

Topic: The Use of Principled Negotiation in the Settlement of Disputes

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Part II Techniques for Better Negotiation: Findings from the Japan Negotiation Competition

Better preparation

- Understand your company, the counterparty, the market , the negotiation
- Preparation using 7 elements:
 - What is your company and your counterparty's Batna?
 - Estimate your counter-party's batna and interest
 - Check your estimation during the negotiation by posing effective questions and revise your estimation
 - What is your company and your counterparty's interest?
 - understand your own interest by asking why
 - Consider the priorities between interests for comparison
 - Communication
 - Prepare the opening
 - Prepare the list of questions
 - Commitment
 - Write a draft contract
 - Contract need to be clear and specific: e.g. timing of payment
 - Details are important: e.g. the person who apologizes
- Substance, process and relationship
 - Participants tend to focus too much on the substance of the negotiation. Evaluation sheet, however, list other important elements.
 - How to start? How to create good atmosphere
 - Persuasive statement with reasons (i.e. legitimate reason)
 - The good balance of talking and listening (i.e. spend more time on asking rather than talking)
 - Communication focusing on parties interests not positions
 - Effort to create values by making use of the difference between parties
 - Flexible and creative proposals
 - Specific and realistic agreement
 - Making a memorandum which reflects the agreement accurately
 - Teamwork

- Negotiation process
 - Should know which kind of process should be made earlier
 - How to start
 - Agreement on process
 - Information exchange
 - Identify BANTA, interests and issues
 - Create options
 - Choose the best option
 - Clear commitment
 - Written agreement
 - Negotiation is similar to jazz: ad-lib, timing, challenging
 - Negotiation is similar to GO: strategic placing of pieces, birds' eye-view
- You should avoid:
 - Try to control your counterparty, push your idea: autonomy, independence, and contribution are important elements
 - Too amicable, easy compromise:
 - say no when necessary and appropriate
 - make effort to maximize your interest
 - overestimation of the value of the relationship
 - Too formalistic: enjoy jazz and go
 - Too abstract, general and vague
 - Unrealistic commitment