sell for. A new one costs \$3000. You could get an educational discount of 20%. I'm selling mine at 30% off even though it's only 6 months old and as good as new. In any case, I'm not going to waste any time haggling. \$2100 is a fair price." You do agree that there is no difference between a six month old microcomputer which has hardly been used and a brand new one. At the same time, 30% off the list price is not such an exceptional deal. Furthermore, you checked the list price of this particular model, and found that it had actually dropped from \$3000 to \$2800 two weeks ago.

You have picked up a few telltale signs that this seller is in fact a 'quasi-Boulwarean'. He has resolutely taken the lead in this negotiation. He did not invite your comments or inquire about your views, and dogmatically stated *the* fair price. His comment about "wasting time" probably says more about his desire to avoid pain than about his busy agenda. The use of the word "haggling" signals that in his mind the notion of bargaining carries negative overtones: it does not befit a gentleman to engage in 'bazaar-style haggling'. His basic approach to negotiation can be summarized in the 'Boulwarean negotiating formula': facts + logic = *the* 'fair' price.

Do you buy at \$2100? With the educational discount, you could get a new machine for just \$2240. How do you negotiate a price when the other side follows a Boulware strategy? Since quasi-Boulwarean negotiators see themselves as factual, logical, fair, and firm, it would seem natural to try and persuade him with rational arguments. Actually, you happen to have a water-tight argument. The seller must have made a mistake and have calculated his offer on the basis

²¹ The discussion about the 'ambitious self' and the 'prudent self' inspired the following poem to an MBA student:

Roses are red
Violets are blue
I'm schizophrenic
And so am I!

of the old list price. 30% off the current list price is only \$1960. Do you try to convince the seller that according to his own logic - 30% off the list price - he should ask only \$1960?

That would probably be a mistake. It's bad enough to argue with a 'boulwarist', it's even worse if you succeed in pointing out logical inconsistencies in his position. The seller's comment "In any case, I'm not going to waste time haggling over the price" suggests that he dislikes bargaining, that the tension generated by a bargaining process makes him feel uncomfortable. He takes an extremely rigid stance both to avoid the stress of bargaining and because he is uncertain whether he could hold his ground. Because his own self image is very much involved and because he finds it difficult to concede to someone, he has come in with an offer which he believes to be very reasonable. Lacking both the drive and the inner confidence to 'go for it' in a negotiation with another person, his 'prudent self' definitely got the upper hand in the 'internal negotiation' which preceded his offer of \$3000. At the risk of exaggerating reality to the point of drawing a caricature: you are dealing with a fragile ego. The last thing to do is to embarrass him or hurt his self-esteem. The more you'll argue with him, the more he'll dig in and become stubborn. In fact, once his ego is on the line, you have lost any chance to get the price down.

The following three-step approach gives better results:

1. Stroke his ego and reassure him that you dislike haggling as well: "I appreciate the fact that this is a serious offer. I think you've given this considerable thought to come up with a realistic proposal. Actually, I don't like bazaar-style haggling either."
2. Do not make a counteroffer, avoid dropping a figure very different from his own: "I'm sorry I can't accept your offer ..."
3. Adjourn to 'check the facts': "Perhaps we could check prices of new equipment and get together tomorrow to see where we come out". Note the language used: *we could check*, *not you*. We may even go a step further: "Perhaps, *I should* check...: the point is to carefully word our reply so as to avoid any suggestion that the seller has made a mistake (which could be interpreted as implied criticism or a personal attack).

The idea behind the proposal to adjourn is simple: you put the seller back into the situation where he has to negotiate with *himself*. Since it is very difficult for such a person to make a concession to you, you put him in a position where he will make a concession to himself. In fact, he won't see it as a concession at all. He will re-examine the facts, and decide what is reasonable. There is no need to argue your case to get the price down: his own 'prudent self' is much better at that. He will listen to his own 'prudent self' even though he won't listen to you. Remember that his 'prudent self' (just like yours) is devious and cunning: it is bound to find convincing arguments why it is reasonable to drop his price. Given the seller's tendency to avoid tension and embarrassment, his 'prudent self' will get the upper hand over his 'ambitious self'. There is a good chance that right at the beginning of your next meeting the seller will make you an offer which you could not have extracted with the most cogent of arguments.

3.3 Reacting to extreme opening offers

Inexperienced negotiators are often 'shaken up' by extreme opening offers. They are led to dramatically revise their expectations and aspiration levels. In addition, subsequent bargaining tends to focus on the initial offer which thereby becomes the starting point for possible modifications. We should not allow our opponent to 'anchor' the bargaining process around an unfavorable starting point. A basic 'No-No': don't get locked in by discussing your opponent's extreme opening offer.

Several reactions are possible. One is to counter with an equally extreme counteroffer. Usually, however, this sets the stage for mutual recriminations of 'unreasonable demands', and for a lengthy and tense negotiation dance which leads to mediocre outcomes. A second tactic, which is particularly effective when the initial opening offer is clearly unreasonable, is silence. The 'silence treatment' implicitly questions the reasonableness of the opening offer. In an effort to establish that he is indeed bargaining in good faith, the other side usually tries to justify his opening demands. To the extent that his opening offer was indeed outrageous, this exercise may prove futile and lead to loss of face. Silence also sets in motion a second mechanism. By remaining silent you engage your opponent in a waiting game²². As Raiffa points out:

Most Americans [and Europeans] feel very uncomfortable with long pauses of the negotiations. They feel obliged to say something, anything, to get the negotiations rolling. However, it's not what is said in negotiations that counts, but what isn't said. Very often, the strategic essence of a negotiation exercise is merely a waiting game with self-imposed penalties (embarrassment) for delays.

The Art and Science of Negotiation, p. 78.

Not surprisingly then, silence typically provokes a stream of verbal gymnastics, ... followed by a cascade of concessions.

An alternative approach, suggested by Fisher and Ury, is to react to extreme offers by asking questions. The idea is to explicitly question the principle or theory behind our opponent's position, rather than implicitly, by remaining silent. Confronted with unreasonable salary demands, we may ask "what makes \$ 1000 a fair salary increase? Is it based on what other employers pay, or what employees with similar qualifications make?" Making it clear, by asking for the rationale behind their initial demands, that we realize that they know that their demands are unreasonable tends to undermine their position. As Fisher and Ury (p. 145) put it: "Ask for principled justification of their position until it looks ridiculous even to them". Of course, questioning can be combined with the use of silence: "If you have asked an honest question to which they have provided an insufficient answer, just wait" (*Getting to Yes*, p. 117.). The main advantage of using silence in the bargaining process after asking for principled justification (rather than as an immediate reply to an unreasonable demand) is that it helps to avoid an unnecessarily tense bargaining atmosphere.

²² This waiting game is one of the many incarnations of Martin Shubik's (in)famous 'Both Pay Auction'; More about this *infra*, p. xxx

A final warning. When confronted with an extreme opening demand, don't react in ways which give away your reservation price, as in the following emotional outburst: "\$11000?! That's absurd! I can buy a similar car for \$5500."

3.4 Moving first or second?

Should we take the initiative and put the first offer on the table, or are we better off waiting for the other side to make the initial move?

There is a tactical advantage in making the initial offer when there is an opportunity to 'anchor' the other side's beliefs. 'Anchoring' refers to way we make assessments in situations which involve considerable uncertainty: usually, we start from a given reference point (the 'anchor'), and then make adjustments to account for the differences between the current situation and the reference situation. In negotiations, typical reference points include historical precedent, a figure suggested by a third party (a mediator, a real estate agent), or, as we will see, the first offer put on the table by one of the negotiators.

Research by Slovic and Lichtenstein (1971), Kahneman and Tversky (1973, 1974), Dawes (1988) and others has established the following important empirical findings:

- When we make an estimate of something which is uncertain, we do not assess a range but make a single '*point estimate*', our 'best guess'.
- Our adjustments are *insufficient* to reflect differences between the current situation and the reference point. Our beliefs are '*anchored*' around the reference point which is taken as the basis for our point estimate.
- When trying to come to grips with uncertainty, we latch on to *any* reference point that is suggested to our mind. For example, Bazerman (1990: 7-8) points out that "frequently, people will realize the unreasonableness of the anchor (for example, "the other firm was *only* paying her \$22,000 a year), yet their adjustment will often remain irrationally close to this anchor." Even facts which are strictly irrelevant were shown to have a significant impact on estimates. For example, Kahneman and Tversky (1974) have shown that the number indicated by a *roulette wheel* strongly influenced people's estimates of the number of African countries in the United Nations!
- Our beliefs *remain* 'anchored' even when at some later date we obtain additional information which indicates that we should radically revise our original estimate²³. Bazerman (1991: 30) cites the example of the 'first-impression syndrome' when meeting someone for the first time: "We often place so much emphasis on first impressions that we do not adjust our opinion appropriately at a later date."

Examples of anchoring abound. Bazerman and Farber (1987) found strong evidence that awards from professional arbitrators were anchored by the *status quo ante*. Northcraft and Neale (1987) have shown that real estate estimates from non-professionals and professional real estate brokers alike were significantly anchored by list prices (although the latter were

²³ e.g. when the original reference point is revealed to be irrelevant, when uncertainty and hence the margin of error in our original estimate was very high, and when the new information is very good.

unwilling to admit it!). Joyce and Biddle (1981) provided empirical evidence of anchoring among auditors of the (then) Big Eight accounting firms.

The pervasiveness of the anchoring phenomenon has important implications for bargaining. Putting the first figure on the table is particularly effective to anchor our opponent's beliefs when the following two conditions are met:

- our opponent is ill-informed or confused
- we are recognized for having some specific expertise in the matter.

For example, anchoring is commonly practised by insurance agents when settling compensation claims directly with the insured²⁴. To the extent that the other side is well-informed and well-prepared, it is less likely that his beliefs will be conditioned by our manoeuvre. Furthermore, successful anchoring supposes that we have enough information about the other side's RP to avoid setting up an anchor inside the ZOPA. In sum, anchoring is an effective bargaining tactic when used by a well-informed party to exploit an opponent's uncertainty about his bargaining position.

Conversely, we run the risk of being anchored by an 'expert' when we are poorly informed.

Suppose you have inherited an antique necklace that you want to turn into cash. The jeweller takes forever to examine it. While he remains silent, you anxiously wait for his offer. (He's letting you 'stew in your own juice'!) After what seems an eternity, he takes a little index card, meticulously writes down a figure and hands you the 'verdict': "12,250 -".

A basic rule, then, is to always obtain estimates from *several* experts. In real estate, for example, we should get multiple appraisals, not so much to get a better estimate of the average value of a property (since we don't want to sell to the 'average' buyer) but to get an idea of the *range*. Unfortunately, showing the necklace to several jewellers is usually not going to be of much help -- unless you can hide your identity as a seller. The following will do the trick: "I would like to buy a necklace for my wife, but she's very particular about what she wants. She's fond about this one, which belongs to a friend of hers. Do you have anything for sale like this?"

A second basic rule is to think about our opponent's RP in terms of a *range* rather than in terms of a single number. The degree of uncertainty about limits is a critical characteristic of the negotiation problem: it shapes our opening offer, and indicates the relative importance of probing and signalling in the negotiation process. A single point estimate obscures this critical

²⁴ On one occasion, I discussed settling a (hypothetical) personal injury case out of court with a group of executives. "Suppose one of my MBA students, irate about a "totally unfair" exam grade, punches me in the eye, and that subsequently I lose my left eye. Since such incidents are a rather common occurrence at INSEAD (our MBA students tend to be an unruly bunch), the school has subscribed to a special eye insurance policy for its faculty members. My problem is: How much is a professorial left eye worth? I don't know, maybe as little as \$10,000, but perhaps as much as \$1,000,000". At this point, one of the executives burst out: "Bullsh..... I'll tell you exactly how much your left eye is worth. \$52,000." A quick glance at his name tag told me the name of his company: Royal Insurance! Clearly, the \$52,000 figure would have a very strong anchoring effect: I would fight to get \$60,000, and perhaps even aspire at \$100,000, but anything between \$100,000 and \$1,000,000 would be history.

factor. Furthermore, by jumping to a single 'point estimate' instead of explicitly reflecting our uncertainty in an estimated range, we run the risk of being anchored around inappropriate reference points suggested by precedent, a third party, or - worse - our opponent.

When we do not have an information advantage over our opponent, there are tactical advantages in moving second. The other side may mistakenly open inside the ZOPA, putting you in the 'comfort zone' right away. Furthermore, by moving second we can adjust our counteroffer to create a favorable focal point -- the midpoint between both opening offers. Empirically the midpoint is the 'best' (but still not very good) predictor of the final agreement, provided it lies inside the ZOPA. When the point halfway between both initial offers falls outside the ZOPA, the final agreement is hard to predict (Raiffa, H. *The Art and Science of Negotiation*, pp. 48-49). It follows that the 'optimal' counteroffer to an opponent's initial offer is such that the midpoint is just a bit inside the ZOPA²⁵.

However, the basic reasons why so many negotiators are reluctant to make the first offer are often of a different nature:

- they do not want to appear eager to close a deal.
- they worry they don't have enough information to make an appropriate offer.

Neither of these reasons are compelling. There is nothing wrong in showing that you are interested in making a deal. Potential buyers of a house often feign a lack of interest and proceed to point out all of its defects. This tactic is simply too transparent to be credible. Furthermore, talking down a house is not likely to endear you to its owner. It is hard to imagine a more stubborn negotiator than a homeowner who's pride is hurt. The following approach is, I believe, more effective:

"I *love* these high ceilings. They don't build houses like this anymore. Nowadays, everything has got to be *efficient*. Nobody seems to care about *space*, all people seem to worry about is heating bills."

The basic thrust of your approach is this: *you* love the idiosyncratic features of the house - *too bad others don't*. Your objective is not only to endear yourself to the owner, but also *to work on his BATNA*. You imply that nobody else will give him as good a price as yours. In short, refusing to make an offer because "we're not really interested" does not make good negotiating sense. It is a ploy which is more off-putting than effective.

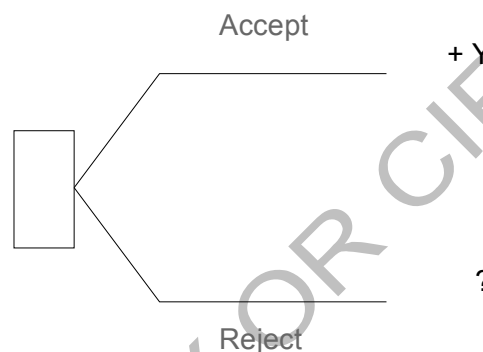
Lacking information about the other party's RP is not a good reason either for refusing to put an offer on the table. Adamantly refusing to make the first offer shows we have cold feet and signals our lack of information. Certainly, protracted bickering about who should make the initial offer should be avoided, as this creates a tense bargaining climate right from the start. When the other side insists that you move first, oblige and make a 'trial balloon' type offer.

²⁵ There may be a problem, however, in that this may require a counter-offer which is not credible. Example: Our assessment of our opponent's RP is 5000-7000, with a best guess of 6000. His opening offer was 4000. We want to create a focal point around 6000. This requires making a counteroffer of 8000, which may not be credible (it is outside the fuzzy range).

Summarizing, whether we should move first or second critically depends on how accurately we can estimate your opponent's RP. If we have particular expertise in this case, and our counterpart does not, then we should go first in order to anchor him. When we do not have better information than our counterpart, the issue of who moves first is usually far less important than is commonly believed. In business settings, prolonged bickering about who should make the initial offer doesn't serve any useful purpose. If we lack information about our opponent's RP and he obstinately refuses to move first, we should oblige and make a 'tough' (but softly worded!) opening offer.

3.5 Concession patterns

Suppose we have made a firm offer (Y), and that our counterpart's no agreement alternative involves considerable uncertainty (e.g., whatever turns up as a result of further search). Our counterpart is then confronted with the following 'simple' decision problem:



If the offer is 'reasonable', and if the seller is sufficiently in doubt as to what will happen if he refuses it, he will be inclined to go for "one bird in the hand rather than two in the bush"²⁶. By increasing our offer, we influence the trade-off between a known alternative and a risky one. We may also manipulate our concession pattern to signal increasing resistance on our part to make another concession should our current offer be refused. That is, our concession pattern should be geared towards two objectives: first, to find out the other side's point of indifference (*probing*); and second, to suggest an increasing likelihood that the negotiation will result in an impasse if our offer is not accepted (*signalling*).

²⁶ The seminal work by Kahneman and Tversky (1979, 1986), and Tversky and Kahneman (1981), has demonstrated that our attitudes toward risk depend on the way the problem is *framed*. We generally prefer a certain gain to an uncertain outcome, even though the latter may have a higher expectation. Our intuition is that it is better to lock in a certain gain than to gamble and run the risk of losing it all. That is, given a *positive frame*, our behavior is *risk averse*. In contrast, we refuse to accept a known loss, and prefer a choice which involves uncertainty, even though the expectation of "giving it a try" may be worse. When the loser of a bet is offered a chance to play "quitte ou double", he refuses to accept a known loss and invariably goes for the gamble. That is, given a *negative frame*, our behavior tends to be *risk seeking*. We have assumed in the above discussion that we have appropriately cast the seller's problem in a *positive frame*.

The first objective (probing) immediately suggests:

‘Concession rule #1’²⁷: to avoid ‘overshooting’, *move in increasingly smaller steps* as we are getting closer to the exact point where ‘the fish takes the bait’.

Our concession pattern also serves a critical *signalling* function, as is illustrated by the following bargaining sequence in the *Salty Dog* negotiation exercise between executives from Volkswagen and Gulf Oil:

[5500] B	S [3500]
4000	≈8000
4900	7000
“FINAL!” 5500	6200
“F.Y.!”	

The buyer was furious. He had reached his RP. He had told the seller loud and clear that his offer was final, and the seller still didn’t accept. The seller wasn’t happy either. He expressed great surprise (and more than that!) when the buyer suddenly began to yell at him. But how could the seller be surprised? The buyer had told him loud and clear that his offer of \$5500 was “final”! Apparently, however, the seller never took notice of this. This complete failure of communication provides another illustration of the critical importance of Schelling’s notion of ‘tacit bargaining’: talk is cheap and therefore often ineffective in achieving convergence of expectations. Purely verbal statements such as “this is my final offer” are not credible and will be ignored unless they are supported by consistent non-verbal signals. In my view, the seller was legitimately surprised by the buyer’s sudden outburst of anger: there was nothing in the buyer’s sequence of moves which signalled that he had indeed reached his limit.

Our second objective, then, in creating a concession pattern is clear: to guide the other side’s expectations about our (tactically chosen) resistance point, the point where he expects that we expect him to expect us to make a stand.

Suppose I make the following sequence of offers:

8000 7000 6000

and then announce “final!”. Do you believe me?. Despite my explicit language to the contrary, you will infer “there is room to go!”. You did not necessarily (I hope!) arrive at this conclusion because of your appreciation of my moral character. Would you believe the pope if he had announced “final”? In fact, would you believe *Mother Theresa*?! The reason for your disbelief is,

²⁷ All of us who frequently engage in negotiations know that there are no hard and fast rules which universally apply to all bargaining situations. Each negotiating problem has to be evaluated on its own merits. Consequently, I have used quotation marks to indicate my deep-seated scepticism towards simple cookbook recipes which are supposed to guarantee success in negotiation.

obviously, that the concession pattern involves constant steps. It follows that the first elementary signalling rule is to make concessions in progressively smaller increments. Thus, our signalling objective also implies 'concession rule #1'.

Even though 'concession rule #1' is obvious, it is quite often violated. This observation raises an interesting question: why is it that negotiators violate basic rules they fully understand and accept? A first reason is impatience: a negotiator who 'smells' an agreement, just like a horse which smells its stable, experiences great difficulty to restrain himself from jumping the point where he knows he can get a deal. The second reason is both a bit more subtle, and far more fundamental: as negotiators, we are so caught up by *what* we want to get that we fail to pay enough attention to *how* we go about trying to get it. We are so involved as actors in the negotiation drama that we lack the necessary perspective to be spectators as well. Negotiators are usually very poor observers of the negotiation process in which they take part. Quite often, they can't correctly re-trace the moves each of the parties has made²⁸. Perhaps, all of us would be better negotiators if throughout the negotiation we could imagine being a 'fly on the ceiling' which observes dispassionately but with keen interest this strange process taking place between these two humans down below!

Next, consider the following two patterns:

8000 6000 5000 and 7000 6200 5650

The pattern on the left is not effective; the one on the right clearly does a better job. Why? Offers are stated in different units: the sequence **000 00 0** strongly suggests the order of magnitude of future concessions²⁹. Merely moving in decreasing steps is not good enough. Since all offers in the left hand pattern are stated thousands (000), the other side still infers: "room to go!" even though the second concession (1000) is smaller than the first (2000). The second pattern is more effective because *the units in which offers are stated suggest the order of magnitude of concessions that can be expected*.

Of course, this doesn't imply that we should start off right away with an offer specified to the third decimal point: this simply would not be credible. The precision of our offer must be a function of how much information the other side believes we have. There is a clear parallel with our earlier discussion of the amount of an opening offer: *if we have less information, we should make an offer which is tougher (amount) but less precise (unit)*. Hence, we have:

'Concession rule #2': Move towards greater precision as we get a better handle on the other side's RP.

²⁸ In hundreds of negotiation exercises, I have explicitly asked negotiators to keep track of each offer and counter-offer that was made during the negotiation. To facilitate record keeping, a specific form was provided. In spite of the fact that the importance of concession patterns was flagged, substantial discrepancies were found between the records of buyers and sellers in more than *one third* of the cases!

²⁹ It is interesting to note that in the bargaining sequence on p. 30, the seller did not move to close the deal after the long discussion where the buyer explicitly said he was getting close to his RP. It was only after seeing the figure '5250' that seller made his proposal to split the difference.

A third signal of our increasing reluctance to make another concession is simply the time we take to think about it. Hence, we have:

‘Concession rule #3’: With each consecutive concession, think longer, ask more clarifying questions, add more ‘ifs’.

The following anecdote, borrowed from Raiffa (1982), reminds us that often the most artful work comes from practitioners who knowingly break all the ‘rules’ in the book:

Larry M. gazed somewhat disinterestedly at a briefcase displayed in the window of a luggage store in Mexico City. The proprietor, who spoke English, approached him outside the store and said, “Are you interested in that briefcase?” “No, I’m just window shopping,” Larry replied. “You can have it for \$15. That’s a good buy.” Larry had a perfectly acceptable briefcase and said that he was not interested. “All right, you can have it for \$14.” Declined. “How about \$13? That’s a fantastic buy.” Declined. At this point, Larry became interested. He didn’t want the briefcase, but he was curious how far the shopkeeper would lower his price. So he stayed around and said nothing. “I’ll sell it for \$12. You can’t get anything like this at that price in the States.” Declined. “All right, since you’re obviously a tourist with a limited budget, just for you I’ll give it to you for \$11.” Declined. My final offer: if you promise not to tell anybody, I’ll sell it to you for \$12.” “Hey, wait a second.” interrupted Larry. “You just offered it to me for \$11.” “Did I do that? I made a terrible mistake. I shouldn’t have done that. But even a mistake must be honored, so for you and only for you I’ll sell it for \$11.” Larry bought the briefcase for \$11.

Raiffa, H. *The Art and Science of Negotiation*, p. 51.

Larry was convinced the Mexican salesman had mistakenly given away his true RP. More generally, raising demands after initial concessions have been made has the effect of anchoring a negotiator’s aspiration level to the last concession offered but subsequently retracted.

Admittedly, Raiffa’s anecdote has a certain ‘exotic’ quality. But let there be no mistake about it: variations of the ‘Mexican salesman trick’ are used quite often in business dealings. Consider the following example:

You have been negotiating a complex package deal with one of your suppliers. After reaching tentative agreement on all of the terms, you ask your supplier to put his last proposal in writing so that you can submit it to your boss for final approval. Two days later, written confirmation of his offer arrives in the mail. The following day, however, you get a *second* letter, sent by Federal Express: “Dear - , It is with deep regret that due to an unexpected increase in the cost of ‘widget Z’ [or any other generic excuse, such as “unforeseen difficulties in the design of part Y”, “a mistake by our accounting department”, etc.] we cannot maintain our offer as stated in our earlier letter dated --. Enclosed please find, with our sincere apologies, the best possible terms that we can offer you under the current circumstances”.

In Raiffa’s anecdote, retracting the \$12 offer actually brought about the agreement. The play was successful because Larry believed the Mexican had genuinely made a mistake. Most often, however, using the ‘Mexican salesman trick’ sours the bargaining climate and increases the chances of no agreement. The tactic can be successful only if retracting a concession made earlier in the negotiation can be legitimized on the ground of some ‘good’ reason (new

information, excusable error, ...). When a negotiator goes back on earlier concessions without a legitimate reason, he is almost certain to antagonize the other side.

Indeed, it is questionable whether such behavior is ethically appropriate. Effective bargaining requires that both negotiators adhere to an implicit understanding about the 'rules of the game'. When we violate those rules, we are not bargaining in 'good faith'. In labor negotiations, in particular, there is a clear rule (often explicit, or required by law) that concessions which are made cannot be withdrawn at some later point. More generally, in virtually *all* negotiations parties will assume that the same norm against withdrawing concessions will be respected by the other side³⁰. Negotiators who violate this unwritten rule of the game do so at the risk of fatally damaging their reputation. At the very least, then, we should think twice about using the 'Mexican salesman trick' when we will meet the same party again. Bargaining in good faith requires us to adhere to:

'Concession rule #4': Unless a concession has explicitly been labelled as "tentative", it cannot be withdrawn at a later stage in the negotiation. However, a declaration by both parties that a final deadlock has been reached 'clears the table'.

The basic idea behind the 'Mexican salesman trick' can be implemented, however, in ways which are less offensive. Consider the following examples:

"A discount of 9% is the best we can offer you. Company Z, our very best client with whom we have been doing business for more than 25 years only gets 10%."

"Our price for a small order like yours is \$2200/unit. Exceptionally, in case of very large orders, we have quoted a price of \$2000/unit."

After management offers a wage increase of \$2, the union negotiator snaps back: "\$2? Why, I wouldn't even settle for \$4!" (cf. Peters, 1955)

These examples suggest:

'Concession rule #5': Give your counterpart a target to shoot for by telling him he what he *cannot* get.

It is often said that it is important not to make the first concession. The issue "who is to concede first" is seen as a first test of will for both negotiators. In addition, it is argued, readiness to concede implies your initial offer was not 'reasonable'. I believe that it is not advisable to engage in futile game playing about who should make the initial concession (just as it is not advisable to engage in a contest about who should make the initial offer). Extremely advantageous outcomes in a purely distributive bargaining context are most often obtained in an 'elegant' fashion, without overtly and explicitly engaging the other side in a naked contest of

³⁰ Iklé (1964) points out that in international diplomacy, the rule against withdrawing concessions does *not* apply for concessions made 'off the record' during *informal* meetings. The same point is made by Douglas (1962) and Dunlop and Healy (1955) in the context of labor negotiations. Furthermore, in *multiple* issue negotiations, parties often explicitly sanction a different rule, *viz.* that "nothing is settled until the *package as a whole* is agreed upon". This norm implies that all concessions are to be considered tentative (and hence *can* be reconsidered) until final agreement over the entire package is reached.

wills. Doing so induces stubbornness, and results in 'middle-of-the-road' outcomes. Rather than engaging our counterpart in a contest of will, it is far preferable to design a concession pattern around two objectives: to probe the other side's limit, and to signal increasing reluctance to make another concession as we approach a tactically chosen 'tripwire' RP.

DO NOT COPY OR CIRCULATE

MAINTAINING A POSITIVE BARGAINING CLIMATE

Almost invariably, single issue negotiations are described as “tense”, or “tough”. Occasionally, they create outright animosity between the parties. Maintaining a positive atmosphere is perhaps the most important - and most challenging - task facing a negotiator.

Making concessions in a single issue setting is awkward. How do we justify our concessions both to ourselves and to our counterpart? A major advantage of multiple issue negotiations is that they provide a built-in rationale for making concessions: my rationale for giving something on issue A is the fact that my counterpart gives something in return on issue B. Each party's concession provides a *quid pro quo* for the other's concession. Concessions are traded in a very ‘natural’ barter process, and hence do not require any explicit justification.

In contrast, this built-in rationale is not available in single issue negotiations. The result, typically, is a much more awkward process. An extended exchange of successive offers on a single issue requires extremely fancy footwork where negotiators either artfully shift from one criterion for justification to another, or introduce additional (token) issues which provide a face-saving rationale for each successive concession.

1. ‘Transparency’ or ‘Fuzziness’?

It is generally believed that it is easier to reach agreement once parties have reached a common understanding of the facts. “Let's first get the facts straight and make sure both of us have a clear picture of the problem”. Unfortunately, this common practice has a major drawback: it makes it harder for negotiators to make successive concessions.

Indeed, it is extremely hard to make concessions when we are no longer surrounded by a protective cloak of ‘fuzziness’, when we can no longer be secure in the knowledge that our counterpart cannot verify the stories we tell to justify our concessions. Furthermore, the very simplicity and transparency of a setting confronts both parties with the naked fact that they have conflicting interests. Not only is this a ‘win/lose’ situation, it is *obviously* a win/lose situation: there no scope even to pretend otherwise. Because of the extreme simplicity of the setting, it is hard to camouflage the basic reality that one party's gain is the other party's loss.

Excessive transparency which results from putting all of the facts on the table is the root cause of two major problems:

- **LOSS OF FACE.** A negotiator finds it harder to concede if he is unable to justify this concession to himself (or his boss). A concession without adequate justification is often seen as “giving in to the other side”. Conceding then involves more than just an economic loss: self esteem and ‘face’ are at stake. In such cases, the bargaining process tends to degenerate into a naked contest of wills, a battle of egos.
- **INADEQUATE PROBING.** Negotiators usually exchange relatively few offers. Typically no more than two or three offers on each side are exchanged, even in cases where intrinsic uncertainty would warrant a longer mutual probing process. Making successive concessions on a single issue is awkward. The main difficulty in maintaining the integrity of

our bargaining posture is in providing our counterpart with a plausible reason for each of our successive concessions. As one negotiator pointed out:

I got to the point where I found it difficult to make another concession - because there was no logical reason to do it. If I did make a concession, it would make my other bids seem unreasonable. I knew I had to come down a bit more. If he had offered something of minimal value, cleaning the vehicle, anything, I would have happily made the concession.

The above discussion suggests that even though arguments may not be effective to convince the other side, they do play a critical role in negotiation: *our arguments allow us to concede gracefully*. The key function of arguments in the negotiation process is not to extract concessions from the other side, but to allow us to make successive concessions without loss of face.

A recent experiment (Dierickx: 1993) provided empirical evidence supporting this view.

Two groups of students (160 students in each group) were asked to negotiate an out of court settlement for a personal injury claim. Negotiators representing the claimant and the insurance company received *identical* instructions. In the first group, both the document itself and the way it was distributed made it clear to both negotiators that 'all the facts were on the table': each knew exactly what the other knew. In the second group, negotiators received their instructions in *sealed envelopes*. These instructions were again identical, but were now labelled "CONFIDENTIAL".

44% of the negotiators did not reach agreement in the first group, compared to 22% in the second group³¹. In the first group, negotiators found it difficult to justify successive concessions because they were painfully aware of the fact that the other side *knew* they were just telling stories. As a result, too few offers were exchanged to close the gap between the opening positions. In the second group, reaching agreement was easier because each negotiator (falsely!) believed he could safely dream up stories to justify successive concessions³².

2. Principled justification

In *The Practical Negotiator* (Yale University Press, 1982) William Zartman and Maureen Berman provide a provocative discussion of the practice of establishing a negotiation 'formula', an overall framework of agreed upon principles which provides referents and guidelines for the subsequent search for detailed agreements.

[Parties] have two basic ways of arriving at an agreement. One is inductive - to put the agreement together piecemeal, building it primarily through mutual compromise or exchanged concessions on specific items. The other is deductive - to establish first the

³¹ An earlier experiment (Dierickx: 1992), identical in all respects except that the instructions which were distributed through sealed envelopes were *not* labelled "CONFIDENTIAL", gave similar results: 43.6% of the negotiators did not reach agreement in the first group, compared to 28% in the second group.

³² There appear to be important cultural differences as to which standard of plausibility stories have to meet in order to allow a negotiator to maintain face. By 'piercing the veil' and exposing the fact that the other side's justifications are mere fabrications, a negotiator not only displays a lack of sensitivity and common courtesy, but also runs the risk of violating implicit rules of the bargaining game.

general principles, or formula, governing the issues susceptible of solution and then work out the implementing details. (p. 89)

[...] The point of view adopted here is admittedly bold: we have suggested from the beginning that a search for a broad framework that will justify detailed agreements is both the way the best negotiators do proceed and the way negotiators in general *should* proceed. (p. 133; emphasis original)

Zartman and Berman argue that numerical patterns are meaningless, and that the numbers themselves matter less than the principled justification which supports those figures:

The winning argument to clinch a decision depends on conveying a sense of principle and a coherence with the ensemble of the emerging agreement (p. 202).

Many analyses of negotiations assume that parties can make frequent and regular concessions or moves [...]. Although the results may be plotted as the convergence of jagged lines, the actual moves are more like the jumping of one criterion of justification for a figure to another. [...] The detail chosen is the consequence of the criterion that justifies it, not the reverse [ibid.].

What drives agreement, conspicuous numbers or a sequence of shifting principles? Zartman and Berman's view of the negotiating process emphasizes rational argument and principled decision making. In contrast, Schelling argues that the essence of bargaining is a process of convergence of expectations, and that this process is largely driven by tacit coordination mechanisms such as focal points and concession patterns.

All of us have experienced the vexing situation where we felt compelled to accept a deal knowing our counterpart got the better of us. Why did we accept such a one-sided deal? Because we were convinced by the arguments advanced by our counterpart? The true reason why we accepted was that we had the sinking feeling that "It's useless to insist. He won't yield anyway. He's got our number." Of course, *ex post* we try to rationalize our defeat. We'd like to believe that there is a rationale for the outcome that we accepted, that there is some merit in the arguments advanced by our opponent. Are negotiated outcomes really *driven* by the arguments advanced by the negotiators, or do these arguments merely provide the rational 'gloss' for an outcome which was locked in by convergence of expectations? On the whole, I believe the latter is the more realistic view: "Quand on délibère, les jeux sont faits ..." (J.P. Sartre).

This is not to say that principles do not play an important role in negotiations. Principles are critical *process facilitators*. As one negotiator put it:

The other side will concede more easily when a concession can be justified either on account of a principle or as a response to a concession of your own.

Most people prefer to negotiate on the basis of principles rather than 'numbers' or relative power. They simply won't capitulate to someone who is trying to impose his will on them to gain unilateral advantage. When the negotiation degenerates into a battle of egos, you've lost. It is better to get their acceptance by invoking principles of fairness that transcend the particular negotiating situation itself. The other side sees the outcome of the negotiation as a natural result of circumstances and standards of fairness rather than something 'lost' in a battle.

Negotiating on principles also helps to improve the negotiating climate. Sure, the underlying conflict doesn't magically disappear simply because parties are couching their demands in terms of lofty principles rather than naked self-interest. But even the mere ritual of pretending to search for fairness implicitly imposes certain boundaries on what are acceptable demands, and what constitutes acceptable behavior at the bargaining table. It remains a fight, but the fighting proceeds according to the rules of the Marquis of Queensbury.

Common reasons for invoking principles in a negotiation are summarized in the following short 'laundry list', to which you may want to add a few reasons of your own. Principles may be invoked in order to:

1. *Reduce our opponent's cost of making concessions.* Even though principled arguments don't drive concessions, they *facilitate* concessions.

- A negotiator must be able to 'sell' his agreement to his principals; we may have to give him the 'ammunition' to be able to do so.
- A negotiator must be able to 'sell' his agreement to himself; we may have to invoke policies or principles as a face-saving device: most people find it easier to give in to a demand supported by principle than to a naked, 'arbitrary' demand.

2. *Reduce tension in a bargaining process*

- By getting away from overt haggling over price: most people find it easier to discuss principles than to overtly talk \$'s.
- By de-personalizing your position on a particular issue.

3. *Establish a commitment*, by increasing our own cost of making concessions (self-imposed conditional penalty: breaking with an established policy, violating a principle). Note that Fisher and Ury's 'answer' to commitment tactics, "I never yield to pressure, but only settle on the basis of principle" is itself a commitment tactic.

4. *Create a focal point.* A principle or 'fair' outcome derives its appeal not only from its inherent logical or moral force, but also - and perhaps primarily - from the fact that its evident logic or fairness makes it *conspicuous*.

50-50 seems a plausible division, but it may seem so for too many reasons. It may seem 'fair'; it may seem to balance bargaining powers; or it may [...] simply have the power to communicate its own inevitability to the two parties in such fashion that each appreciates that they both appreciate it.

"Bargaining, Communication, and Limited War", p. 72.

Outcomes which are inherently fair but complex stand little chance to be adopted. Fair but sophisticated division procedures proposed in the game theoretical literature appear to have less appeal than cruder, less fair, but more conspicuously 'obvious' schemes.

5. *Broaden the scope of the negotiation:* By moving the negotiation away from positional bargaining we may be able to focus our counterpart on broader set of underlying issues as opposed to the specific instance of non-agreement between us.

6. *Increase the chances of good-faith compliance.* An agreement supported by principle is more 'robust' than one which is not.

7. *Manage the aspirations (and negotiating behavior) of our counterpart.* The basic premise of a technique known as 'positive altercasting' is to set up a role model for our counterpart which he/she will want act out: "as a fair and reasonable person, you want to settle this on a principled basis". This approach is most useful to the weaker party in a negotiation. It may be our only chance to get something out of a negotiation when we have a poor BATNA and our counterpart knows it. (Don't get your hopes up, though. But then, you can't lose by giving it a try!).

3. Appropriate Language

USE SIMPLE, NON-EVALUATIVE AND 'SOFT' LANGUAGE

Inexperienced negotiators often use very tough language ("That's absurd", "\$5000? Forget it", "We're not getting anywhere. This is a complete waste of my time"), yet make demands which in substance are quite moderate. They worry about appearing 'soft', and attempt to protect their self-image by going through the standard 'shoot-out at high noon' ritual. Aggressive posturing often masks insecurity: "Barking dogs rarely bite" (in negotiation, at least!).

We should try to maintain the most courteous attitude by using simple, factual, non-evaluative and 'soft' language:

- Do not try to impress the other side with verbal gymnastics. Fancy talk is off-putting.
- Refrain from making evaluative comments: "Come on, be reasonable", "How can you say that as an engineer", ...
- Avoid 'irritators': "Frankly", "Honestly", "With all due respect", ...

Particularly when trying to close the deal there is an unfortunate tendency to use 'tough' language in order to appear 'firm'. When I state my final offer as: "\$5000. Take it or leave it", I insist that the other side accepts a deal on *my* terms. The response will almost certainly be a flat "No!" By casting my demand as a final showdown in a contest of wills, I am not only asking for a substantive concession, I also insist that the other side accepts that he is a wimp! "Can we agree on a final price of \$5000" has much better chances to meet with a positive reply, even though in substance I have said exactly the same thing: \$5000 is my last offer. However, by phrasing my final offer as a *question* and by using *we*, I explicitly recognize the other side's input in *our* deal. A general rule: the tougher the substance of our the demands, the softer the language we should use.

During a workshop in Israel, I told a group of young entrepreneurs that in a negotiation they should not be a 'Sabra' - a remark which caused considerable consternation. The word 'Sabra' refers not only to an Israeli born in Israel, but also to a particular kind of cactus fruit which is very prickly at the outside, but sweet on the inside. As negotiators, we should be sweet at the outside, but prickly inside: we should be *soft on the people, but tough on the issues*.

AVOID A 'BATTLE OF EGOS'

Negotiators who have a strong need to assert themselves are often seen as 'difficult' opponents. In fact, they are often rather easy to deal with. If an ego-driven negotiator comes on strong, don't let him drag you into a battle of egos but build up his self-image. Signal that you see him as a figure who has great authority, commands considerable resources, who is fair, firm, and powerful. Minimize the nature of the concession you want him to make. Then ask: "I don't think it would be a problem for you to approve X, would it?", or "X wouldn't present a problem for you, would it? The basic approach is to capitalize on his natural tendency to assert himself by putting him in a situation where he is asked "Can you handle this?"

BE BRIEF

Some negotiators have the unfortunate tendency to ramble on forever. They simply don't know when to stop. They drown their message in a flood of words when a brief comment would have been sufficient to make the point. Be brief: 'one-liners' have far more impact than lengthy perorations.

KEEP A LOW PROFILE

Don't show off by 'taking the lead' in the negotiation. Use questions to give the other side an opportunity to express himself.

ALTERNATIVES TO 'BAZAAR STYLE HAGGLING'

1. 'Principled Negotiation'

Fisher and Ury start off *Getting to Yes* with the story of a shopkeeper and a customer who bargain over the price of a brass dish, and propose a 'superior' alternative: 'principled negotiation'. Unfortunately, Fisher and Ury do not conclude their book with a demonstration of how this alternative approach is supposed to work in that very example. Among their four maxims³³, the one that is presumably most relevant to the problem of the shopkeeper and his potential customer is "Insist on Using Objective Criteria". I do not believe a common search for 'fair standards' and 'fair procedures' offers a viable alternative to 'haggling'. 'Fairness' is a notoriously elusive concept. A negotiator worth his salt will rarely be at a loss to develop at least a couple of 'objective criteria' which just happen to be particularly fair to him. In practice, 'principled negotiation' all too often degenerates into an argument over "what is fair".

2. Simultaneous Revelation of 'Best Offers'

A British real estate agent who buys and sells properties on his own account proudly pointed out that he "never negotiates with owners". He described his own approach as follows:

First, I engage the owner in a very informal conversation. We talk about travel, sports, cars, anything. Then I tell him that I only do business on a 'realistic' basis, and that I hate wasting my time with 'bazaar-style haggling'. I mention that I have made a careful appraisal of the house and I propose to give him my 'best' offer on a piece of paper provided he is willing to do the same. I make it clear that if we aren't close, I won't bother negotiating any further: "I have a lot of experience in real estate, and believe me, if two parties aren't even close when they have given each other their best offers, there is no point in going any further. The deal never materializes. So why don't you think about your most reasonable offer, and I will do the same. You know, a house does have a market value, and my experience has been that if people are reasonable, their offers are very close, and agreement is reached very quickly."

The estate agent's objectives during the informal conversation are not only to fish for information and to create a pleasant atmosphere. He is mainly trying to establish a (false!) climate of trust, and to intimate the notion that "we British gentlemen do not engage in bazaar-style haggling, do we?" The procedure to simultaneous exchange 'best' offers puts the owner in a situation where he has to negotiate *with himself*. In this negotiation, the owner's 'prudent self' is given plenty of ammunition to talk down his 'ambitious self':

"We can't come in with a ridiculous price. After all, a house does have a market value. We only have one shot at it; if our offer is not 'realistic', the deal is off. And if we are reasonable, a deal will be reached very quickly" [read: painlessly].

The estate agent pointed out that sellers almost invariably like his approach, and that agreement is usually reached very quickly indeed. With obvious satisfaction, he added that

³³ Separate the People from the Problem; Focus on Interests, Not Positions; Invent Options for Mutual Gain; Insist on Using Objective Criteria.

quite often sellers come in at a *lower* price than his own offer (which, of course, is far from generous)!

Occasionally, negotiators who are insecure about their own bargaining skills suggest a similar procedure which consists of simultaneously announcing RPs and splitting the difference (cf. Raiffa, 1982: 59, fn 11). Advocates of this procedure argue that it is 'fair', and that it avoids the waste of time and psychological cost involved in bargaining. The procedure to reveal RPs is seriously flawed, however. First, it creates very strong incentives to misrepresent one's reservation price. Often, parties feel they have no choice but to misrepresent their own RP "since the other guy will surely misrepresent his", and "if he didn't, he's a fool and should have". Second, the simultaneous revelation procedure is inefficient, in that it often results in failure to reach an agreement, even in cases where a ZOPA does exist. Probably the best solution to both problems is not to agree to such procedures where you might be forced to make a choice between behaving ethically and running the risk of being taken advantage of.