

# The Power of Negotiation

## Essential Concepts and Skills

### Learning Objectives

- Demonstrate an understanding of the role of negotiation in managerial life.
- List, describe, and apply common negotiation concepts and skills.
- Demonstrate an understanding of when to avoid negotiating.
- Demonstrate an understanding of the differences between distributive and integrative bargaining.
- List and describe the steps of the integrative bargaining negotiation process.
- Analyze and identify the interests that underlie positions.
- Demonstrate an understanding of the ethical implications of negotiation decisions.
- Demonstrate an understanding of strategies to prepare for planned negotiations.
- Demonstrate an understanding of the role of trust building and repair in negotiations.

### ELISE AND MAIN STREET BAKERIES

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In recent years, the price of flour has risen dramatically. At the same time, the country has suffered an economic downturn, resulting in increased bargain hunting by consumers and reduced profits for many boutique food outlets such as Main Street Bakeries. Elise and her company have weathered the storm relatively well by negotiating long-term,

fixed-price contracts with organic farmers and mills around the country. These contracts mean Elise and her team do a lot of negotiating. Elise has a meeting this afternoon with a young farmer named Jacob who wants to sell his organic crops to Main Street Bakeries. She hopes she can strike a good deal because she is trying hard not to raise her prices in this economy. If she does not reach a deal with Jacob, then her only alternative would be to continue looking for additional suppliers. Because prices are going up quickly, the longer she waits to conclude a deal, the higher the price she will likely pay. If she simply cannot afford to buy local wheat, then she could buy wheat from outside the United States. This is not ideal because her shop always has little notes on its products, stating where the ingredients came from—her customers want locally grown, organic food whenever possible.

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When was your most recent negotiation? If you cannot remember, then you may have too narrow a definition of negotiation. You began negotiating as a small child, wheedling your way into a later bedtime, a cookie before dinner, or the cereal with the best toy inside the box. Today you may have negotiated with a roommate or spouse about household chores, negotiated with the police officer who pulled you over for speeding, negotiated with your colleagues about the division of labor on a project requiring teamwork, negotiated with your supervisor to let you out early so you could get to class on time, and negotiated with your professor to grant you an extension on your paper due date. In the news, we see attorneys negotiating plea bargains, members of Congress negotiating trade bills, government agencies negotiating with the businesses they regulate, large businesses negotiating tax incentives for relocation, and public employee unions negotiating new contract terms. Nearly all collaboration or teamwork requires some level of negotiation. Whether negotiations are formal or informal, they are all around us.

## MANAGERS AS NEGOTIATORS

The first step to improving your negotiations is to recognize when a negotiation is under way. **Negotiation** occurs between two or more interdependent parties who have a perceived conflict between their needs and desires yet believe a negotiated

outcome is superior to what they could achieve unilaterally. The parties are interdependent by definition or they would not be negotiating with one another; neither person can achieve his or her goals without the other's cooperation. If any party to the negotiation can accomplish her goal unilaterally, then she can do so without any negotiation. Parties to a negotiation may not be equally dependent on one another in a negotiation—dependence may be asymmetric. Yet some interdependence exists or there would be no need to negotiate.

### **Wanted: A Professional Negotiator**

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Melissa was looking for her first management job. She recently completed her master's degree with an emphasis on negotiation and dispute resolution but she could find very few job titles with the word *negotiator* or *dispute resolver* in them. Then she found the ad for her dream job: supply chain manager. The successful applicant would be responsible for managing all of the vendor contracts for one of the largest nonprofit hospital chains in the United States. In addition to securing agreements over price and quantities, the supply chain manager was responsible for getting feedback from end users of these products, such as nurses and doctors, in order to seek changes and improvements to the products. *Relationship management* was listed as a job duty. After all, the hospital cannot find itself without bandages due to a business dispute. In this organization, all the supply chain managers had been either attorneys or hospital administrators. During the interview, Melissa successfully argued that this position needed an expert in negotiation and problem solving rather than someone versed in the law or medical knowledge. The hiring team hadn't really thought of this work as being negotiation but that is exactly what it was. Melissa has since become the most successful supply chain manager in the history of the organization.

Understanding the dynamics of negotiation will help you navigate performance reviews, advocate for your department or organization as it competes for limited resources, and resolve conflicts that arise with customers, employees, and members of the regulated community or with regulators, as the case may be.

## DISTRIBUTIVE VERSUS INTEGRATIVE BARGAINING

Negotiations can be **zero sum** or nonzero sum. In **zero-sum** situations, also called *distributive negotiation* situations, there is only one winner at the end of the negotiation. Each gain made by one negotiator comes at the expense of another negotiator. In **distributive bargaining** situations, resources are fixed and cannot be increased. Distributive bargaining situations typically involve only one issue in the negotiation (e.g., price) rather than multiple issues under negotiation. In contrast, nonzero-sum negotiations, also called *integrative bargaining*, are those in which negotiators can achieve their goals without necessarily leaving the others worse off and in which multiple issues are at stake (Lewicki, Barry, & Saunders, 2010).

We know that negotiators often assume a situation is distributive and therefore competitive when indeed it is not necessarily so (Deutsch, 2000). In the classic negotiation primer, Fisher and Ury (1981; and an earlier version from Mary Parker Follett [1942]) give the example of two individuals fighting over a small number of oranges. Each needs the oranges for worthwhile purposes and there is no way to obtain additional oranges. The negotiators begin using competitive strategies—trying to convince each other to give up or sell the oranges. Because their claims on the oranges were assumed to be mutually exclusive no deal could be reached—more oranges for one negotiator meant fewer oranges for the other. Then they changed to an integrative bargaining strategy. They sought to learn more about each other's needs with the goal of helping each other meet their needs. In the end, they realized that one negotiator needed the juice of the orange and the other needed only the rind. Their needs were not mutually exclusive yet a traditional distributive bargaining approach would have resulted in an impasse. A collaborative approach resulted in a mutually beneficial outcome.

In many bargaining situations, it is possible to expand the pie, meaning to find ways to create value rather than compete over an existing fixed pie, or a nonexpandable resource. In **creating value**, the negotiators work together to ensure that their needs are met by expanding existing value through collaboration, increased efficiency, or creativity. In distributive bargaining situations, negotiators are focused on **claiming value** for themselves. This means they are competing to claim something they both value. The more one claims, the less that will remain for the other. It is not uncommon for negotiations to include distributive and integrative characteristics. One key skill for successful negotiators is to correctly identify the nature of the situation.

## Steps in Distributive Bargaining

At its core, distributive bargaining involves either the seller or the buyer throwing out the first number (called the *anchoring number*) as a proposal and the other side responding with a counterproposal. The negotiators may then share information about why their number is supported by the “facts” as the negotiators’ initial offerings move closer together. If a deal is to be reached, they typically reach agreement on a number that is somewhere between the buyer’s and the seller’s initial proposals. This is an appropriate process for negotiating in some circumstances: when the time for negotiating is short, when the outcome is not crucial to either party, when the relationship between the negotiators is not harmed by this process, and when the deal leaves no value unclaimed. This is not an exact science, but the more of these conditions that apply, the more likely distributive bargaining does no harm.

Although distributive bargaining has become the default approach used by many negotiators, it is not necessarily the best choice in the majority of circumstances. Imagine you ask your boss for a raise of \$4.00 an hour. He counters with a proposal for \$2.00 an hour and you both eventually settle on a \$3.00 per hour raise. No harm done but value might have been left unclaimed. Why were you seeking the raise? Was it to help pay the costs of tuition for the graduate school you attend in order to move up in your career? What if there was a tuition remission policy at the company about which you were unaware? You both might have been better off by sharing more information during the negotiation and trying to create value rather than to claim value.

A distributive approach encourages game playing by the negotiators; you must start high so that when you meet somewhere in the middle, you still achieve your desired target. Instead of sharing your true target point (see the following for a definition), you give a different number with the idea that some haggling will occur and you will need to come down to a lower number in order to reach agreement. Each party may share information to support his or her proposals but rarely does each fully disclose the reasoning behind his or her choice of a specific target point. What if you were seeking the raise because you found out that your colleague earned more than you earn? If equity was your primary concern, then perhaps your boss could have made sure you knew that your colleague already has his master’s degree and that is the reason for his higher salary.

The biggest downside to distributive bargaining is that bargainers may get exactly what they have asked for, yet still not have what they need. This happens

because the negotiator makes a demand (also known as *stating a position*) and this demand may not contain information about why the demand is sought. A joke illustrates:

**Wife:** You really need to stop working so many nights and weekends. I just wish you wouldn't work so much.

**Husband:** You have been saying this for a while so I have good news to announce: I have told my boss that I won't work any more weekends for the rest of the summer. Instead, I joined a traveling golf league that plays in a different city each weekend. I can't wait to get started! Why do you look so upset? You are getting exactly what you asked for: I am working less.

### Steps in Integrative Bargaining

In 1981 Roger Fisher and William Ury wrote a book entitled *Getting to Yes: Negotiating Agreement Without Giving In* and it spent years on the *New York Times* and other best-seller lists. It has been called negotiation's holy book because it has been around a long time, sold millions of copies, and given us rules to live (and negotiate) by. Fisher and Ury promoted a new way to think about and carry out negotiations. Using their prescriptions, one could be a world-class negotiator and still go to bed each night with a clear conscience. The steps in their model have been adapted into many decision-making and problem-solving processes, including most formal mediation programs in Western societies. By understanding the basic steps in the integrative negotiation process (also known as *win-win*), you can greatly improve your negotiation outcomes and also your relationship with your negotiation partners.

Integrative bargaining integrates the needs of both parties into any agreement. Because all negotiators exhibit some level of interdependence, one is most likely to reach an agreement by focusing not only on meeting one's own needs but also by focusing on meeting the needs of those with whom you are negotiating.

The first step to accomplishing this goal is to "separate the people from the problem" (Fisher & Ury, 1981, p. 16). Every negotiation can be broken down into two main categories: substance and relationships. Negotiators are people first—people with egos, desires to save face, and needs to feel treated fairly and respectfully. Negotiators often mistake substantive comments by the other negotiator as personal affronts. A manager may observe, "We are behind on

this project.” Although it is a factual statement, some employees may take it as an attack on their work ethic or efficiency. Once someone feels they have been treated rudely or unfairly, then the problem grows instead of getting settled. Defensive behaviors lead to counterproductive negotiation tactics. Fisher and Ury recommend dealing with the people problem explicitly and separately from the substantive problem. That means negotiators need to make statements to the other side that address relationship and psychological needs rather than sticking only to the substantive issues.

To address the people problems, negotiators need to keep three categories in mind: “perceptions, emotion, and communication” (Fisher & Ury, 1981, p. 22). It is important to understand how the other negotiators view the problem and any potential solutions. Often, it is the way one views or perceives a problem that causes obstacles to settlement more than any possible objective reading of the facts. “Facts, even when well established, do nothing to solve the problem” (Fisher & Ury, 1981, p. 22). It may be helpful during the negotiation to have each negotiator summarize the other’s perspective. This reflection does not mean the two sides have reached one shared understanding of the problem or possible solution, only that they have both heard and registered each other’s viewpoints. This perspective taking can be an important step in putting together the pieces of the negotiation puzzle and in building the rapport necessary to build and sustain agreements.

For example, in a dispute between two employees who share an office space, one might consider the other rude for never inquiring into her health or her family’s well-being. The other employee might consider herself polite for not prying into the personal life of her workmate. Learning about the other’s perspective can be a prerequisite for problem solving.

If you believe the other negotiator has a negative impression of you, then it may be worth trying to behave in a way contrary to expectations. For example, if you are perceived as stubborn, you could offer an unexpected concession. If you are considered too loud or domineering, you might let them speak first and without interruption. Ask for their ideas, thoughts, and input. Behaving in ways contrary to their perceptions may help them realize their perceptions could be inaccurate.

If an individual or group is likely to be strongly affected by a decision you make or a decision that results from your negotiation, be sure to include that person or group in the discussions. If people perceive that a decision is being

forced on them, then they will be less inclined to support and implement it (read more about procedural justice in Chapter Four). If parties perceive a fair process, they may be more tolerant of an unattractive outcome.

Difficult negotiations are emotionally challenging. They make us feel worried, fearful, anxious, angry, or even guilty. Don't ignore these emotional reactions in negotiations. Acknowledge the difficulty of the situation and explain how you're feeling. Inquire about how others feel. Normalize and legitimize these feelings—if these negotiations were easy, they would have been resolved already, right? Allow negotiators to let off steam through the use of breaks and by allowing people to vent and talk about their concerns. If a negotiator yells or gets angry, consider sitting patiently and quietly—urge her to say all she needs to say. Do not get defensive or shut down the expression of emotions. Be sure to include relationship-building functions in the negotiations: eat together, recreate together, and share family photos. If you take part in an ongoing or long-term negotiation, develop rituals and social exchanges that help keep the group bonded together over time, such as by celebrating birthdays and milestones together. These experiences remind negotiators they have a lot in common, even if they disagree or struggle with the negotiations. They build trust and rapport that will be necessary for any eventual agreement.

Communication problems can make the negotiations turn personal and lead to attacks on the people instead of the problem. Be sure to avoid statements that indicate the other side is to blame for the problem. Do not personalize the problem in that way. Instead, try adopting this worldview: you and I will work together as a team against the problem. Instead of trying to win at the other's expense or attacking the other person for his or her view of the problem and solution, seek to work together to solve the problem and reach agreement. Talk about how you feel, what you need, and how you see the problem. Even if you feel the other person is 100 percent to blame for the problem, you might consider using a future-focused statement designed to invite the other person to work with you toward a solution, such as “regardless of how we got here, let's talk about how we can fix this problem going forward.”

Now that you know how to separate the people from the problem, let's talk about the next step in the integrative negotiation process, focusing on “interests, not positions” (Fisher & Ury, 1981, p. 40). The concept of interests versus positions is the core contribution of *Getting to Yes*. Whereas distributive bargaining focuses almost exclusively on the trading and amending of bargaining



positions, integrative bargaining looks at the interests that underlie positions. Think of **positions** as demands: *I demand a raise! Not in my backyard! Turn down your music!* Instead, **interests** tell us of the needs that underlie the positions: “I want to feel that my contribution to this business is fully recognized,” “I am concerned for the safety of my children if the dump is built too close to our subdivision,” and “I need to be at work very early and cannot sleep with the noise” (see Table 3.1). Positions, by definition, have only one way to be met: you can grant the raise, avoid placing the dump in her backyard, and turn down the music. Positions lead to win-lose outcomes in which one party’s gain comes at the other party’s expense. By contrast, interests can be met in multiple ways. There are many ways to help other parties meet their need to feel respected, safe, or rested. Understanding the underlying interests of each party allows the negotiation to move away from a zero-sum discussion to one in which all parties leave the negotiation better off than they would be through the use of distributive bargaining techniques.

Although interests give negotiators much more to work with, people generally begin their negotiations with positional statements, out of habit if not for another reason. Before you enter into a planned negotiation, take some time to outline your own positions and interests as well as those you might predict for the other negotiators. Once the negotiation starts, be sure to get a full understanding of the other negotiators’ interests. If they state or restate their positions, ask them why or how they arrived at that position. What need does that position meet for them? How did they arrive at that number or demand? Tell them you want to better understand their needs and goals for the meeting to increase chances for reaching an agreement that works for everyone.

The best managers and negotiators inquire about the needs and interests of their employees, customers, and negotiation partners. By seeking to meet those needs it may be possible to get one’s own needs met as well. Interests focus the negotiators on working together to solve problems rather than assuming an adversarial stance.

The third step is to “generate options for mutual gain” (Fisher & Ury, 1981, p. 56). This can be done through the process of brainstorming. When faced with conflicts or problems, people tend to leap to diagnosing the causes and solution for a problem before they have fully heard the other perspectives and ideas. We also tend to search for a single solution or assume a competitive rather than creative problem-solving posture. Sometimes people feel like a problem affects

**Table 3.1**  
**Positions Versus Interests**

	Positions	Interests
What the statement type communicates	Demands	Needs
Options for resolution	Only one way to meet a position	Many ways to meet an interest
Statement's effect on negotiation	Positions often terminate negotiations.	Interests usually open up discussion.
<i>Examples:</i>	"I demand a raise!"	"I want to feel that my contribution to this business is fully recognized."
	"Not in my backyard!"	"I am concerned for the safety of my children if the dump is built too close to our subdivision."
	"Turn down your music!"	"I need to be at work very early and cannot sleep with the noise."

them but it is someone else's job to solve. This kind of conflict avoidance can mean negative outcomes for organizations and individual careers.

After thoroughly brainstorming as many solutions as possible to a problem, there are multiple paths forward. Sometimes the best solution will be clear to everyone at the end of the brainstorming session. If not, it may be time to create a package of trade-offs or work together to expand available resources.

The last step is to generate and use objective criteria by which to evaluate settlement terms whenever possible. For example, if you are engaged in salary negotiations, it will be helpful to benchmark salaries for similar positions at similar or competing organizations or for the same position within your organization. If you are selling a house or business, you get an appraisal. This information provides some objective measure of the value of that house or business. Your objective criteria may include reference to precedent, professional standards, market values, past practice, equity, or other criteria deemed appropriate by the negotiators (Fisher &

Ury, 1981). The goal is to ensure that agreements are not arbitrary but are fair to all parties and supported by objective criteria whenever possible.

In modern organizations, how you treat people matters. Your choice of negotiation strategy will affect your reputation as a manager, as a neighbor, as a citizen, and as a person. Although integrative bargaining may be overkill at the local farmer's market, it will likely be the most useful strategy to use in negotiations where relationships matter. Even when you are unlikely to see your counterpart again, integrative negotiation can achieve agreement when distributive bargaining often fails. Mastering the techniques of win-win negotiating will help you to solve problems and advance in your career.

## **NEGOTIATION TERMS AND CONCEPTS**

Whether you are entering into a distributive or integrative negotiation, the following terms and concepts are helpful to understand negotiation and maximize your success in negotiations.

### **Anchoring Number**

The anchoring number is the first proposal made during the negotiation. It tends to create a cognitive anchor against which all subsequent offers are judged. As long as there is enough information on which to create an anchoring number, the negotiator who makes the first offer has the advantage of creating the frame or boundary in which the negotiation will occur. For example, if I am the seller, I may make a wildly high initial offer. By doing so, any eventual agreed-on amount will then seem like a significant concession on my part. However, if I am negotiating in an unfamiliar environment or have little information on which to make an initial offer, it may be best to allow the other side to throw out the anchoring number. If the other side gives the anchoring number, it may be helpful to remind all parties in the negotiation that this number need not become the focus around which the negotiations occur, especially once information is shared that makes it possible to evaluate the fairness or feasibility of that first proposal.

When negotiators throw out an anchoring number that is purposefully overstated, they are using a distributive bargaining technique. Being able to spot this strategy will enable the integrative bargainer to label it as such and then engage in a discussion about the merits of integrative bargaining over distributive bargaining in most situations. If the negotiation continues in the distributive vein,

then understanding this and the subsequently examined techniques will help maximize one's success within that bargaining style.

### **Asking Price**

The **asking price** (also called *initial offer*) is the first proposal shared by each party in the negotiation. Each negotiator has an initial offer or asking price but the negotiation as a whole only has one anchoring number. Deciding on one's asking price can be tricky. Start too high and you may offend or alienate the other negotiator. If your initial offer is so high that the other side quickly reaches the conclusion that no deal will be made, then he or she may walk away prematurely. Start too low and you end up a "sucker," having received less value than you might have won with a higher initial offer. Whenever possible, do your homework in advance of the negotiation so as to craft an initial offer that is benchmarked appropriately. What is the going price in the marketplace? What has the buyer or seller paid before to others? How does the quality of your good or service compare to that of your competition? What can you offer to sweeten the deal? For example, perhaps you can deliver the item faster for a higher price. It is difficult to choose an appropriate initial offer or asking price without this kind of information. In the absence of this information, you run the risk that your initial offer will be inefficiently high or low, resulting in an increased chance of impasse (i.e., failure to reach an agreement) or you may simply strike a poor bargain.

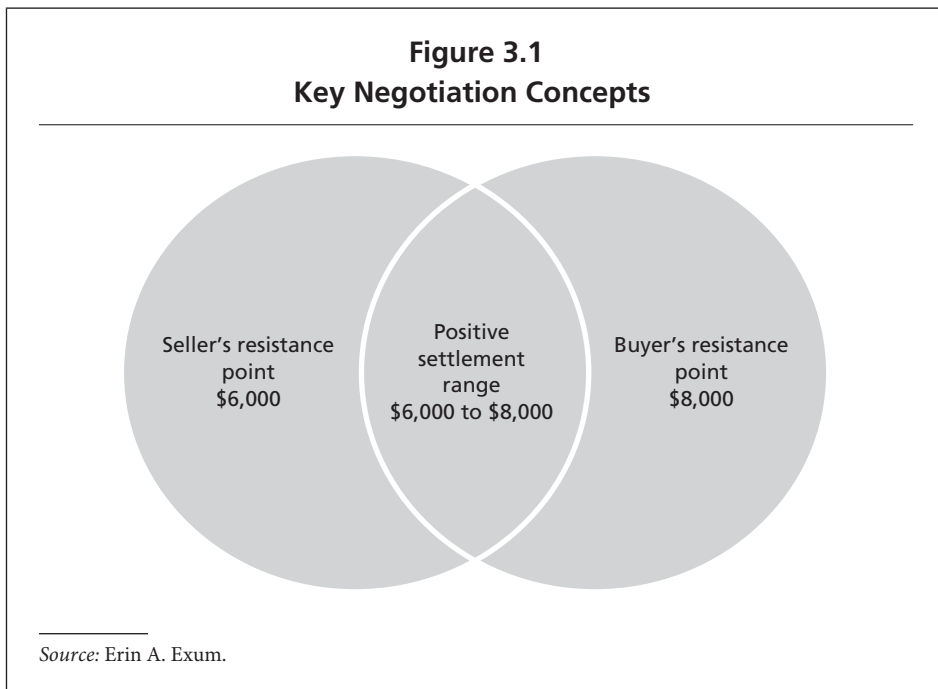
### **Target Point**

A **target point** is the negotiator's end goal or preferred outcome for the negotiation. Depending on the strategies used by negotiators, they may or may not directly share this information. One's target point may take into account many factors: the cost of the item under negotiation plus some reasonable profit margin; elements of supply and demand, such as the relative scarcity of the item; the desire to continue a long and profitable relationship with one's bargaining partner so as to maximize long-term rather than only short-term profits; and so on. As information is shared during the negotiation, one's target point may change. Occasionally a negotiation will exceed negotiators' expectations and they are able to reach a settlement point that surpasses their target. This outcome generally means that the original target point was based on incomplete information about the other side's circumstances or the nature of the good or service at stake in the negotiation.

## Resistance Point

If the target point is the goal, the **resistance point** is the bottom line. For example, if a merchant purchases his stock wholesale at a cost of \$5.00 per unit, his resistance point generally will be somewhere above \$5.00. The resistance point is the smallest amount he will settle for and is sometimes referred to as the *reservation price* (Lewicki, Barry, & Saunders, 2010).

The **settlement range**, or the zone of agreement, is the space between the two resistance points. For example, the buyer's initial offer is \$5,000 and her resistance point is \$8,000 and the seller's initial offer is \$9,000 but his resistance point is \$6,000, so the settlement range will be between \$6,000 and \$8,000. Barring communication problems or emotionally based obstacles to settlement, these negotiators can be predicted to strike a deal between the settlement range of \$6,000 to \$8,000. This zone may change during the negotiation itself, especially if the parties engage in integrative bargaining, which may result in the creation of value or sharing of information that allows for a more efficient solution to become apparent to all (see Figure 3.1).



## KEY NEGOTIATION CONCEPTS

A negative settlement range is one in which there is no overlap between the lowest amount the seller is willing to take and the highest amount the buyer is willing to pay. Unless something changes the mind of the buyer or seller, then no agreement will be reached. A positive settlement range indicates overlap between the acceptable outcomes for the buyer and the seller. Although one likely comes into a negotiation with target and resistance points in mind, in most negotiations these are somewhat fluid as information is shared and a greater understanding is reached by all parties as to the nature of what is possible and mutually advantageous.

The **settlement point** is the spot within the settlement range at which the negotiators reach agreement on settlement terms. The goal in distributive bargaining is to reach an agreement that is as close to the other side's resistance point as possible.

### Transaction Costs

Every negotiation entails **transaction costs**, which include the time, energy, and money necessary to facilitate the negotiation and the deal itself. For example, every hour that the people on the union's negotiation team are tied up in contract discussions is an hour they are not working on the factory floor. In fact, for negotiations with relatively minor consequences, the transaction costs may exceed the value of the resource under discussion. It is therefore important to minimize transaction costs when possible and correctly identify those situations in which the transaction costs make negotiation a losing proposition. For example, when holding a long staff meeting, the manager may decide not to ask whether those present prefer pizza or sandwiches for lunch. If a large number of employees are present for the meeting, the negotiations over lunch will simply take too long, making an executive decision superior to a negotiation.

Hiring attorneys, financial advisors, or other experts increases the negotiation's transaction costs. When hiring experts to assist with any negotiation, each party must decide whether the added transaction costs of doing so will be outweighed by the better outcome assumed to occur as a result of this expert help. This decision is a bit of a gamble because one cannot know the outcome of the negotiation until it is over. Yet engaging in complicated negotiations without legal or financial expertise can also be costly.

## Contingent Agreements

Sometimes the future is uncertain. Each negotiator may have a different prediction for the future. For example, Elise thought the price of flour was unlikely to rise beyond  $x$  but the farmer disagreed. It can be difficult to reach an agreement when the future is uncertain and the agreement binds one or more of the negotiators to a promise that may, in fact, become impossible to execute. In this type of situation, it can be helpful to create **contingent agreements**. These agreements tend to take this type of format: if  $x$  happens by (insert date), then we both agree to do  $y$ . If  $x$  does not happen by this date, then we agree instead to do  $z$ . This allows both parties to react to changing future circumstances without needing to renegotiate the contract.

A good example of a contingent agreement comes from the nonprofit field. Humanitarian relief organizations and governments must plan for possible natural disasters such as floods, droughts, earthquakes, tornadoes, wildfires, and so on. Yet, with luck, these disasters may not materialize. Disaster relief organizations often hire and train local employees and volunteers on a contingency basis. For example, an employee's contract might state something like this: "Mary Jones agrees to be available to work up to sixty consecutive days per year with two days of notice. If called on to work, Mary Jones will receive \$500/day. If not called on to work within any calendar year, Mary Jones will receive \$3,000." Contingent agreements, such as this, are helpful when the future is uncertain and the transaction costs make frequent renegotiation undesirable.

**BATNA** is an acronym that stands for *best alternative to a negotiated agreement*. Sometimes one or more negotiators realize they can better meet their goals by entering into negotiations with a different business partner or by pursuing their end goal without the benefit of the negotiation. A BATNA is not a fallback offer. A **fallback offer** is the offer made once the initial offer is rejected. It is somewhere between the initial offer and the resistance point, and it may lead to an agreement. Instead, a BATNA is something negotiators can do unilaterally to accomplish their goals better than the current negotiation. A strong BATNA gives the negotiator a strong bargaining position. For example, you want to ask your boss for a raise. You already have a job offer from a competing organization. If your boss is unable or unwilling to come close to the other offer, then your BATNA is to change organizations. Your chances of achieving your target point are now higher than if you went into these salary negotiations with a weak or nonexistent BATNA.

When negotiations concern specific disputes, the BATNA may be to go public with the dispute or to go to court. These are actions that any side can do on its own, without the permission of the other side. A BATNA can be strong or weak. A strong BATNA gives the negotiator the ability to walk away from a negotiation without assuming large risks—another, better deal can be found elsewhere. Perhaps there is another supplier to whom you can turn or maybe you have stockpiled your supplies and can go a long period of time without needing to reach a deal. Prior to entering into a planned negotiation, take some time to think through your alternatives to an agreement. What can or will you do if the negotiations result in impasse or the other side refuses to enter into a negotiation? You will likely have a list of alternatives, perhaps including to do nothing. The key is to be clear in your mind about your *best* alternative to reaching agreement. All potential offers will be weighed against this benchmark. When your BATNA exceeds the best offer from the other side, then it is time to end the negotiation with no agreement. Whenever possible, make your BATNA stronger. A weak BATNA significantly reduces your chances of attaining your preferred outcome (Magee, Galinsky, & Gruenfeld, 2007).

## **IMPASSE AND OBSTACLES TO SETTLEMENT**

Impasse is reached when the parties are unable to strike an agreement that is superior to their BATNAs so they terminate the negotiations without agreement. Sometimes an impasse is temporary and lasts only until the obstacles to settlement are removed. Impasses occur for various reasons, including those cases in which no settlement range exists or overlap exists (e.g., party A cannot pay more than \$7,000 but party B cannot sell for less than \$8,000). Sometimes an impasse results from communication problems, insufficient time to negotiate, or counterproductive psychological barriers such as anger or frustration. In these cases it is important to go back to the steps of the integrative bargaining process to ensure that all of the interests have been examined and all possible solutions have been brainstormed. When you get stuck, go back to these two earlier phases to see if a step was missed or if some important information was missed. If the barriers to settlement seem to arise from differences in communication style, aggressive behaviors, or personality differences, consider bringing in a mediator (i.e., a neutral third party to assist with the negotiations). When dealing with a hardnosed bargainer or a



difficult personality, the important thing to remember is to focus on what *you* do and say in the negotiation rather than trying to control the other person.

### **Personal Attacks or Offensive Behavior**

What if the other negotiator uses language you find offensive or speaks to you in a disrespectful way? Although these behaviors may seem uncommon, they can happen when customers or clients feel mistreated or have lost control of their tempers. It happens most frequently in dysfunctional workplace cultures but it can happen even in a relatively positive workplace climate. The first step to addressing inappropriate expressions of anger, frustration, hostility, contempt, and so on is to try to diagnose the root cause (refer back to the materials in Chapter One). If it seems like a large amount of anger in a small situation, then it is possible the negotiator is actually angry about something else but the outlet for this anger has become the present negotiation. Alternatively, the negotiator's view of the problem may be quite different, resulting in a belief that the problem is very serious. Use your active listening skills (see Chapter Four) to better understand how the other negotiator perceives the problem, its origins, and any possible solutions. Let him or her know you are there to really listen and understand concerns, even if the negotiator perceives that you are the root of the problem (that is to say, he or she received bad customer service or a poor performance review and so on).

The key is to avoid letting the other negotiator's anger or outburst trigger a fight or flight response in you. If someone yells at you, do not yell back. If a negotiator uses bad language, do not respond in kind. Remember, you control only what *you* think, say, and do. When someone verbally attacks you, a counterattack may be understandable but it is indeed not necessary. If the goal is to solve the problem, let the individual vent for a few minutes. Invite him or her to share criticism and make specific suggestions for improvement. If the negotiator is unable to think about constructive solutions because of his anger, consider suggesting a short cooling off period. The following are examples of some verbal exchanges you might hear in an organizational setting.

With customers or clients:

**Customer:** This is the worst rip-off ever! I paid good money and the item I received is worthless. I want my money back!

**Manager:** I am so sorry to hear that you had problems with our product. Can you tell me more specifically what the problem was? I will do all I can to fix the problem with you.

In work teams:

**Manager:** I told you I needed that report last week! Was I unclear?! What do I need to do around here to see that the work gets done on time?!

**Employee:** I agree, this situation can't continue. I want to meet deadlines and do good work. Can we talk through some changes that might help?

In a more formal negotiation, it can be helpful to agree on ground rules in advance to avoid behaviors that might alienate or anger some of the negotiators. If ground rules cannot be made in advance, it is still possible to discuss and agree on ground rules once the discussion has begun. This can seem awkward or preachy. It may help to normalize this—act like ground rules are an important part of all the problem-solving discussions that occur with your organization. Ask for all parties to contribute ideas to the ground rules. Post them on the wall or on a piece of paper in the center of the table for everyone to see. Acknowledge that these decisions and negotiations can be difficult and that everyone's patience may be strained at some point in the discussions. Normalizing these feelings can help parties to understand what to expect and what is expected of them.

“Recast an attack on you as an attack on the problem” (Fisher & Ury, 1981, p. 109). Let upset individuals know you understand they have been disappointed by your product, service, staff member, and so on. Invite them to work with you to solve the problem. Do not fall back on defending yourself or launching a counterattack. Although such tactics may feel good in the short term, they will not help solve the underlying problem and they will likely escalate the situation further up the chain of command. One of the best compliments a person can give to your organization is to say that when a problem arose, it was handled professionally, efficiently, and fairly.

## **Hardnosed Negotiator**

**Public employees**      We won't settle for less than a 4 percent raise and one  
**union representative:** additional vacation day!

- Agency negotiator:** Can you tell me more about how you arrived at that proposal? Or could you tell me what need that proposal will meet for you?
- Public employees union representative:** It will meet my need for a 4 percent raise!!

What if you are attempting to hold an interest-based negotiation but your counterpart insists on reiterating positions rather than addressing the needs and interests that underlie his position? In *Getting to Yes*, Fisher and Ury (1981) discuss the concept of “negotiation jujitsu” (p. 108). Like the martial art, negotiation jujitsu does not meet an attack with a counterattack. Using power against power may not be as successful as stepping back or aside. When hardnosed positional negotiators reiterate their position, take it as one possible option. Let the other side know that their position is indeed one possible outcome but that you would also like to examine all other possible options before reaching an agreement. Ask questions to better understand how their position meets their needs. “Could you tell me how this amount will be used?” or “Would \$25,000 completely solve the problem or would an amount higher or lower perhaps be appropriate?”

Rather than defending your position against theirs, take some time to invite criticism and feedback about your position: “I understand that our offer of a 1 percent raise is not satisfactory for your group. Please tell me more about why this doesn’t meet your needs.” By inviting criticism, you avoid triggering the fight or flight response and signal that you truly want to understand the other side’s needs. Sometimes the why question can trigger defensive responses. If this seems likely, consider using other open-ended questions, such as “*What* raise were you seeking and *how* does that number meet your needs?”

Be sure to frame your comments as questions rather than statements. “If we agreed to the 4 percent raise and added a vacation day, would that be more similar to what our competitors pay? Can you tell me your thoughts about how it would affect our competitiveness as a company?” It is easier to attack a statement than a question. Questions invite analysis and discussion, whereas statements can seem more adversarial. Do not be afraid of silence. If you ask a difficult question, the other side may pause or seem unwilling to answer. Silence can be a useful tool when posing difficult questions (Fisher & Ury, 1981). Try to use questions to turn hardnosed bargainers away from their positional tactics.

## **The Spotlight Is Too Bright**

When a negotiation occurs in a public space, especially when the media is present, negotiators tend to resort to more confrontational behaviors, including posturing and positional statements. These are intended as much or more for their constituents as for their negotiation partners. This is why most diplomatic negotiations have formal sessions in which all parties state their positions and ask general questions in the presence of the press or other observers. The real work of diplomats occurs behind closed doors, away from the prying eyes of the public. Keep this in mind when planning public meetings and decision-making processes. Although some sunshine laws (see Chapter Eleven) require meetings to occur in public, and for good reason, it is important to understand that the behaviors of negotiators, as well as their willingness to speak frankly, differ with the presence of an audience.

## **Emotional Investment**

When someone sells a used car, the seller typically overestimates its value. The buyer will typically underestimate its value. Cognitive biases standing in the way of an objective assessment of the car's value on both sides. To make matters worse, suppose the buyer and seller had a long-standing grudge against one another—perhaps they fought for a girl's attention back in their school days. They may decide to call off the deal altogether. Then, each would be worse off, not because a deal was against their best interests but because their emotions worked to sabotage a deal that could have benefitted them both. That is why Fisher and Ury (1981) strongly recommend “separating the people from the problem” (p. 17) whenever possible. Be careful when negotiating with someone who raises an emotional response in you, whether positive or negative. Strong emotions will cloud judgment, making it difficult to objectively evaluate the other side's proposals.

Related to this issue is the way in which we as negotiators show or hide our desire to reach an agreement with the other party. Even if you are desperate to get the job, acting desperate at the interview may result in a lower rate of pay once the job is secured. When selling a used car, the seller need not come down in price by much if the buyer makes it clear he or she loves the car and has had difficulty finding one like it. Lesson: when negotiating in a distributive bargaining situation, it is important to know when to keep your “poker face.” (This is a reference to a card game in which bluffing is a key strategy. When the player has

been dealt a good hand of cards, it can be important to keep this to one's self if the others are to be enticed to place bets.)

### **Time Pressure**

“Act fast, only two left at this price!” Creating the appearance of a crisis is one of the oldest tricks in the book. When your negotiation partner pressures you to commit and threatens to revoke the offer soon, try to pause for a moment. Evaluate the situation to determine if there is indeed the need for a quick decision. “The higher the other party's estimate of his or her own cost of delay or impasse, the weaker the other party's resistance point will be” (Lewicki, Barry, & Saunders, 2010, p. 41). If there is no urgent need to close the deal, then slow the negotiation down. Let your negotiation partner know that you will take whatever time you need to evaluate the costs and benefits of the proposal. However, you may be tempted to use this strategy yourself—create a false sense of urgency in order to close the deal. Before pursuing this strategy, think about any possible ethical implications, including the impact on any future relationship. This strategy is unlikely to work repeatedly with the same partner.

### **Absent Decision Maker**

Sometimes the people who arrive to participate in the negotiation are not the ones who truly have the authority to reach a deal. This situation is particularly likely in the case of negotiations between government agencies and large businesses. In these cases a mid- or higher-level employee may arrive to represent the agency but in the end it is discovered that the only person with the authority to sign off on a deal is the agency's director. It is unrealistic to believe that the director will attend every negotiation, mediation, or settlement conference in which the agency participates. Therefore, it will be crucial for the person representing the agency to be authorized with a reasonable amount of authority to settle. Typically, organizational leaders will authorize a specific settlement range within which their representative can strike a deal. This works best for distributive bargaining situations. What happens in integrative bargaining situations, during which the participants are able to come up with creative, unanticipated settlement terms? In these situations it is important for the negotiators to be able to reach the ultimate decision maker by phone in order to gain new settlement authority.

If you are attending a negotiation on behalf of your organization, be sure to clarify the limits of your settlement authority in advance of the session. Ensure

that your superior(s) will be available by phone during the negotiation in case you need to request different or additional settlement authority. However, if your negotiating partner sends a representative to negotiate on his behalf, be sure to inquire about that person's settlement authority and procedures to secure additional or different settlement authority as needed. Otherwise, you may spend hours in a tough negotiation only to discover the person with whom you have been negotiating lacks the ability to commit to any agreements.

Situations wherein parties send a representative to negotiate on their behalf tend to cause increased use of two particular negotiation strategies. If your negotiation partner has sent a representative in his or her stead, be on the lookout for stalling and good cop–bad cop. First, the negotiator may have sent the delegate purely as a stalling tactic—as a last resort the representative can claim to need more time to check with his or her boss. If you believe the other side has incentives to stall for time, you may want to insist that the decision maker participate directly. Second, the representative can play good cop–bad cop in order to manipulate concessions from other negotiators. The representative might say, “I think your offer is reasonable, but I have to sell it to my boss, and he already told me that I would not have the authority to settle at that amount.” Be cautious when negotiating with representatives in the absence of the authoritative decision maker to ensure the absence is not used strategically.

### **BRING IN A THIRD PARTY**

If the negotiations are not making progress or if the negotiators have become too heated to carry on a productive and civil negotiation on their own, it may be time to bring in a third party. This third party can be a neutral person, such as a mediator, facilitator, ombudsman, or arbitrator. If the negotiation is internal to the organization, rather than with a customer or client, then the neutral may be a higher-up manager, someone from HR, or someone from elsewhere in the organization. This person needs to be someone whom each negotiator trusts as well as someone who is able to maintain his or her temper, listen well, and help the parties resolve the problem productively and maintain or enhance their working relationships. As Chapter Four shows, there are many different types of problem-solving processes on which you may wish to draw when the negotiators are unable to reach agreements on their own.

## **NEGOTIATIONS TO AVOID**

There are numerous reasons why today may not be the right time to negotiate. First, what if you have not had time to prepare for the negotiation? If so, it may be better to postpone if possible. Sometimes you may wish to put off a negotiation because stalling for time only improves your strength in the situation by raising the value of what you bring to the table or creating an urgent need on the other's side. If you are feeling apathetic to the potential outcome of an issue, then the level of impact may simply be too small to warrant the time and energy you would spend on negotiation. When you are rushed, take a step back from the abyss. Don't forget that one common strategy in the negotiation playbook is to create an artificial deadline or perceived state of urgency: "If you don't scoop up this deal right now, somebody else will," says the used car salesman.

Some situations are no-win situations that should be avoided. For example, when the power dynamics between the parties are highly asymmetric and you are on the low end, your chances of achieving your goals may be too low to make it worthwhile to engage in the negotiation. In other instances, that little voice inside you tells you something about this negotiation or this negotiation partner is not quite right. If a negotiation's outcome could harm parties who are not present or if your negotiation partner is someone you cannot trust to fulfill her end of the bargain, then forgoing the negotiation may be your best bet. A manager's reputation takes years to build and only minutes to be destroyed.

## **TRUST BUILDING AND TRUST REPAIR IN NEGOTIATIONS**

Friedlander (1970) determined that initial group trust is more predictive of later group success than is initial group effectiveness, showing that trust has important implications for predicting how well teams may work together. The same can be said for negotiators. Taking steps to build up trust is important so that negotiations proceed more smoothly, and when disagreements arise, they are handled more collaboratively. Hempel, Zhang, and Tjosvold (2009) argue that conflicting viewpoints are inevitably present in work teams and certainly in negotiations. However, as with conflict itself, differing views need not lead to reduced levels of trust. It is the management of those differences that result in either higher or lower levels of trust among teams and negotiators.

One thing negotiators can do to build trust is to share information. Sharing information is a sign of trust and also works to build additional trust between negotiators. Moyer and Langfred (2004) investigated the role information sharing has in group conflict and success. The authors write that prior research indicates information sharing may increase group efficiency and improve decision making. Sharing information works to build trust and relationships, which help negotiators reach and implement sound agreements.

There are two main types of trust: identity-based trust and calculus-based trust. The best manager negotiators understand how and when to use each type of trust and related trust-building measures (Lewicki, 2006). Identity-based trust (IBT) comes from the strength of the relationship between the parties or through trust in shared social networks. When negotiators have strong IBT, they follow agreements because they do not want to let each other down. They know and trust each other because of their past relationship or because they are tied together in a web of relationships with others. For example, you ask your brother, a plumber, to fix your best friend's kitchen pipes. Your friend knows that the plumber will do a good job and will not overcharge her because he is her friend's brother.

Likewise, two police officers who have worked well together as a team for a decade are likely to trust one another because they have built up trust from previous shared experiences. Additionally, reputations are important to IBT. A negotiator with a reputation for fairness is more likely to have your trust than one with the opposite reputation.

How do you use identity-based trust to improve your negotiations? See what you can learn about the negotiator or collaborator before the negotiations or collaborations begin. What is the strength of his or her reputation? Spend some time getting to know your negotiation partner. Look for any common friends or acquaintances you may have who can share information about each of you to the other or to whom you can go if the negotiation runs into problems. Having a mutual acquaintance who can put in a good word about you or help act as an intermediary may be important in the future. Don't get right down to business. First, go out to lunch or spend time getting to know each other. In work teams, it is crucial not only to build rapport through shared social experiences during the early phases of the collaboration but also intermittently throughout the partnership (for more on this see Lencioni, 2002). Some negotiators may balk that this is nonwork time but if you begin to see it as an essential part of the negotiation process, your negotiations will achieve better results. Additionally, if you run into



problems during the implementation of the agreement, you will have developed a relationship on which you can draw to address these unexpected problems. Once you get to know the other person well, you are less likely to fall prey to negative cognitive biases, such as attribution errors, that make negotiations difficult.

What if there has been a breach of trust and the relationship has been harmed by the breach? In these cases you have two options: rely on calculus-based trust (CBT) or take steps to rebuild the relationship, thereby increasing IBT. Repairing a breach of trust will likely require frank discussions between the parties so that each is aware of the other's concerns and perceptions. If one of the negotiators admits intentionally breaching trust, apologizes, and is willing to take affirmative steps to regain trust, then there is a chance of restoring IBT. If the negotiators view the situation quite differently or fail to understand why the other feels harmed by the behavior, it can be helpful to ask a neutral third party to assist with these discussions. This assistance can come from an ombudsman, a higher-level manager, a professional coach, or even a counselor. In the end, if the IBT is not restored, it is likely that any agreements between the parties will need to rely on CBT.

With CBT the parties can be trusted to abide by their agreements because the incentives for doing so are written into the agreement itself. For example, imagine a business-to-business dispute between a hospital and a vendor of medical supplies. In the past, the vendor has not met contracted delivery dates, causing significant shortages for the hospital. The hospital did not trust the vendor to meet future delivery dates based on their poor performance record, resulting in a deteriorating relationship between the two organizations and their managers. As part of their contract renegotiations, the vendor agreed that delivery of any late supplies would mean that the supplies would be free. After six months of on-time performance, the sanction for late delivery would become a 25 percent penalty rather than free supplies. Now, the hospital is confident the supplies will arrive on time and is therefore willing to continue to work with this vendor. For CBT to work, the penalty has to be high enough to motivate each negotiator and the certainty of the penalty's enforcement must be clear to all.

## **CONCLUSION**

Managers negotiate every day, either formally or informally. Mastering the concepts and skills of negotiation will ensure the most fruitful outcome possible. Skilled, interest-based negotiation not only leads to better outcomes, but it also

generally feels better because the process respects the needs of all participants and does not require misleading others to achieve one's preferred outcome. Understanding the key terms and concepts in distributive bargaining remains important because this type of negotiation remains common, like it or not. Negotiation skills will serve you well at work and also in your civic and personal lives. Whether you are planning your wedding, buying produce at your local farmer's market, or deciding where to go on your next family vacation, there is no shortage of opportunities to practice these skills. Every negotiation presents you with an opportunity to enhance your relationships with others and achieve your substantive objectives.

## **ELISE AND MAIN STREET BAKERIES**

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Elise met with Jacob, the organic wheat farmer. They began their meeting over breakfast and a walking tour of his farm. It turns out that Jacob knows a few other farmers who supply goods to Elise's company and that is how he heard about this opportunity.

Last year the price for a bushel of organic wheat was about \$9.00 but this year it has jumped to almost \$11.00 per bushel. With such huge fluctuations it has become difficult to maintain stability in the prices charged to customers. Elise prepared for this meeting by thinking about the maximum amount she would pay for a one-year contract (\$10.75) but she hoped to strike a deal closer to \$9.75. She decided to make an initial offer of \$9.00. Although she would prefer a contract period of three to five years, most small farmers are unable or unwilling to do that considering the volatility in the commodity price for wheat lately. She hates to renegotiate contracts each year because of the time and expense. She has more than one hundred farmers around the country to work with, so if she is not careful, she could spend all her time doing nothing but negotiating contracts. She likes to meet personally with each supplier during the initial contract negotiations. If all goes well, other members of her staff will negotiate contract updates or changes as needed.

When she met with Jacob he had some surprising news. He was willing to enter into a five-year contract, but it would not involve his farm alone. He has banded together with five other organic farms in his region. Each of the farms grows wheat and at least one other crop.

They would agree to a multiyear contract at a fixed price but with some special agreements to help address the risk of unknown future conditions. His initial offer was for fifty thousand bushels per year at \$10.25 per bushel as long as the average price of wheat on the market does not rise above \$11.00 per bushel. If it rises above that price, then Jacob and his farmers would receive \$10.75 per bushel. Additionally, they would supply bell peppers, onions, and broccoli as well through a separate contract. In the end, they settled on a price of \$10.00 per bushel in a regular market and \$10.50 in an inflated market. By agreeing to a longer-term contract, taking into account some future uncertainty, and adding additional products for sale, they both came out ahead. Now, Elise has fewer individual contracts to negotiate: a real win-win outcome.

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## KEY TERMS

Asking price	Negotiation
BATNA	Positions
Claiming value	Resistance point
Contingent agreements	Settlement point
Creating value	Settlement range
Distributive bargaining	Target point
Fallback offer	Transaction costs
Integrative bargaining	Zero sum
Interests	

## SUGGESTED SUPPLEMENTAL READING

Fisher, R., Ury, W., & Patton, B. (2011). *Getting to yes*. New York: Penguin.

Myers, S. L., Rosenberg, M., & Schmitt, E. (2012, January 11). Against odds, path opens up for U.S.-Taliban talks. *New York Times*. (Originally published in 1981.)

## DISCUSSION QUESTIONS

1. What was your most difficult negotiation and why? What went well and what didn't?

2. Do you look forward to negotiations or avoid them? How does this align with your conflict styles inventory exercise from Chapter One?
3. Who is the best negotiator you know and what techniques does she use?

## **EXERCISES**

1. Think, pair, share: think back to a negotiation in which you participated or witnessed. Was it a distributive or integrative negotiation? How could you tell? Apply the following terms to an analysis of that negotiation. Was value created, claimed, or both? What were the interests, positions, and BATNAs of each party?
2. Similar to the previous question, review the scenario between Elise and Jacob and label their position, interests, BATNAs, settlement zone, resistance points, and so on.
3. Use a story from the newspaper to analyze a contemporary negotiation, labeling the positions, interests, and BATNAs, and apply other course concepts. Was the negotiation interest based or distributive in nature?

## **GOAL SETTING**

Think of an upcoming negotiation in which you will participate. Prepare for the negotiation by determining your target point and resistance points. What are your interests and what is your BATNA? How will you react to positional bargaining by your counterpart? What can you do to ensure an interest-based negotiation? Carry out your negotiation, then engage in reflective practice. What worked well? What can be improved for future negotiations?