

# Negotiations

Prof. Christopher Balding

October 29, 2018

# Building Upon What We Learned: Thinking Strategically

- Good negotiators will think strategically about *how* to achieve what they want
- Good negotiators will think strategically about *what* they want to achieve
- Good negotiators will think strategically about their bottom line
- Good negotiators will think strategically about their *BATNA* or options

# Building Upon What We Learned: Negotiate with People

- You are negotiating with people and not playing a computer game
- Having a good strategy and clear objectives without accounting for the emotional and person you negotiate with will result in poor outcomes
- Put yourself in their shoes to better understand how to obtain a positive outcome

# Building Upon What We Learned: Preparing for a Negotiation

- How do you get prepared to negotiate?
- Do you outline strategies?
- Do you prepare for different scenarios?
- Are you trying to anticipate your opponents strategies?
- How do you plan for personality differences in who you negotiate with?

# Using Negotiation Skills

So you're thinking about taking a negotiation course but are not sure if it will be worthwhile. Or maybe you attended one recently (or not so recently) and are wondering whether you are effectively applying what you've learned to the negotiations in your business and personal life. The gains made during training can be quickly lost as we fall back on old habits and sloppy thinking.

# Be Ready to Make Mistakes

Negotiation training can be a humbling enterprise. Instructors often have their students participate in role-play simulations that have been designed at least in part to expose flaws in their thinking, such as the tendency to be overconfident or to assume that they are fighting over a fixed pie of assets. Students often feel threatened when they discover that they have been making decisions based on faulty intuition...Yet it would be a mistake to view your behavior as a personal shortcoming or, conversely, to blame the instructor for “tricking” you. In fact, feeling uncomfortable with an aspect of our behavior is a necessary step on the journey to improving it, according to psychologist

# Be Proactive

Once training begins, avoid the pitfall of passively recording the key points made by your instructor. Beyond note taking, think about how these concepts relate to your own negotiations. How do the theories presented apply to your practice? If you're not following the real-world implications of an idea, ask for clarification or a concrete example. We learn better when we have the opportunity to abstract similar lessons from two or more experiences, researchers have found. For this reason, proactive students perk up when concepts are presented more than once—and are more likely than others to retain this information over time.

# Practice Your New Skills

Once you're back at the office, don't assume that the new skills and concepts you've learned will become a natural part of your negotiation repertoire. In fact, the process of cementing better patterns of behavior requires vigilance and hard work. When you return to the office, spend some time reviewing what you learned. Think about which concepts you would like to apply most assiduously to your negotiation and actively practice what you want to absorb, both at work and at home.



# A Few Final Tips

- Manage wins and losses. People prefer to experience several “wins” rather than one, but show the opposite preference for losses. Make concessions, issue rewards, and deliver good news in stages rather than all at once—but convey bad news in one big chunk.

# A Few Final Tips

- Delay acceptance. A counterpart's quick acceptance of an offer can cause a negotiator to regret that she didn't ask for more. For this reason, even if the other side quickly acquiesces to your high goals, try to prolong the negotiation a bit to improve her overall satisfaction.

# A Few Final Tips

- Hide your glee. Negotiators tend to be less interested in working again with counterparts who express satisfaction with their results than with those who seem less satisfied. Your satisfaction may lead your counterpart to assume that you took advantage of him. So if you have success meeting your high goals, keep your exuberance to a minimum.

# Getting to Si

...you might find yourself working with very different norms of communication. What you to “yes” in one culture gets you to “no” in another. To be effective, a negotiator must a sense of how his counterpart is reacting. Is she eager, frustrated, doubtful? If you take stock of subtle messages, you can adjust your own behavior accordingly. In an international negotiation, however, you may not have the contextual understanding to interpret your counterparts communication – especially unspoken signals –accurately.

# Getting to Si – What Does That Mean in Practice?

- Adapt the way you express disagreement
- Know when to bottle it up or let it all pour out
- Learn how other cultures build trust
- Avoid yes or no questions
- Be careful about putting it in writing

When you negotiate, what are you negotiating?

# What Are You Negotiating?

- You are negotiating trying to achieve an acceptable range of outcomes.
  - Negotiations *seeks an outcome*
- Negotiations is the process or methodology that helps you achieve the desired outcome
  - Negotiating is an action with techniques that are going to help us improve the probability we achieve a successful outcome

# Negotiating a Position or an Outcome

When negotiators bargain over positions, they tend to lock themselves into those positions. The more you clarify your position and defend it against attack, the more committed you become to it. The more you try to convince the other side of the impossibility of changing your opening position, the more difficult it becomes to do so.



# Outcome or Ego?

Your ego becomes identified\* with your position. You now have a new interest in "saving face" — in reconciling future action with past positions — making it less and less likely that any agreement will wisely reconcile the parties' original interests.

# Positions Harm Outcomes

As more attention is paid to positions, less attention is devoted to meeting the underlying concerns of the parties. Agreement becomes less likely. Any agreement reached may reflect a mechanical splitting of the difference between final positions rather than a solution carefully crafted to meet the legitimate interests of the parties. The result is frequently an agreement less satisfactory to each side than it could have been.

# Negotiating Positions is Inefficient

Bargaining over positions creates incentives that stall settlement. In positional bargaining you try to improve the chance that any settlement reached is favorable to you by starting with an extreme position, by stubbornly holding to it, by deceiving the other party as to your true views, and by making small concessions only as necessary to keep the negotiation going. The same is true for the other side.

# Staking Out Positions

Positional bargaining becomes a contest of will. Each negotiator asserts what he will and won't do. The task of jointly devising an acceptable solution tends to become a battle. Each side tries through sheer will power to force the other to change its position.

# Negotiating Positions with Many People

Although it is convenient to discuss negotiation in terms of two persons, you and "the other side," in fact, almost every negotiation involves more than two persons. Several different parties may sit at the table, or each side may have constituents, higher-ups, boards of directors, or committees with whom they must deal. The more people involved in a negotiation, the more serious the drawbacks to positional bargaining.

# Hard vs. Soft Bargaining

In positional bargaining, a hard game dominates a soft one. If the hard bargainer insists on concessions and makes threats while the soft bargainer yields in order to avoid confrontation and insists on agreement, the negotiating game is biased in favor of the hard player.

# The Alternative Disclaimer

I do not believe this is the solution to negotiation problems. I do believe it is a good method to study and use but I believe negotiation strategies must be adaptable.

# The Two Stage Game

The game of negotiation takes place at two levels. At one level, negotiation addresses the substance; at another, it focuses— usually implicitly — on the procedure for dealing with the substance. The first negotiation may concern your salary, the terms of a lease, or a price to be paid. The second negotiation concerns how you will negotiate the substantive question: by soft positional bargaining, by hard positional bargaining, or by some other method. This second negotiation is a game about a game — a "meta-game."



## The Two Stage Game cont.

This second negotiation by and large escapes notice because it seems to occur without conscious decision. Only when dealing with someone from another country, particularly someone with a markedly different cultural background, are you likely to see the necessity of establishing some accepted process for the substantive negotiations. But whether consciously or not, you are negotiating procedural rules with every move you make, even if those moves appear exclusively concerned with substance.

# Describing the Two Stages

What is the objective of the game and what are the rules of the game?

# The Second Rule of Strategy: If You Have a Dominant Strategy, Use It

- Do not be concerned about your rival's choice. If you do not have a dominant strategy, but your rival does, then anticipate that he will use it, and choose your best response accordingly.
- One of the most common stumbling blocks is concern over relative benefit rather than absolute benefit

# The Second Rule of Strategy: If You Have a Dominant Strategy, Use It

Just as a dominant strategy is uniformly better than every other strategy, a dominated strategy is uniformly worse than some other strategy. Just as you choose your dominant strategy if you have one, and can be sure that your rival will choose his if he has one, you should avoid your dominated strategies if you have any, and can be sure that your rival will avoid his, if he has any.

## The Third Rule of Strategy: Eliminate Dominated Strategies One at a Time

If, during the process, any dominant strategies emerge in the smaller games, they should be chosen successively. If this procedure ends in a unique outcome, you have found the prescriptions of action for the players and the outcome of the game. Even if the procedure does not end in a unique outcome, it will reduce the size and the complexity of the game.

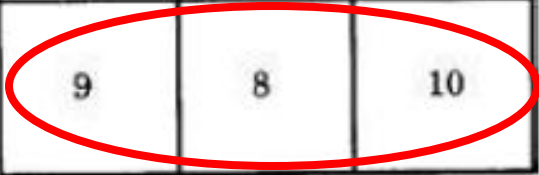
# Game Theory Looking At Rules #2 and #3: What is the Dominant/Dominated Strategy?

		Defense's Strategies		
		Counter Run	Counter Pass	Blitz
Offense's Strategies	Run	3	7	15
	Pass	9	8	10

# What is the Dominant Strategy?

- The offense has a dominant strategy of passing the ball
- The defense knows that the offense's dominant strategy is to pass the ball and will change their strategy
- In a “dynamic” game, this would change the payoff matrix so that the defense would be better prepared
- This game depends on teams competing or *not* trusting their partner

		Defense's Strategies		
		Counter Run	Counter Pass	Blitz
Offense's Strategies	Run	3	7	15
	Pass	9	8	10



# Bargaining in the Shadow of the Prisoners Dilemma

		Iraq's Output	
		2	4
Iran's Output	2	42 46	44 26
	4	22 52	24 32



# What is the Dominant Strategy?

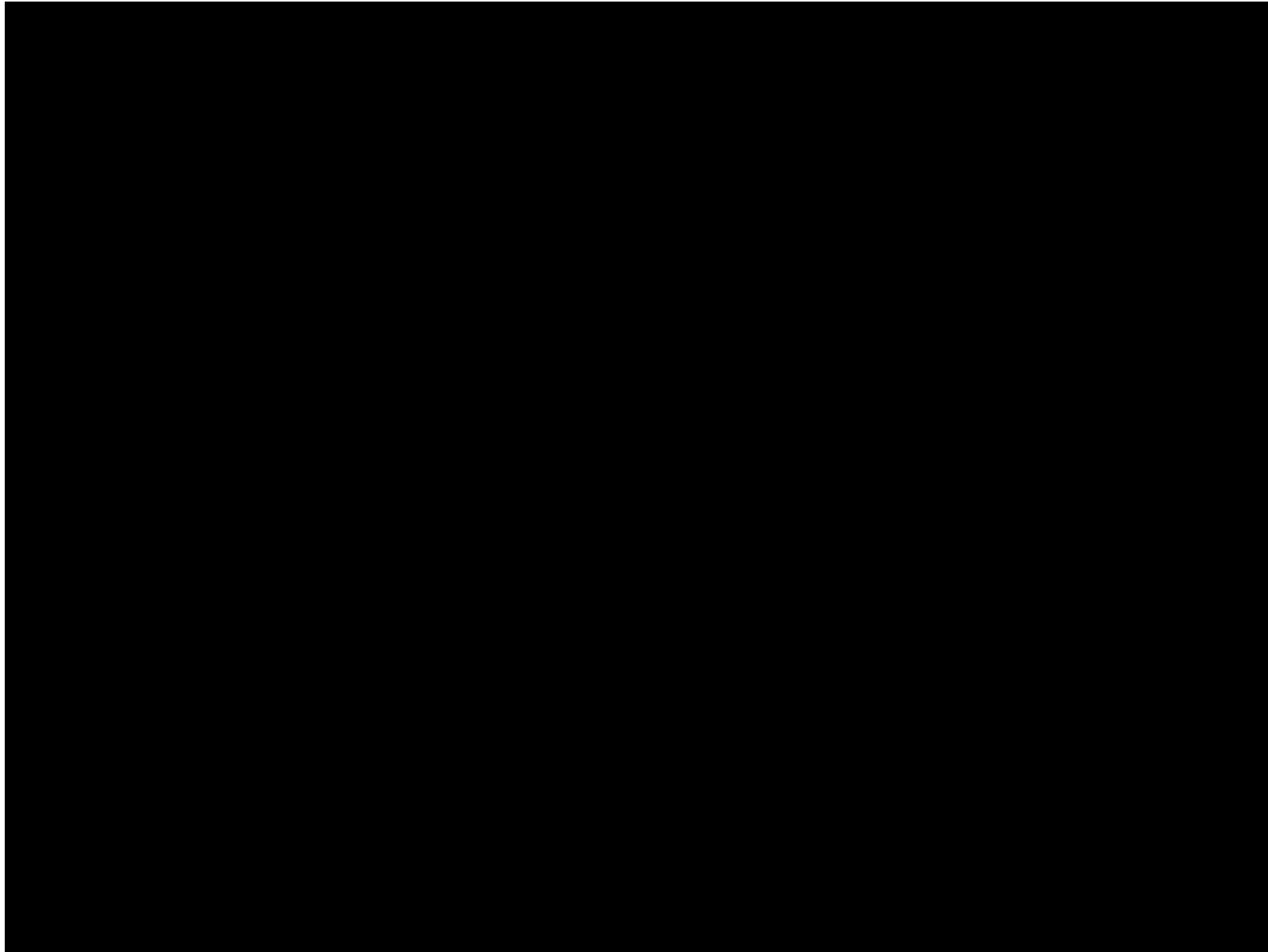
- Each party has a dominant strategy to defect and produce at a higher level
- However, both party is better off producing a lower amount
- This game requires cooperation and trust unlike football

		Iraq's Output	
		2	4
Iran's Output	2	42, 46	44, 26
	4	22, 52	24, 32

The table shows the following payoffs (Iran's Output, Iraq's Output):

- (2, 2): 42 (Iran), 46 (Iraq)
- (2, 4): 44 (Iran), 26 (Iraq)
- (4, 2): 22 (Iran), 52 (Iraq)
- (4, 4): 24 (Iran), 32 (Iraq)

# What is the Dominant Strategy? Part 1



# Who Should You Kill First?

Three antagonists, Larry, Mo, and Curly, are engaged in a three-way duel. There are two rounds. In the first round, each player is given one shot: first Larry, then Mo, and then Curly. After the first round, any survivors are given a second shot, again beginning with Larry, then Mo, and then Curly. For each duelist, the best outcome is to be the sole survivor. Next best is to be one of two survivors. In third place is the outcome in which no one gets killed. Dead last is that you get killed. Larry is a poor shot, with only a 30 percent chance of hitting a person at whom he aims. Mo is a much better shot, achieving 80 percent accuracy. Curly is a perfect shot—he never misses. What is Larry's optimal strategy in the first round? Who has the greatest chance of survival in this problem?

# Who Should You Kill First? cont.

If Larry shoots at Mo and hits, then he signs his own death warrant. It becomes Curly's turn to shoot, and he never misses. Curly will not pass at the chance to shoot Larry, as this leads to his best outcome. Larry shooting at Mo does not seem to be a very attractive option. If Larry shoots at Curly and hits, then it is Mo's turn. Mo will shoot at Larry. Hence, if Larry hits Curly, his chance of survival is less than 20 percent (the chance that Mo misses). So far, neither of these options looks to be very attractive. In fact, Larry's best strategy is to fire up in the air! In this case, Mo will shoot at Curly, and if he misses, Curly will shoot and kill Mo. Then it becomes the second round and it is Larry's turn to shoot again. Since only one other person remains, he has at least a 30 percent chance of survival, since that is the probability that he kills his one remaining opponent.

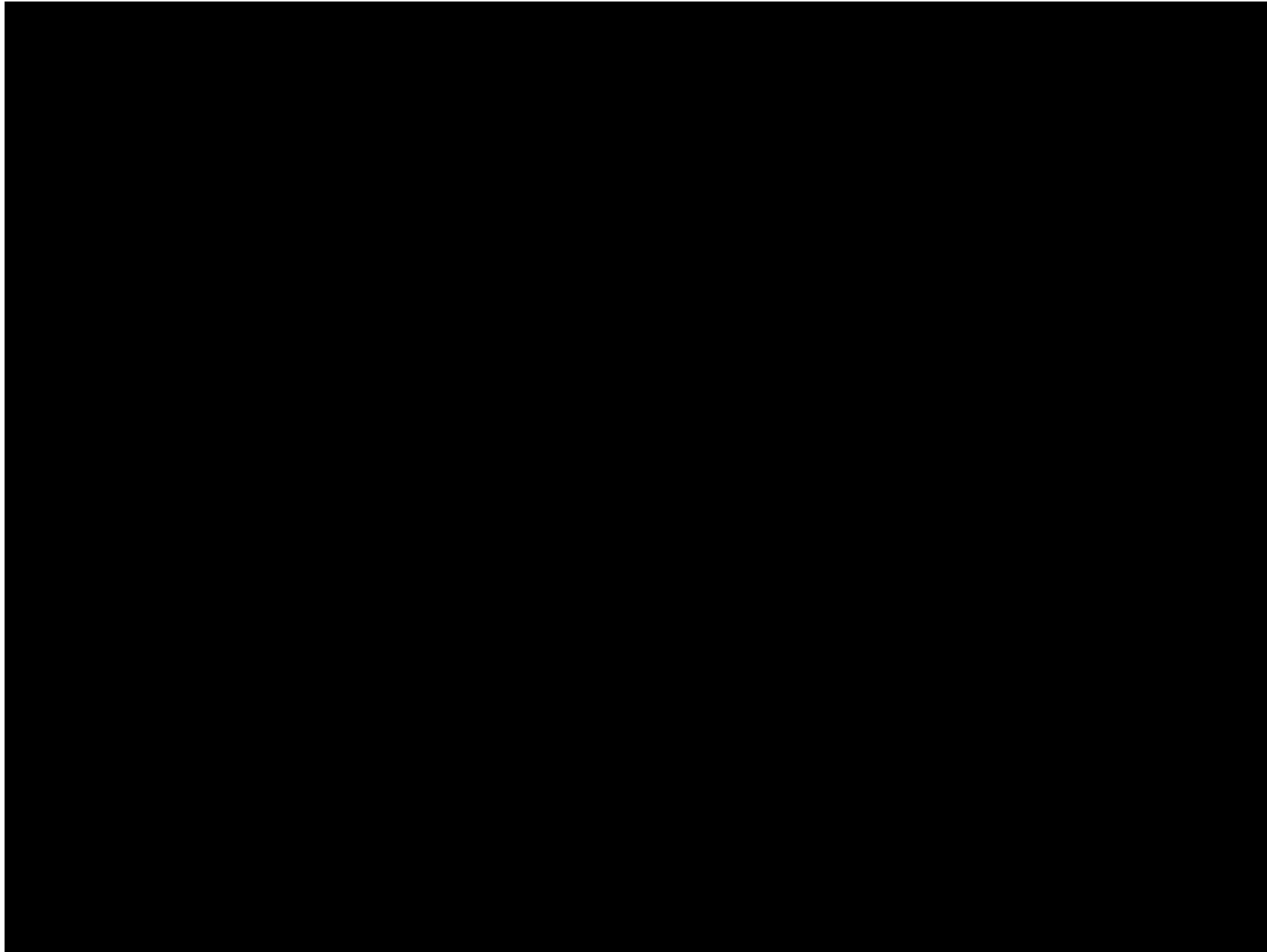
# Who Should You Kill First? cont.

The moral here is that small fish may do better by passing on their first chance to become stars. When there is a large number of contenders, the leader of the pack often gets derailed by the cumulative attacks of all the medium-sized fish. It can be advantageous to wait, and step into the limelight only after the others have knocked each other and themselves out of the running. Thus, your chances of survival depend on not only your own ability but also whom you threaten. A weak player who threatens no one may end up surviving if the stronger players kill each other off. Curly, although he is the most accurate, has the lowest chance of survival—only 14 percent. So much for survival of the fittest! Mo has a 56 percent chance of winning. Larry's best strategy turns his 30 percent accuracy into a 41.2 percent chance of winning.

# What is Your Hardest Question?

- Take time to identify the question or questions the other side might pose that would be most difficult for you to answer—whether for tactical, emotional, or ethical reasons. By anticipating such questions *before you're confronted with one, you can avoid a costly stumble.*
- When confronted with your hardest question, you may feel that your only options are full disclosure, stonewalling, or lying. But you can usually generate better choices by brainstorming, often with others whom you trust. Find a general approach and specific words with which you're comfortable.

# What is the Dominant Strategy? Part 2



# The Prisoners Dilemma Summed Up

This predicament is called the prisoners' dilemma. Its remarkable feature is that both sides play their dominant strategy, thus maximize their payoff, and yet the outcome is jointly worse than if both followed the strategy of minimizing their payoff. So why don't they follow the minimizing strategy?



# Negotiating Around the Prisoner's Dilemma

- Those who find themselves in a prisoners' dilemma will look for ways to escape and achieve the cooperative outcome they jointly prefer. Others may like to see the players remain trapped in the dilemma.
- The underlying problem is the players' incentive to cheat on any agreement. Therefore the central questions are, How can such cheating be detected? What prospect of punishment will deter it?

# Managing the Incentive to Cheat

- A cartel has to find ways to discover if cheating has in fact occurred, and if so, then determine who has cheated.
- The price can be low either because of a fall in demand or because of cheating by a producer. Unless the cartel can sort out these separate influences and determine the truth, it might infer cheating and set in motion its punishment measures when no cheating has in fact occurred, or err the other way around.\* This will reduce the accuracy and therefore the efficacy of the measures.

# Managing the Cheating Risk cont.

- A compromise solution is a critical or “trigger” price; if the price falls below this value, the cartel presumes that cheating has occurred and the punishment ensues.
- What are other solutions to *determine* if cheating has occurred?

# How Do You Punish Cheaters?

Behind every good scheme to encourage cooperation is usually some mechanism to punish cheaters. A prisoner who confesses and implicates his collaborators may become the target of revenge by the others' friends. The prospect of getting out of prison more quickly may look less alluring given the knowledge of what waits outside.

# How Do You Punish Cheaters cont.

There is no solution that achieves reciprocal cooperation in a one-time game. Only in an ongoing relationship is there an ability to punish, and thus a stick to motivate cooperation. A collapse of cooperation carries an automatic cost in the form of a loss of future profits. If this cost is large enough, cheating will be deterred and cooperation sustained.

# How Do You Punish Cheaters cont.

- Tit-for-tat is a variation of the “eye for an eye” rule of behavior: do unto others as they have done onto you. More precisely, the strategy cooperates in the first period and from then on mimics the rival’s action from the previous period.
- We believe that tit-for-tat is a flawed strategy. The slightest possibility of misperceptions results in a complete breakdown in the success of tit-for-tat. This flaw was not apparent in the artificial setting of a computer tournament, because misperceptions did not arise. But when tit-for-tat is applied to real-world problems, misperceptions cannot be avoided and the result can be disastrous.

# How Do You Punish Cheaters cont.

Consider the following guidelines as a step in that direction. (1) Begin cooperating. (2) Continue cooperating. (3) Keep count of how many times the other side appears to have defected while you have cooperated. (4) If this percentage becomes unacceptable, revert to tit-for-tat. Note that unlike before, tit-for-tat is not used as a reward for good behavior; instead, tit-for-tat is the *punishment if it* appears that the other side is trying to take advantage of you.

# How To Replace the Entire Board?

To guard against both family squabbles and outsider attacks, he first required that the board of director elections be staggered. This trick means that even someone who owns 100 percent of the shares cannot replace the entire board—rather, only the members whose terms are expiring. Each of the five members had a staggered five-year term. An outsider could hope to get at most one seat a year.... The procedure for board election could be changed *only by the board itself*. Any board member could make a proposal without the need for a seconder. But there was a major catch. The proposer would be required to vote for his own proposal.... Any person who made a proposal to change either the membership of the board or the rules by how that membership was determined would be deprived of his position on the board and his stock holding *if his proposal failed*. The holdings would be distributed evenly among the remaining members of the board. In addition, any board member who voted for a proposal that failed would also lose his seat on the board and his holdings.



# Voting No Receives No Compensation, Voting Yes Receives Something

- If the proposal passes unanimously, then Sea Shells chooses an entirely new board. Each board member replaced is given a small compensation.
- If the proposal passes 4 to 1, then the person voting against is removed from the board, and no compensation is made.
- If the proposal passes with a vote of 3 to 2, then Sea Shells transfers the entirety of its 51 percent share of Peter's Pickled Peppers to the other two yes voters in equal proportion. The two no voters are removed from the board with no compensation.

# What are you Incentivizing?

- When an employer designs incentives to motivate a worker, the problems are only one-sided. More complicated and more interesting are the problems of joint ventures in which each side has to provide the right incentives to motivate the other.
- The key question is: how is the risk divided between parties and how are the benefits distributed?

# Incentives in a Joint Venture

- These situations involve projects that require simultaneous participation by two or more people or firms. Each side must make some investment up front—a stake it stands to lose if the relationship is terminated—or else the other side's walking out will be no threat at all.
- There must be some uncertainty about subsequent events that acts as a justification for reopening of the agreement, or else a simple clause that provides large punitive damages for any breach will serve the purpose.

# Proposition #1: Separate People From the Problem

...human beings are not computers. We are creatures of strong emotions who often have radically different perceptions and have difficulty communicating clearly. Emotions typically become entangled with the objective merits of the problem. Taking positions just makes this worse because people's egos become identified with their positions.... the participants should come to see themselves as working side by side, attacking the problem, not each other....*Separate the people from the problem.*

# Looking Closer: Separating People from the Problem

- Do you think of the person you are negotiating with as *the* problem or are you trying to solve *the* problem *with* that person?
- How do you separate the person from the problem?
- Put yourself in their place: what do you think matters to them?

## Proposition #2: Focus on Interests, *Not* Positions

A negotiating position often obscures what you really want. Compromising between positions is not likely to produce an agreement which will effectively take care of the human needs that led people to adopt those positions. The second basic element of the method is: *Focus on interests, not positions.*

# Looking Closer: Interests vs. Positions

- What is your counterpart seeking to achieve vs. what is negotiation offer?
- Why are they making a specific offer?
- What are their concerns or perceived risks and how does their offer reflect this understanding or hedging strategy?

# Proposition #3: Explore the Possibilities

Trying to decide in the presence of an adversary narrows your vision. Having a lot at stake inhibits creativity. So does searching for the one right solution. You can offset these constraints by setting aside a designated time within which to think up a wide range of possible solutions that advance shared interests and creatively reconcile differing interests... the third basic point: Before trying to reach agreement, *invent options for mutual gain.*



# Looking Closer: Getting Creative in Negotiations

- Many negotiated problems require significant creativity
- Put yourselves in your counterparts shoes and try and find a way that meets everybody's needs
- Try starting from their position as if you were crafting their negotiating offer: how would you structure their offer in a way that makes you comfortable?

# Proposition #4: Use an Objective Standard

(an) agreement must reflect some fair standard independent of the naked will of either side. This does not mean insisting that the terms be based on the standard you select, but only that some fair standard such as market value, expert opinion, custom, or law determine the outcome. By discussing such criteria rather than what the parties are willing or unwilling to do, neither party need give in to the other; both can defer to a fair solution. Hence the fourth basic point: *Insist on using objective criteria.*

# Looking Closer: Take the Personalities Out of It

- This is stage 2 of the game: who decides the rules of the game?
- Who is the referee that will arbitrate the agreement?
- Two business examples of using an objective standard:
  - Many contracts with Chinese firms call for the use of Hong Kong court systems
  - In a private equity or joint venture, when selling the firm, if the parties can't agree on a price they both submit their expected price *and* hire outside consultants to estimate the value of the firm

# Negotiating With People

A basic fact about negotiation, easy to forget in corporate and international transactions, is that you are dealing not with abstract representatives of the "other side," but with human beings. They have emotions, deeply held values, and different backgrounds and viewpoints; and they are unpredictable. So are you. This human aspect of negotiation can be either helpful or disastrous.

# Negotiating with People cont.

- Do you forget that you are negotiating with people and not just price and quantity?
- How will building a relationship help you negotiate while also being sincere?
- Does it build trust and facilitate cooperation or just give you an edge to hammer?