

For Review Only

AN EVERYDAY GUIDE TO NEGOTIATING

We all negotiate every day, yet few people ever learn *how* to negotiate. Those who do usually learn the old-school, adversarial approach that is only useful in a one-off negotiation where you will never see the other party again. However, such transactions are becoming increasingly rare because most of us deal with the same people repeatedly—our spouses and children, our friends and colleagues, our customers and bosses. We need to achieve successful results for ourselves while maintaining healthy relationships with our negotiating partners. In today's interconnected world, a win-win outcome is fast becoming the *only* acceptable result. This book will show you how to get that win-win. You will also learn how to:

- distinguish interests from positions and uncover hidden interests
- use negotiating alchemy to create value out of nothing
- appreciate the beauty of no on your way to yes
- force your counterpart to consider your needs
- frame issues to your advantage
- recognize when to make the first offer
- make and demand concessions
- know when to compromise and when to try for something better
- develop a powerful Plan B so you cannot lose
- manage emotions, biases, and other psychological pitfalls
- use common negotiating tactics and counter-tactics
- overcome an impasse
- negotiate successfully with powerful counterparts
- prepare for any negotiation using an eight-step template and much more!

DAVID GOLDWICH

WIN-WIN

AN EVERYDAY GUIDE TO NEGOTIATING

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INTRODUCTION

We all negotiate every day, whether we realize it or not. Yet few people ever learn *how* to negotiate. Those who do usually learn the traditional, win-lose negotiating style rather than an approach that is likely to result in a win-win agreement. This old-school, adversarial approach may be useful in a one-off negotiation where you will probably not deal with that party again. However, such transactions are becoming increasingly rare, because most of us deal with the same people repeatedly—our spouses and children, our friends and colleagues, our customers and clients. In view of this, it's essential to achieve successful results for ourselves and maintain a healthy relationship with our negotiating partners at the same time. In today's interdependent world of business partnerships and long-term relationships, a win-win outcome is fast becoming the *only* acceptable result.

While we hear much talk about the coveted win-win outcome, this result is actually not common. Most negotiations will never result in a win-win outcome because of certain common negotiation mistakes and misconceptions. The win-lose mindset is so pervasive that it seems natural for many people. In this book, I hope to change this perception.

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Win-win negotiators value their business and social relationships. They know that winning in a given negotiation is not as important as maintaining their winning relationships. Yet this does not mean that they must sacrifice their interests. Win-win negotiators believe they can win both the negotiation and the relationship. Most importantly, they understand that they can consistently achieve win-win results by developing and using a set of win-win negotiating skills and techniques.

Some people who attend negotiation seminars hope to learn the secret to being a master negotiator. Unfortunately, there is no secret. There is only a body of guidelines, principles, strategies, tactics, and skills to learn and practice. There is also psychology and an understanding of human behavior. And, of course, there are communication and interpersonal skills. None of these is a magic bullet. You must practice and improve in all of these areas.

As you become more adept, your negotiated outcomes will improve. Sometimes, you will find that one masterstroke makes a huge difference. More often, you will use a combination of skills to make incremental improvements in your negotiating ability. For example, many of my students are amazed to find that by learning one simple technique—such as making a more aggressive first offer or counter-offer than they normally would—they can achieve better outcomes in all of their negotiations.

You can study negotiation for the rest of your life. On the plus side, you can also reap the benefits of these improved outcomes for the rest of your life. Given that you negotiate every day, this

can add up to a fantastic sum. So play the game and have fun! Perhaps there *is* a secret after all—*Preparation*. Most people do not prepare much for a negotiation, and many do not prepare at all. Do you see an opportunity here?

You too can develop the win-win negotiator's mindset and learn the skills and techniques to successfully negotiate win-win agreements. The fact that you are reading these lines shows that you are interested in becoming a better negotiator—a win-win negotiator. As you continue reading, you will come to appreciate the benefits of the win-win mindset. You will find that the tools you need are not difficult to master. And you will realize that negotiating can be both fun and rewarding. Negotiation isn't just for lawyers and wheeler-dealers, it's for everybody, including you.

I hope you'll practice the skills and techniques shared in this book, and enjoy your journey towards becoming a win-win negotiator.

David Goldwich
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CHAPTER I

PREPARING TO NEGOTIATE

“The man who is prepared has his battle half fought.”

— Cervantes

“The general who wins the battle makes many calculations in his temple before the battle is fought. The general who loses makes but few calculations beforehand.”

— Sun Tzu

East or West, it's the same idea: Preparation is key.

WHAT IS NEGOTIATION?

We all negotiate every day, often without realizing that's what we're doing. We negotiate with our bosses and colleagues, our spouses and children, our customers and clients, people we sell to and people we buy from. We negotiate prices, goods, services, activities, schedules, terms, incentives, and relationships.

You probably have some idea about what negotiation is. Even without a formal definition, we know it when we see it. Negotiation is a way of satisfying your interests, of getting what you need or want. We live in a complicated world and don't have the time, skill, or inclination to do everything ourselves.

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We rely on others to help us. Similarly, others approach us to help satisfy their own interests. Negotiation is the process that facilitates these exchanges.

Imagine it's "bring your child to work" day. Your daughter is sitting quietly in your office, playing with her iPad. You say, "We're going to a negotiation. Just sit quietly and don't interrupt." The kid is thinking, "A negotiation? That sounds important, I wonder what it is?" At dinner that evening, your wife asks her, "How did you like going to the office with daddy?"

Your daughter replies, "We went to a negotiation!"

"Oh, that sounds exciting! What was it like?"

"It was so boring! All they did was talk the whole time!"

At the most basic level, negotiation is a form of persuasive communication. It is a way of getting others to do what we want them to do. As such, it requires us to use all of our communication skills: listening, asking questions, sharing information, interpreting information, framing proposals, reading body language, influencing, and persuading. It requires empathy and understanding, knowledge and insight, diplomacy and tact.

When I ask my students what negotiation is, I get the same answers almost every time:

- It's getting what you want.
- Two or more people interacting to reach an agreement.
- A means to satisfy your interests with the help of another.
- Give and take to make a deal.
- Compromise.
- Bargaining.
- Getting as much as you can for as little as possible.
- Getting a win-win.

While all of these may be part of the big picture of negotiation, I like to think of it in other ways.

Negotiation is an exercise in joint problem solving. Why am I negotiating? Because I have a problem or need that I cannot satisfy on my own. I need a widget. Why would my negotiating counterpart bother to negotiate with me? Because she also has a problem. She has a warehouse full of widgets that she needs to sell. Two people, two problems. And how do we approach our counterpart? We think: "I had better keep my cards close to my chest, give her as little information as possible or she will use it against me somehow, maybe even mislead her for my own advantage." And she's probably thinking the same thing! How can we solve our problems with all that secrecy and deception?

Consider taking the joint problem-solving approach. Two people, two points of view, two sources of ideas, working together to

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solve one problem: how do we reach an agreement that best satisfies our interests? If both parties can look at negotiation as a shared problem and strive to solve it together, they are both more likely to satisfy their own interests.

Unfortunately, this is not the way most people approach negotiation, but my purpose in writing this book is to help you change that mindset and become a win-win negotiator.

Negotiation is a process. Many people tend to think of negotiation as an event—bargaining—where we sit at a table with someone, playing the negotiation game, trying to satisfy our own interests through various machinations or perhaps by engaging in enlightened collaborative problem solving. The truth is that the process of negotiation begins sooner than we think. *It begins as soon as we recognize a need that we cannot satisfy on our own, and we set out to reach an agreement with someone who can help us satisfy that need.* At this point, we may have not even identified a negotiating counterpart, we have merely identified a need. We begin the process of negotiation by clarifying our true interests and thinking about possible ways to satisfy them.

Negotiation is a game. Like the box of a board game says, “For two or more players.” Like other games, the negotiation game has some rules, though there are a lot more guidelines than firm rules. There are strategies and tactics you can learn, as well as counter-tactics for every tactic. Negotiation is a game of skill and chance. The more skill you have, the less you are at the mercy of chance. And like most games, there are winners and losers, but a good negotiation well played can leave everyone a winner.

Like most games, negotiation is meant to be fun. It may not feel like fun, because we feel pressure to get a good result and so we take it too seriously. But fun is in the mind of the player. With the right mindset, negotiation can be a lot of fun and very rewarding.

WHY DO WE NEGOTIATE?

We negotiate because we want something that we cannot get on our own. Someone else is in a position to give it to us or can help us get it. Alternatively, someone may be in a position to harm our interests, and we seek to dissuade them from doing so. In other words, we negotiate with a counterpart because they can help us or hurt us.

From this perspective, we are dependent on someone else. We feel weak, needy, and at their mercy. We see our counterpart as having power over us.

What we may not see is that our counterpart also wants something from us, or he wouldn't be negotiating with us. We do not see how weak and powerless he feels as he deals with us, because he dare not show it. It's important to remember that we are also in a position to affect his interests in a positive or negative way. He may need us as much as we need him.

Consequently, we find ourselves in a web of relationships and interdependencies. We all need things from others, and we turn to one another for help. Negotiation is the process by which we help each other get what we need.

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THE NEGOTIATION PROCESS

I mentioned earlier that while negotiation is usually thought of as an event, it is in fact a process. This process begins the moment you perceive a want or need and set out to satisfy it. At that point, you may not even be thinking about negotiating. You may not realize you are negotiating until you are actually bargaining with someone over how much it will cost you to meet that need. By then it is too late—your counterpart knows you need him and he knows you are unprepared. You’ve lost.

Stage 1: Preparation

In *The Art of War*, the Chinese military strategist Sun Tzu wrote, “If you know the enemy and know yourself, you need not fear the result of a hundred battles.” In other words, preparation is the key to victory in battle. The same can be said of negotiation.

So how do you prepare for a negotiation? Most people who are preparing to negotiate to buy something will have in mind a very low price that they would love to pay, the highest price they are willing to pay, and a figure in the middle of that range, representing an estimate of what they expect to end up paying. Sellers go through a similar exercise. It’s good to think about these expectations, but it is not enough.

You may imagine yourself a big shot negotiator and think you can just wing it, but understand this: real big shot negotiators do not wing it, they prepare. Here are some considerations to bear in mind as you prepare:

- Know thyself. What do you want? Not what you *think* you want, but what you *really* want. Surprisingly, many people are unsure of this. For example, you may think you want a raise in salary, and perhaps you do. But you might really want something else, such as recognition, to be treated fairly, to maintain or improve your standard of living, or to provide security for your future. A pay raise might do it, but there might be other ways of meeting your needs.
- Once you’ve determined what you want—or what you think you want—ask yourself why you want it. After asking yourself why a few times, you may realize you need something else after all. You cannot achieve a satisfactory outcome in a negotiation until you are clear about your real interests and goals, that is, what you want or need, and why you want or need it.
- You will often find that you have multiple interests. You need to prioritize these. For example, in negotiating a position with a new employer, you might be interested in many things other than salary, such as insurance plans and other benefits, a flexible schedule, work environment, work assignments, team assignments, and so on. Some of these will be more important to you than others. It is unlikely that you will get everything you want. Prioritize your wish list into those items you must have, those you are willing to bargain for, and those that would be nice but not necessary. Then focus on your priorities and avoid being distracted by minor issues.
- Assess what resources you have, what you bring to the table. What do you have that your counterpart might want? List

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everything, tangible (money, products, service) and intangible (brand, reputation, emotional needs). These assets or bargaining chips—anything of value that you might offer to exchange—are called currencies of exchange, or simply currencies. How can you present these currencies to justify your demands?

- What strategies and tactics might you employ in the negotiation? Will you make the first offer, or wait for the other party to do so? What concessions are you willing to make, and when? What is your time frame? What is your walk-away point? What is your Plan B?

All of this is a lot to think about, but we're not done yet! There are many other things you must consider:

- Know the other party. Learn what you can about her from LinkedIn and other online sources, as well as from people you know who may know her. What does she want from you? Is she clear about her interests? What are her priorities? Does she really want what she says she wants, or does she have a hidden agenda? What is her backup plan if she doesn't reach an agreement with you? What intangible or emotional considerations might be motivating her?
- Anticipate your counterpart's negotiating style. Will he be a tough adversary or a collaborating partner? What is his negotiating strategy, and what tactics might he employ?
- Formulate some options. Based on your knowledge of what you want, the currencies you have, and your understanding

of your counterpart's interests, begin putting together some options. An option is a package of currencies—a possible solution to your negotiating problem. Create some options that will satisfy your interests as well as your counterpart's. Be prepared to present these options and discuss them.

- Assess your alternatives. If you cannot ultimately reach an agreement with your counterpart, how will you satisfy your interests? What is your Plan B? If you do not have a backup plan, you are not ready to negotiate.
- Know the environment. You and your counterpart will not negotiate in a vacuum. You will both be influenced by various factors. Some of these you can control, others you can only anticipate or respond to. The more you know about them, the better your prospects. Learn as much as you can about the subject of your negotiation, your industry and business environment, and your counterpart.
- Consider how events in the political or economic space might affect you or your counterpart. Are there any relevant changes or trends in your respective industries? What government policies or regulations might have an impact on the negotiation? Does your counterpart have a business cycle you should know about? For example, car sales at the end of the month or toy sales before Christmas might provide an opportunity for you.

You can see that there is a lot to take into account before you negotiate. Gathering information is crucial in preparing for a negotiation. With all of the information available online,

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you can learn a great deal before you even introduce yourself to a counterpart. But you can also glean useful information from your counterpart.

Stage 2: Laying the foundation

Never begin a negotiation by making or soliciting an offer. Save that for later. First you need to lay a foundation with your counterpart. Get to know them. Make small talk. Build rapport. Present yourself as likable. Let them get comfortable with you.

Ask questions. Try to learn about them, their needs, and their situation. A simple question such as “How’s business?” not only breaks the ice, but can get you useful information. If they reply, “Things have been slow lately,” wouldn’t that be good to know?

Try to get a sense of what they want. Are they knowledgeable and prepared, or trying to wing it? Are they more focused on price or reliability? Do they have any constraints, such as timing, budget, or other concerns?

Check your assumptions by asking the same questions in different forms. Are their answers consistent? Are you learning anything new? Continually reassess the value of information as you move into the bargaining phase and throughout the negotiation.

Stage 3: Bargaining

After gathering information and preparing to negotiate, you will move to the main event: bargaining. This is what most people think of as negotiating. It may involve face-to-face discussions, phone calls, e-mail exchanges, and even text messages. You and

your counterpart will make offers and counter-offers, employ tactics and counter-tactics, explore options, make concessions, test assumptions, clarify understandings, and probably encounter one or more deadlocks throughout the negotiation.

During the bargaining phase, you will encounter new information that will force you to reassess what you thought you had learned in the preparation and laying the foundation stages. This is normal. Treat information gathered during these early stages as part of a working hypothesis. A good negotiator is open-minded enough to accept that some of his original ideas were wrong, and flexible enough to learn and adapt along the way.

Just remember that the formal bargaining event is only *part* of the negotiation process. If you think the negotiation begins and ends with bargaining and you did not put in the effort during stages one and two (preparation and laying the foundation), you have probably already lost. Do not confuse the grand finale—the handshake, the signing of the contract—with the work, research, and preparation that gets you there.

Stage 4: Closing the deal

Hopefully, as a result of all this work, you will reach an agreement that satisfies your interests as fully as possible. Even so, you are not done yet. In a formal business negotiation, you will need to document the terms in a formal agreement. You will need to anticipate what might go wrong as you implement the agreement and protect against these deal breakers. This may be the last thing you feel like doing after a protracted negotiation—you’d much rather celebrate your success and bask in the warm afterglow.

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And you might be able to do that—if you have a lawyer or PA to tie up all the loose ends. Otherwise, it's on you. Agreements don't execute themselves, and most business agreements are not fully implemented. How unfortunate, when you consider that the whole point of business is to make things happen.

What if a dispute over the terms arises later on? Are you going to call your lawyer, spend a fortune on legal fees, and sabotage your business relationship with your counterpart while waiting for a judge to decide your case two years down the road? Or will you provide for some dispute resolution mechanism to streamline the process?

What if you later think of a way to improve on your agreement? Will you smack yourself in the head and say, "Oh well, too late now"? Or will you ask to renegotiate or propose a Post-Settlement Settlement?

We've all seen that silly sign on the wall of an office somewhere: "The job isn't finished until the paperwork is done!"

THE NEGOTIATING ENVIRONMENT

Negotiation does not take place in isolation. The environment can have an impact on the process. I have met people who manipulated the environment in devious ways. One client told me he would make the room so cold his counterpart would agree to almost anything just to get out! Another would schedule negotiations in mid-afternoon and seat his counterpart facing the window, where the glare of the sun was intense. You don't have to be so sneaky, but you should consider how the physical environment can affect the dynamics of a negotiation.

Venue

When it comes to the venue there are few rules, only guidelines. A good negotiator will consider all of these variables before deciding on an appropriate venue that will set the stage for the formal bargaining phase of the negotiation:

- Where should the negotiation take place? In your office or theirs? You may like the feeling of confidence and control that comes with the home field advantage, where you can choose the room and the seating arrangements and can manipulate the environment to project the image you desire. You also have your colleagues to back you up, as well as the administrative support of your staff.
- You may prefer to meet your counterpart in their own surroundings, where they feel more comfortable. This gives them the illusion of control. It gives you the opportunity to observe them on their own turf and draw inferences about them. For example, does their organization run smoothly or do they seem to be in disarray? What does the environment say about their financial condition and their ability to spend?
- You may choose to meet on neutral territory, such as a restaurant or a hotel conference room. Meeting on neutral ground would help mitigate the effects of a home field advantage, and can also take you away from the distractions of your office. Would a formal or casual setting work better for you? Many business deals are sealed on the golf course, not in the boardroom.

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Seating

There is a reason why round tables are used whenever heads of state meet at an international summit—there is no head of a round table, so everyone appears equal. However, most corporate conference rooms have long tables, with a head and a foot. The head, obviously, is the power seat. It is reserved for the captain of the home team, and adds to his authority. You want your counterpart to sit at the head of his table and feel in control. Do *not* sit at the head of his table yourself, unless you think challenging your counterpart is a useful tactic.

What if you are sitting at a smaller table? Sitting opposite your counterpart at a table suggests an adversarial dynamic. After all, we play chess, table tennis, and other competitive games from opposite sides of a table. Sitting side by side, or kitty-corner, suggests both parties are attacking a problem together, from a common perspective. This sends a more positive message. It is even better if the table is round. Better still, consider sitting informally on a sofa or chairs around a coffee table (though not directly opposite one another) as this more relaxed setting may help the parties loosen up and speak freely.

SETTING THE AGENDA

Develop an agenda before you sit down with your counterpart. The agenda should reflect the items to be discussed and their relative importance. Start with smaller or easier items to establish a pattern of success. Use this momentum to help carry you through the more difficult points.

Ideally, you should create the agenda yourself. Your counterpart may appreciate you taking on this extra work. It also gives you some control over the negotiation.

If your counterpart prepares an agenda, review it carefully to make sure it works for you. Keep in mind that it may have been crafted to give him certain advantages. If you see anything you would like to modify, suggest a change, and offer a reason for it. Everything is negotiable—even the agenda!

Watch out if the other party tries to deviate from the agenda during the negotiation. It's easy to lose track of items that are taken out of order.

Make notes on your copy of the agenda to aid your memory later. Even with the best of intentions, you may forget a detail or the context of a discussion. Use your annotated agenda as the basis for a memorandum that you will draft shortly after the session.

SHOULD YOU BRING A TEAM?

It's a good idea to bring a team, or at least one other person, to a negotiation whenever possible. Solo negotiators generally achieve substantially less favorable outcomes than those who negotiate as part of a team. Most people tend to perform better when others are backing them up, giving them confidence, and depending on them. Also, when you have others around, you have the benefit of multiple sources of experience, talent, and perspective. Two (or more) heads are always better than one.

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Having a partner with you also allows you to use the good guy/bad guy tactic, which we will consider in Chapter 7. It also gives you a psychological edge.

However, do not bring your whole team. You will not be able to limit your authority if all the decision makers are present. Leave yourself an out by making sure there is a higher authority not involved in the negotiation whom you will need to consult for final approval. This higher authority could be your accountant, your operations manager, or simply your “people.”

What if your counterpart has a team and you don't? That could be intimidating, but it shouldn't be. Negotiation is a voluntary process, and you don't have to agree to anything that is not in your interests. Be confident in knowing that you are prepared, and remember that they need you as much as you need them. And take heart in the knowledge that solo negotiators can still achieve good results. A deal can be either good or bad regardless of how many people are in the room.

YOU'RE NOT JUST NEGOTIATING WITH HIM

Most negotiators focus on the person sitting across the table from them. They may even tailor their words and approach to this person's personality, negotiating style, and other individual characteristics. This sounds good, but it isn't enough. The person you're looking at is often just the tip of the iceberg.

There's more to consider than just the person sitting at the table with you. Your counterpart has other constituents to answer to.

He will need to gain their buy-in. For example, his boss will be interested in the outcome, and he will be concerned about what his boss will think. You will have to justify your proposals to your counterpart, and help him justify his actions to his stakeholders. Try to identify who these stakeholders are, what their interests are, and how you can win their support.

Consider your counterpart negotiating a purchase from you. His boss is concerned about the price. Your counterpart is concerned about his boss. If you want him to agree to a higher price, help him justify to himself and his boss why your product is worth more. Help make him a hero in his boss' eyes.

THE WIN-WIN NEGOTIATOR'S CHECKLIST

In negotiation, as in so many other areas of life, preparation is the key to success. At the end of this book you will find the Win-Win Negotiator's Checklist. This checklist will help you prepare for all of your future negotiations, laying out the main points you need to consider from beginning to end. I mention it here because it is a crucial part of your preparation for any negotiation.

We have touched on some of the more important aspects of preparing for a win-win negotiation. In the next chapter, we will build on this foundation and explore the mindset of the win-win negotiator.

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ABOUT THE AUTHOR

David Goldwich practiced law in the US for more than a decade. Recognizing that lawyers perpetuate rather than solve problems, he has since reformed and hasn't sued anyone in years.

David has taught negotiation and other business topics at the tertiary level in the US and in Singapore. He speaks internationally and conducts workshops and seminars in negotiation, storytelling for leaders and sales professionals, business presentations, assertiveness, and leadership. An engaging and provocative speaker, David uses humor and stories gathered from his own experience as a lawyer, businessman, and father to help people reach breakthrough changes in their personal and professional lives. He is the author of four other books: *Kickass Business Presentations: How to Persuade Your Audience Every Time*, *Win-Win Negotiations: Developing the Mindset, Skills and Behaviours of Win-Win Negotiators*, *Getting into Singapore: A Guide for Expats and Kaypoh Singaporeans*, and *Why Did the Chicken Cross the Road?: Lessons in Effective Communication*, and hundreds of articles.

Born and raised in Miami, Florida, David has been living in Singapore and working throughout Asia since 1999. He enjoys art, music, stock investing, the beach, red wine, chocolate, and anything Italian.