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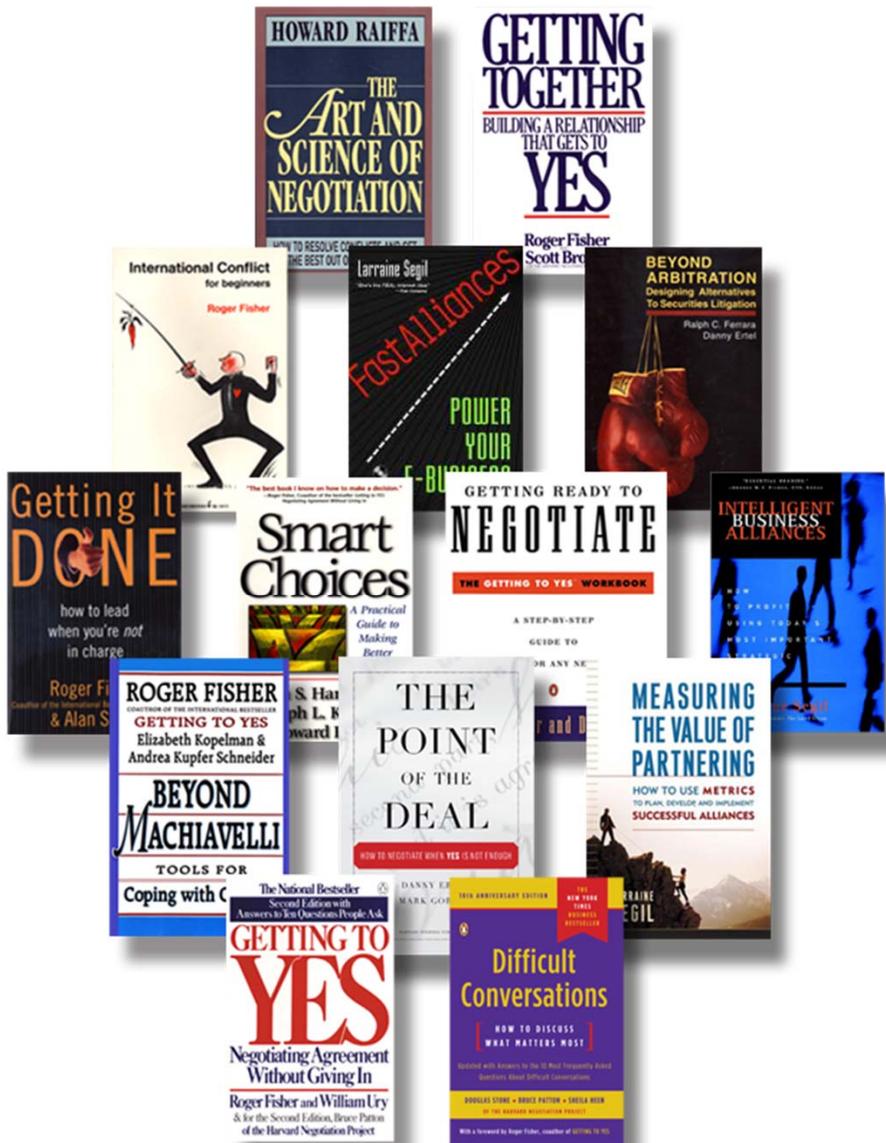


Preparing & Conducting Effective Negotiations: Using “The Seven Elements”

Jeff Weiss
ARPA-E Webinar
January 22, 2013

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Vantage Partners



- Global consulting firm, spin-off of the Harvard Negotiation Project (which we helped to found in 1979)
- Mission of driving measurable business results by transforming how companies negotiate and manage their most important relationships
- 25+ years of experience consulting to Fortune 500/Global 1000 companies
- Practices in Sales Negotiations & Account Management, Sourcing & Supplier Management, Alliance Strategy & Management, and Outsourcing Negotiation & Governance
- Recognized thought leaders
 - Faculty at Harvard, Dartmouth, West Point, Caltech
 - Multi-year studies on alliance management, supplier relationship management, outsourcing governance and relationship management
- *Pro bono* applications through Conflict Management Group (now Mercy Corps)
 - Arias Peace Accords; New Constitution in South Africa; Israeli-Palestinian Negotiation Partners

Seven Elements of Negotiation

- **Interests** – needs, aims, fears (vs. positions or demands)
- **Alternatives** – walkaways, what one would do “**A**way from the table” on their own or with another person (not arbitrary bottom lines)
- **Options** – possible “**O**n the table” solutions or pieces of a solution (creative possibilities)
- **Legitimacy** – objective standards, criteria, fair processes (ways to explain, defend the outcome)
- **Commitments** – agreements between the parties (offers, agreements)
- **Relationship** – how we work with the other negotiator
- **Communication** – how we communicate with the other negotiator

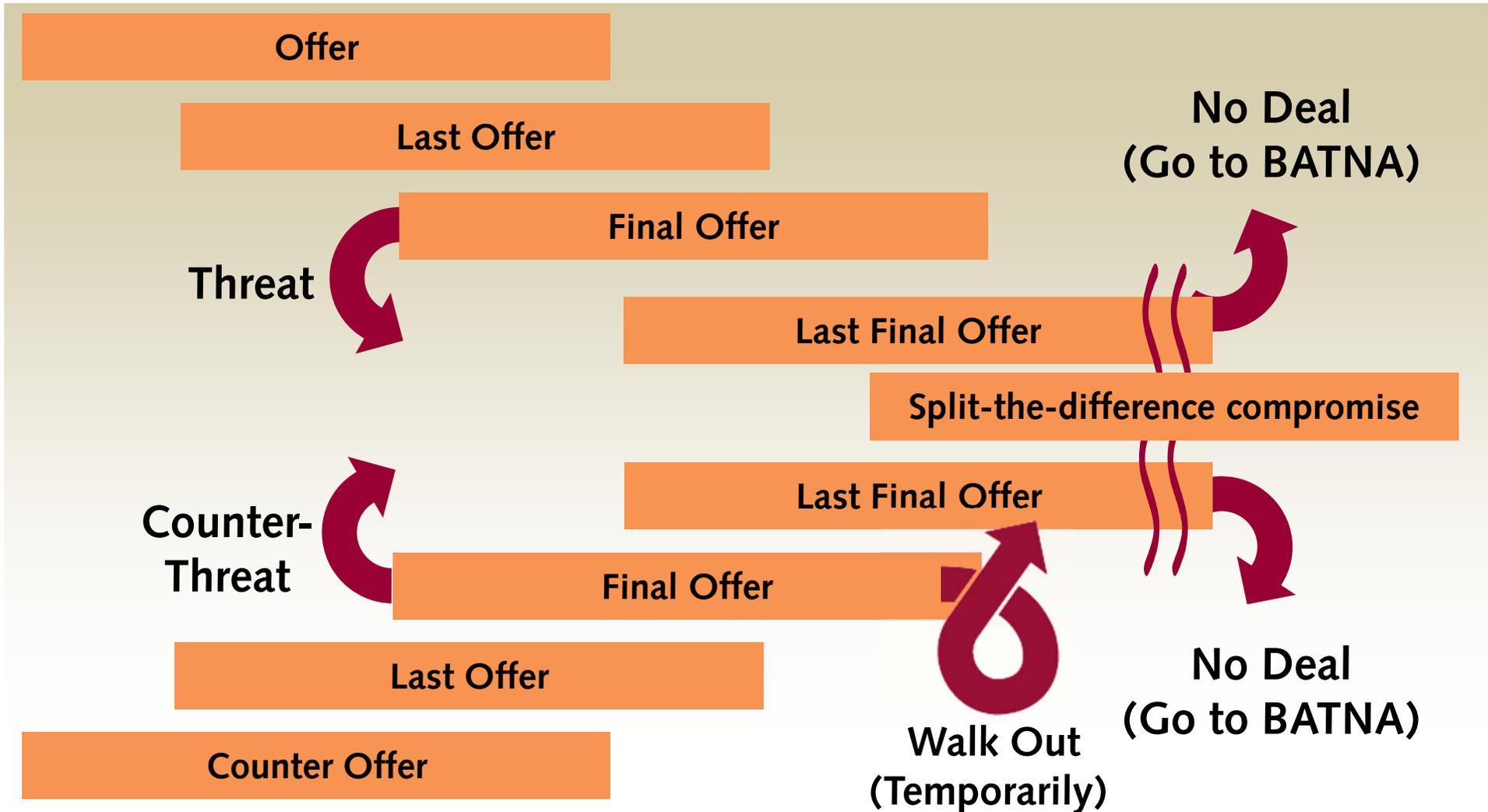
Seven Levers to Be Used in Multiple Ways

- **Interests**
- **Alternatives**
- **Options**
- **Legitimacy**
- **Commitments**
- **Relationship**
- **Communication**

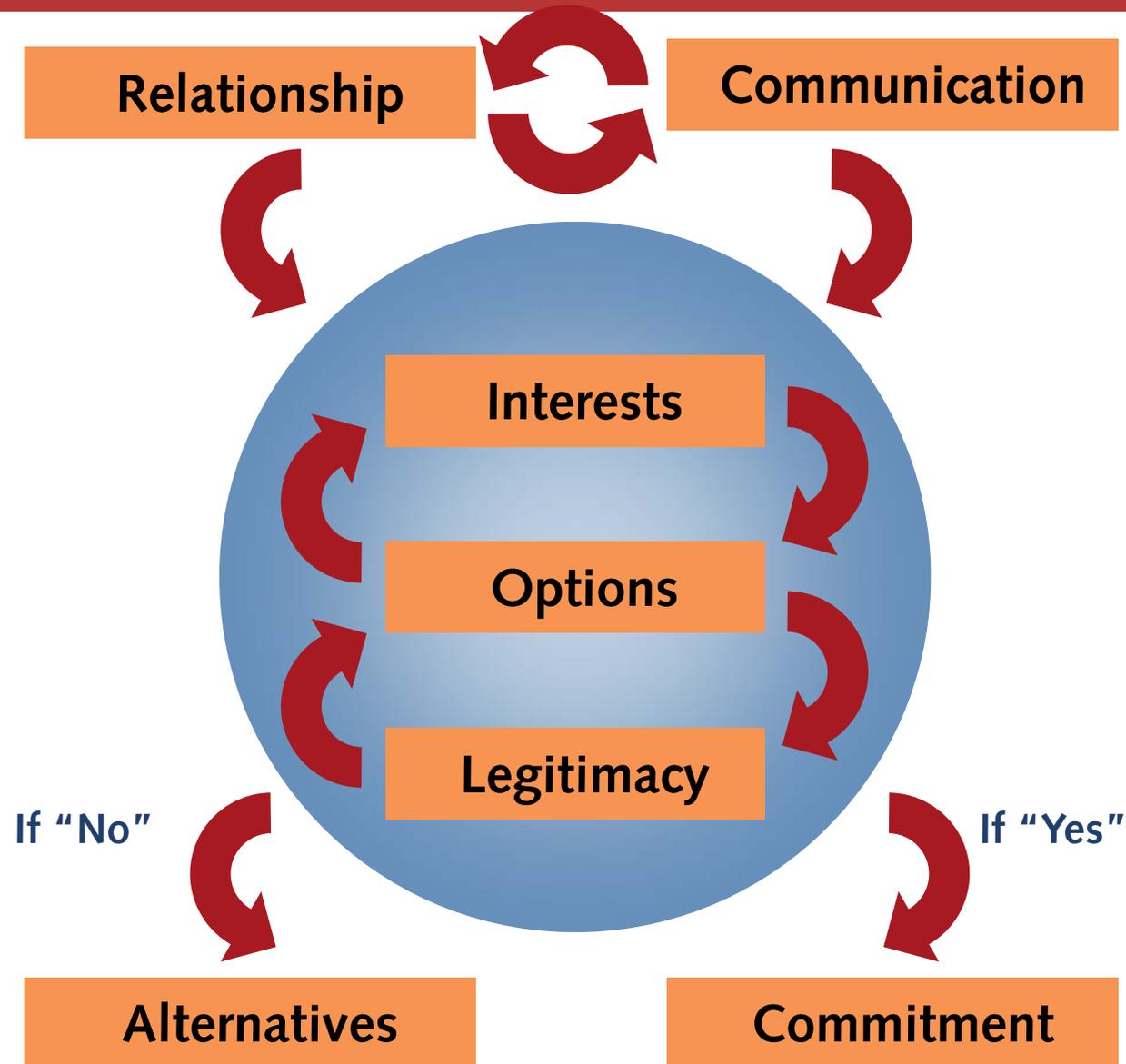
Useful For:

- **Assessing Success**
- **Providing Effective Instructions**
- **Preparing**
- **Understanding Choices**
- **Diagnosing and Managing Difficult Tactics**
- **Reviewing**

Positional Bargaining: The Dance of Concessions



Principled Negotiating: The Circle of Value



Negotiation: A Key Choice

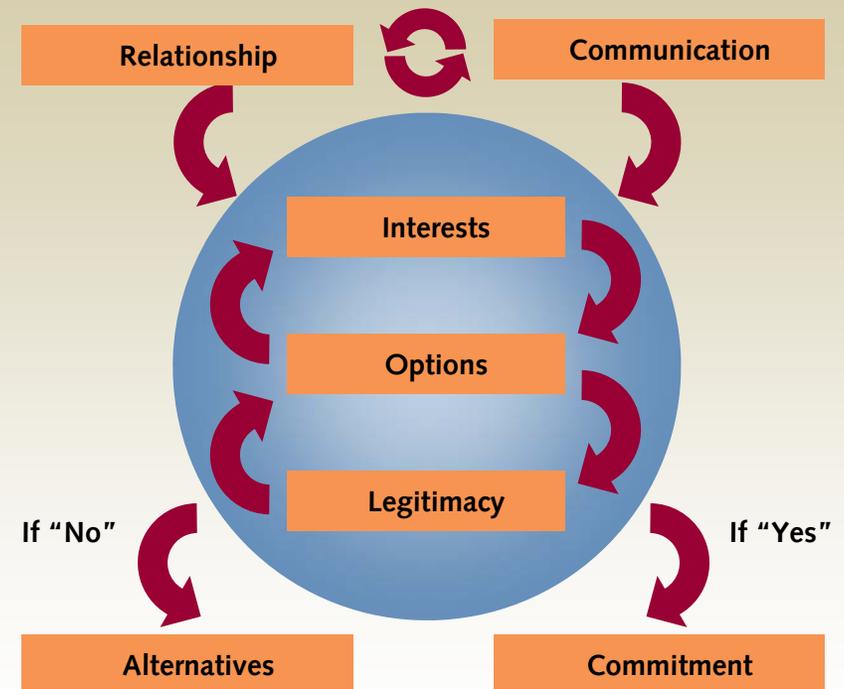
Classic Positional Bargaining



Assumptions

- Pie is fixed
- Only job of negotiator is to claim value

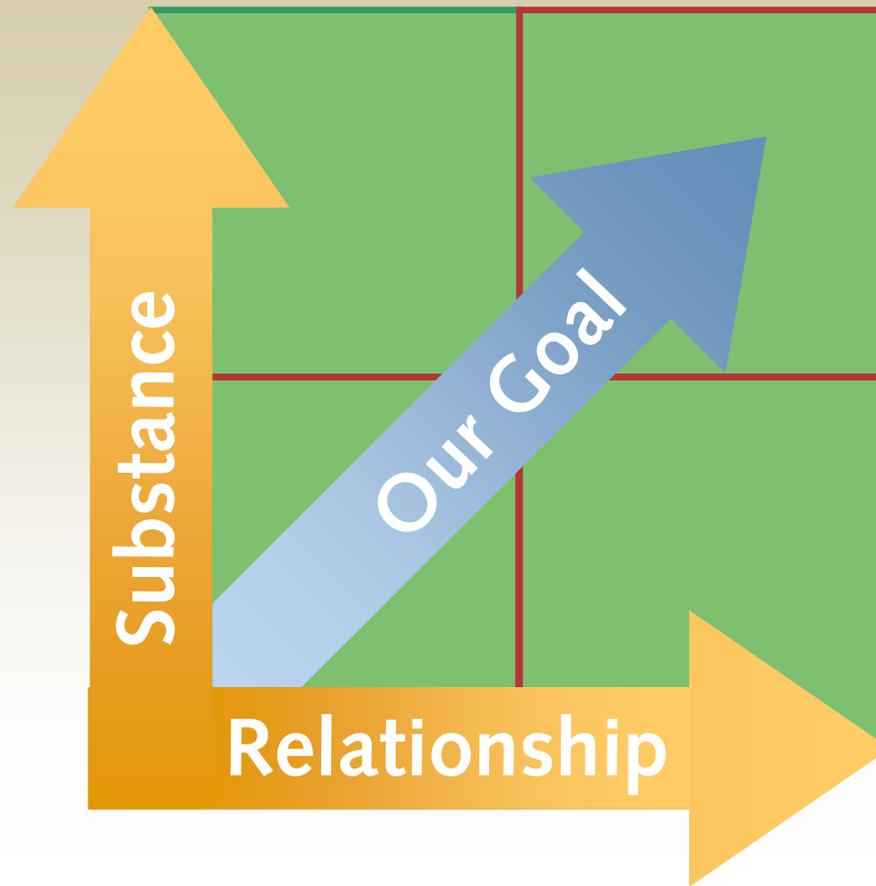
Joint Problem-Solving



Assumptions

- Pie can be expanded
- Negotiators should work together to create and distribute value

Substance *and* Relationship



The Common Dilemma

Soft

- **“Have to talk”**
- **Insist on maintaining friendship**
- **Open with a reasonable position**
- **Concede generously**
- **“Will” / offers**

Hard

- **“Don’t have to talk”**
- **Insist on my position**
- **Open with an extreme position**
- **Concede stubbornly**
- **“Won’t” / threats**

Why Each Is Correct

Soft

- O.K. to talk
- Relationship is important
- Power in being reasonable
- O.K. to be flexible
- Offers are good

Hard

- O.K. to walk
- Substance is important
- Power in anchoring
- O.K. to be firm
- Wise to disclose limits

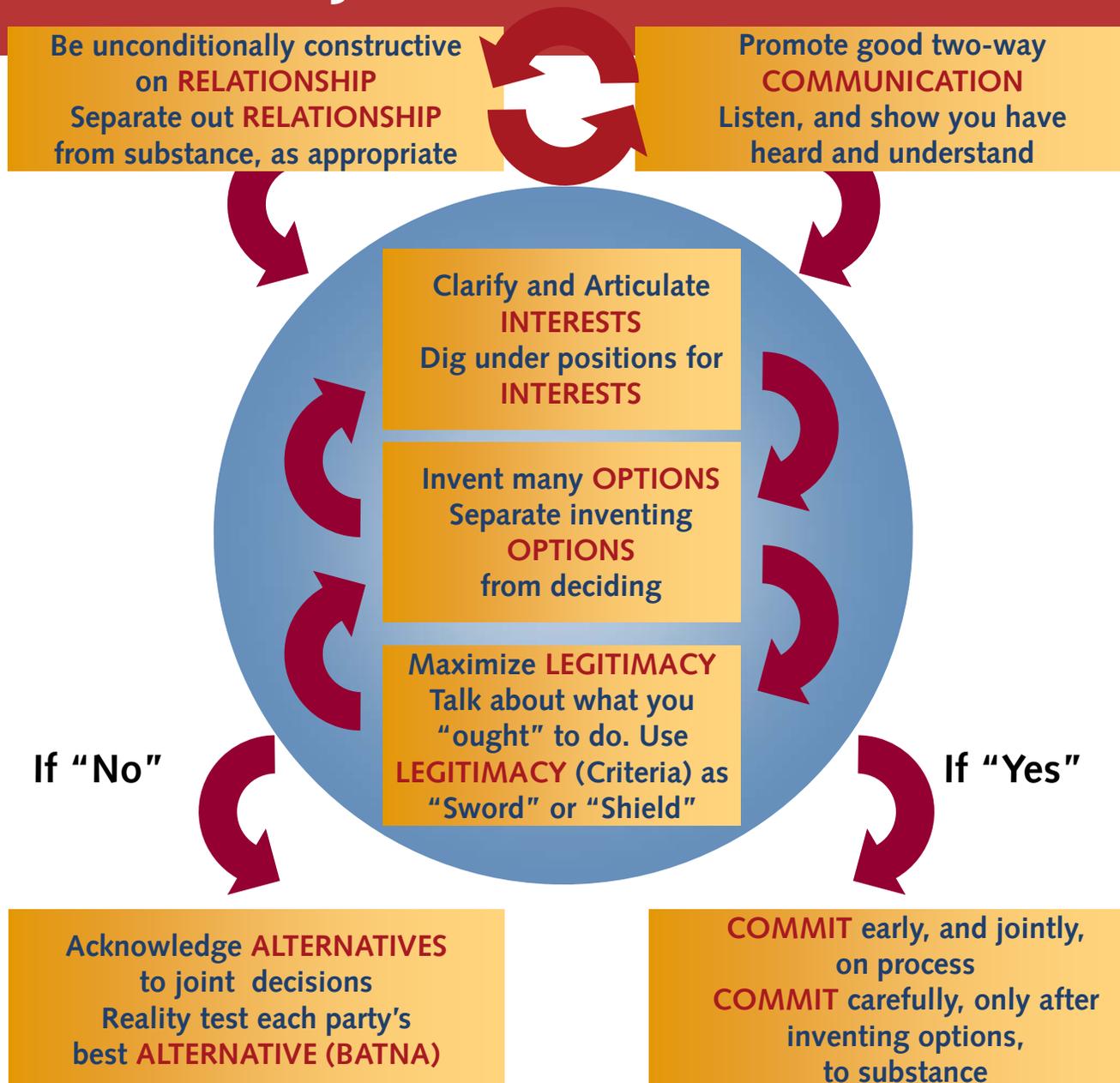
Common Errors

Soft

Hard

- Ignore **Alternatives**
- Assume a choice: **Relationship** *or* substance
- Focus on *positions*, ignore **Interests**
- Mix inventing and deciding, limiting **Options**
- Ignore **Legitimacy**: What parties *should* do
- One-way **Communication**: Talking *at* them
- **Commitment** before listening

A Way Out: “Rules of Thumb” for Putting the Elements into Play



Negotiating on the merits: Communication

- **Assumption:** The best approach is to tell them what you want and how you see things
- **Partial Validity:** Sharing your view is important
- **Common Error**
 - One-way communication ignores the importance of listening.
 - You can't persuade them unless you know and address what they are thinking
- **Guidelines**
 - Seek high-quality two-way communication: Explain your reasoning; inquire into their; Balance advocacy and inquiry
 - Listen, and show that you have heard: Listening illuminates their interests and builds the relationship; Be able to put their case as well as or better than they can
 - Negotiate explicitly over process: clarify goals, agenda; set ground rules

Exercise: How old?

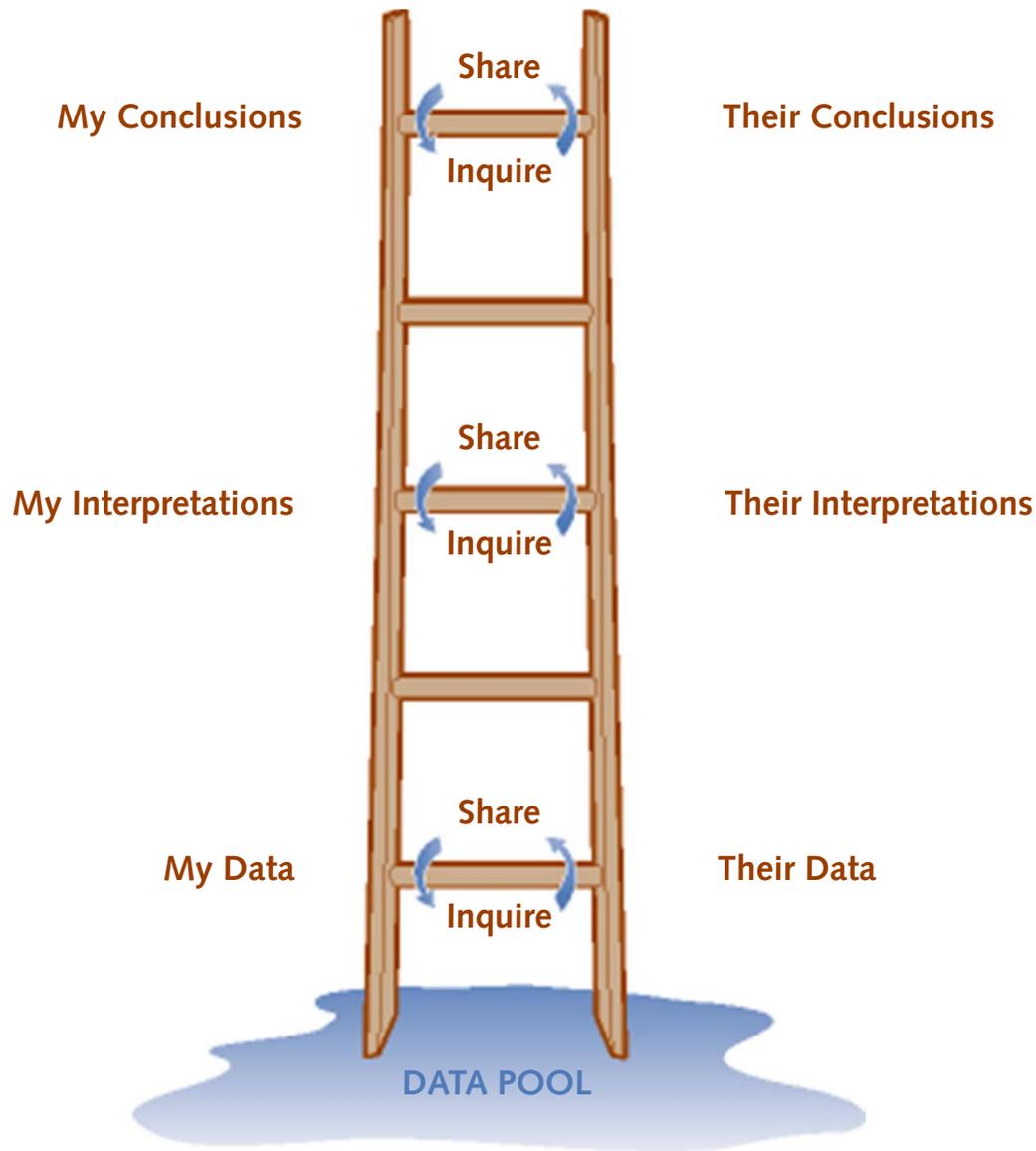


When Things Go Wrong . . .

First Work to Understand Each Other's Story

- Each of us tells a story about what happened based on:
 - Different information
 - Different interpretations of ambiguous information
 - Different assumptions about missing information
- Different conclusions are inevitable
- Debating conclusions is unpersuasive, escalates conflict, and hurts the relationship
- Seeking to understand (and combine) different stories generates new insight, resolves conflict, and strengthens the relationship
- “And” accurately captures this complexity; “but” denies it

Explore Each Other's Reasoning



A Picture Of Engaging In A Learning Conversation

THINK

THINK

Conclusions:

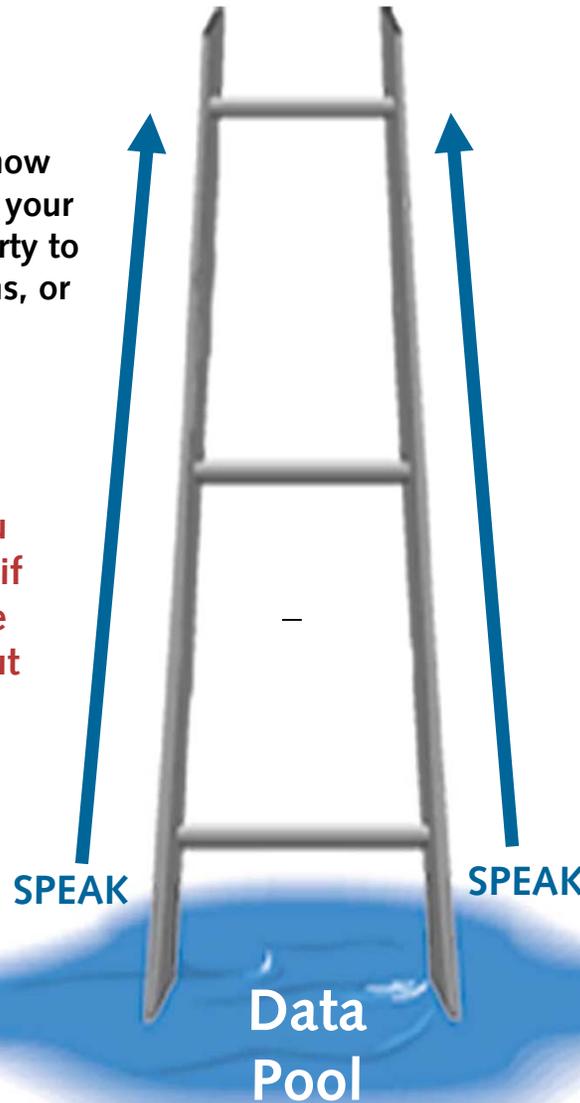
- Share your conclusions, describing how you get from your interpretations to your conclusions. Encourage the other party to ask questions about your conclusions, or the process that led you to those conclusions.

Interpretations:

- Share the interpretations that you draw from your data (and theirs, if it is relevant), and why. Invite the other party to ask questions about your interpretations.

Data:

- Specify the facts, figures, actions, conversations, etc. that you are relying upon to reach your conclusions. Invite the other party to ask questions about the data you shared.



Conclusions:

- Ask the other party what their conclusions are, and how they get from their interpretations to their conclusions. Ask questions about their conclusions, or the process they took to get there.

Interpretations:

- Ask the other party to share the interpretations they draw from their data (and from yours, if it is relevant), and why. Ask questions about their interpretations.

Data:

- Ask the other party to specify the facts, figures, actions, conversations, etc. that they are relying upon to reach their conclusions. Ask questions about the data they shared.

*The Ladder of Inference is based on the work of Argyris and Schon. See Argyris, Chris, R. Putnam, & D. Smith. Action Science: Concepts, Methods, and Skills for Research and Intervention. San Francisco: Jossey-Bass, 1985.



Partisan Perceptions — Guidelines

- **Adopt a frame of mind for understanding**
 - Assume partisan perceptions exist – ours as well as theirs
 - Seek to understand, and show understanding before seeking to be understood
- **Make “understanding” a collaborative effort**
 - Consider discussing partisan perceptions early and explicitly
 - Make mutual understanding the goal, consider carefully whether agreement is necessary
- **Dig for the data, reveal the reasoning**
 - Be explicit about the data you see; ask what data are important to them
 - Discuss how each of you interprets the data and reaches conclusions
 - Create new perceptions, rather than battle over old ones
 - Seek nonconforming data, for both their view and yours
 - Avoid conforming data

Negotiating on the merits: Relationship

- **Assumption: Insist on maintaining relationship or insist on your position**
- **Partial Validity: Relationship and substantive interests are each important**
- **Common Error: Assumes that you must choose either to preserve the relationship or to satisfy your substantive interests**
- **Guidelines**
 - **Distinguish relationship issues from substantive and deal with each on its own merits: soft on the people, hard on the problem**
 - **Avoid trying to fix relationship problems with substantive concessions**

Disentangle substance from relationship ... and negotiate each on their own merits (negotiate on two tracks)

Substantive Issues

- Past damages
- Future damages
- Intelligence
- Security
- Finding brother

Relationship Issues

- Eroded trust
- Partisan perceptions – different facts, different interpretations, therefore different stories
- Lack of reliability/broken commitments
- Feeling of being unfairly treated



Building a relationship independent of agreement or disagreement

- **Accept the people: treat them with respect**
 - Speak for yourself, not for them
 - Avoid surprises: Consult before deciding
 - Seek to persuade, not coerce
- **Seek to understand their views (and demonstrate it)**
 - Understanding \neq agreement
 - Their view likely reflects different information and assumptions — test!
- **Explore the merits together, side-by-side**
 - Separate the parties from their arguments and actions.
 - Share your views with honesty and vigor, but also humility – perhaps they know something you don't
- **Be wholly trustworthy, but not wholly trusting**
- **Keep emotion and reason in balance**

When Things Go Wrong . . .

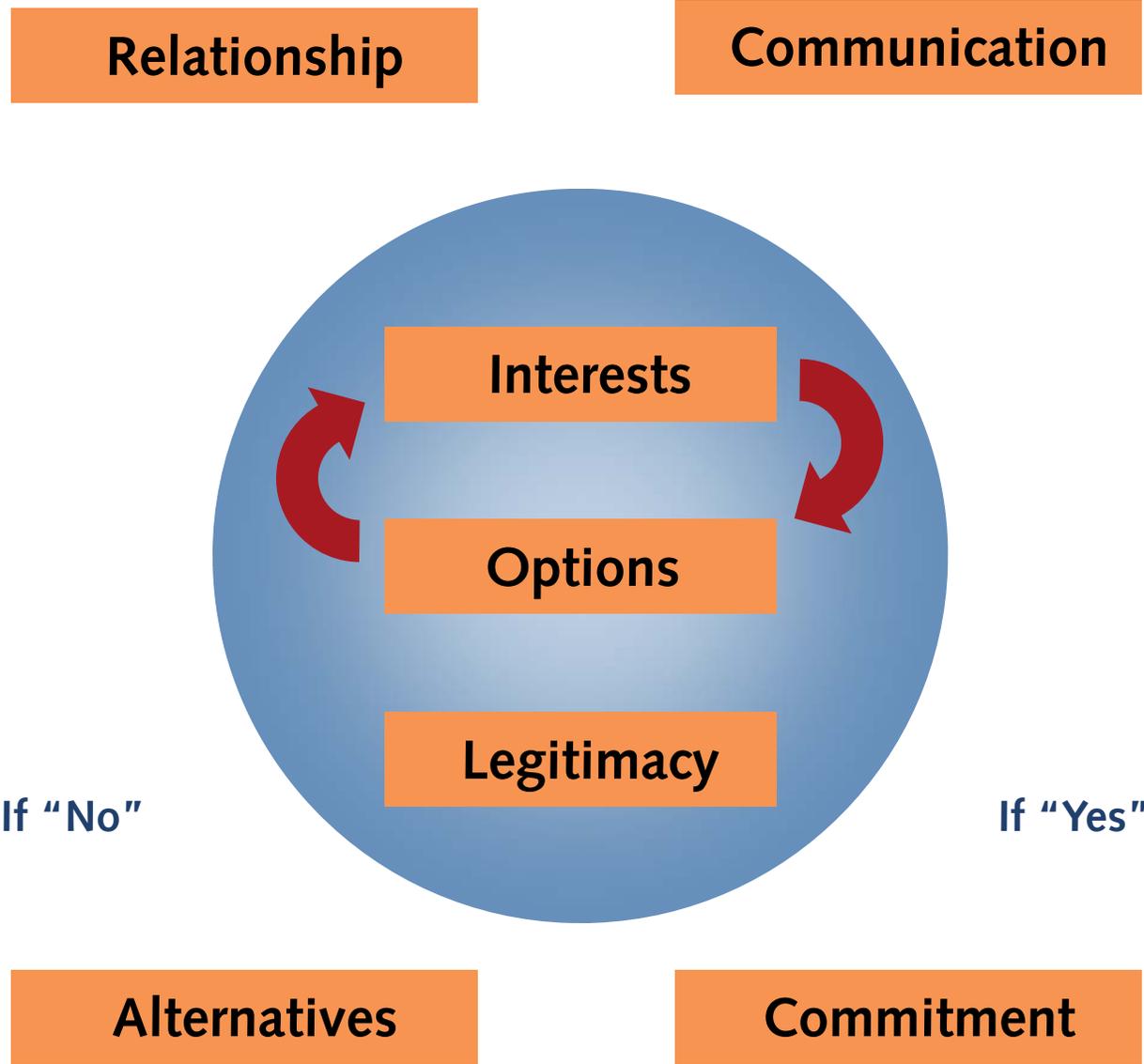
Look for Joint Contribution Instead of Blame

- **Blaming is based on a fallacy, hurts the relationship, and distracts from fixing the problem**
- **Joint contribution is realistic, strengthens the relationship (we're in this together), and focuses on what can make a difference**
- **Start with your contribution, but don't end there; help them see theirs**

Negotiating on the merits: Interests

- **Assumption: Start with a position** — either reasonable or extreme
- **Partial Validity**
 - Being reasonable is often persuasive
 - “Anchoring” often works
- **Common Error: Focusing on positions**
- **Guidelines**
 - Clarify interests, not positions
 - Dig under demands for underlying interests. Ask, “Why?” “For what purpose do you want that?” “What are you trying to achieve?”
 - Share some of your interests to prime the pump
 - Share your understanding of *their* interests and ask for feedback
 - Solicit criticism of possible options; ask for comparative assessment of possible options

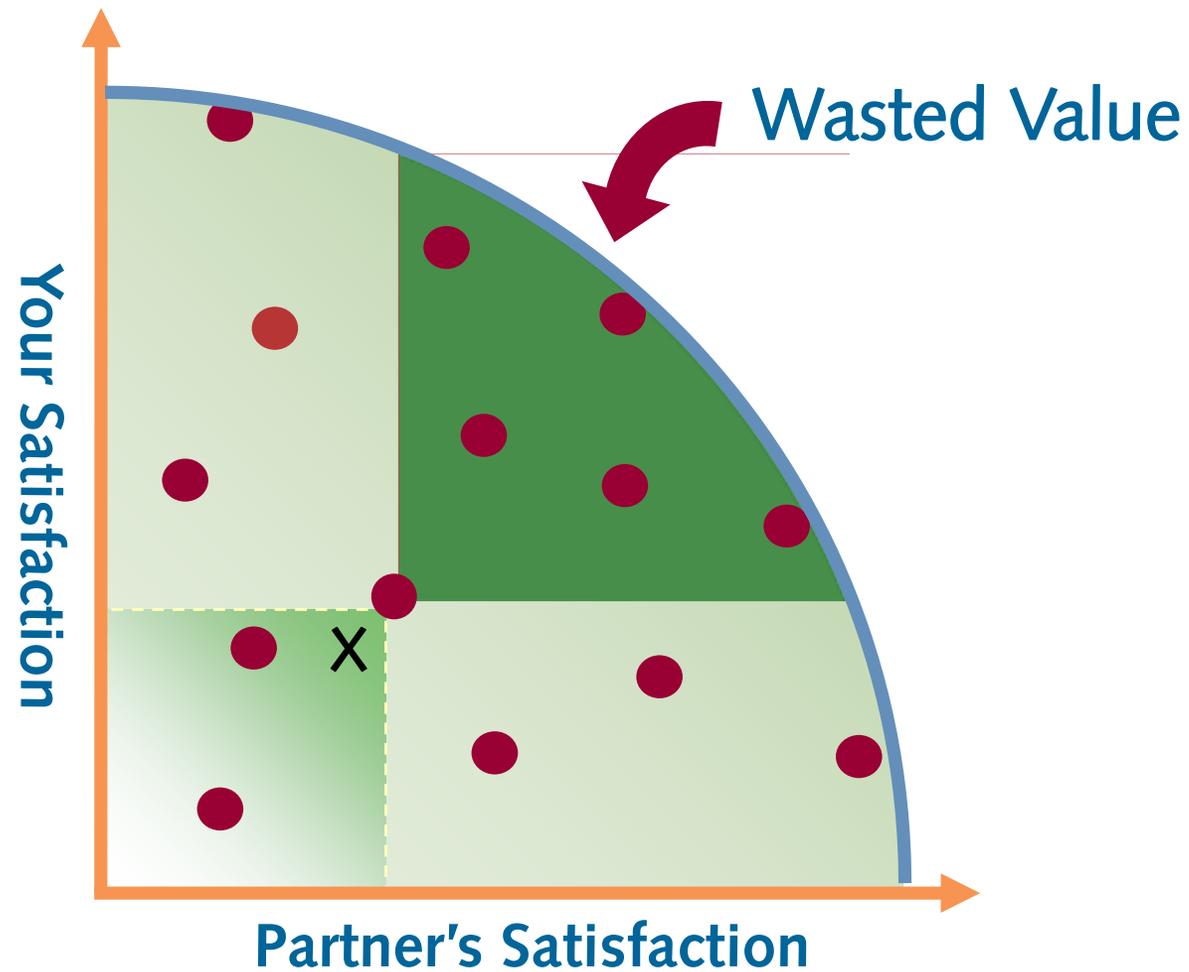
The Power of Criticism: “What would be wrong with X?”



Negotiating on the merits: Options

- **Assumption: Negotiate by conceding — generously or stubbornly**
- **Partial Validity**
 - It's OK to be flexible
 - It's OK to be firm
- **Common Error: Mixing inventing with deciding**
- **Guidelines**
 - Separate brainstorming from evaluating and deciding. Break up decision-making into option generation, option evaluation and refinement, and commitment
 - Jointly brainstorm multiple options
 - Invent options for mutual gain. Look for differences in interests to create value. Craft a choice attractive to them
 - Postpone commitments: nothing is agreed until everything is agreed

No-Waste Options – The Pareto Frontier



Negotiating on the merits: Legitimacy

- **Assumption:** Tell them what we will or won't do
- **Partial Validity:** Offers are good, and it's often wise to disclose limits
- **Common Error:** Ignores the power of legitimacy — framing discussion in terms of what parties ought to do
- **Guidelines**
 - Maximize legitimacy by using independent standards or principles of fairness to distinguish among options (seek criteria persuasive to them)
 - Use standards as a “sword” to persuade (“We might base this on ...”) and as a “shield” to protect (“Why that number?” “Based on what?” “How would I explain agreeing to this?”)
 - To combine empathy and assertiveness: “I can see why you want that. Help me understand why you deserve it.”
 - Use the Test of Reciprocity. Consider fair procedures.
 - Be sure you are open to persuasion

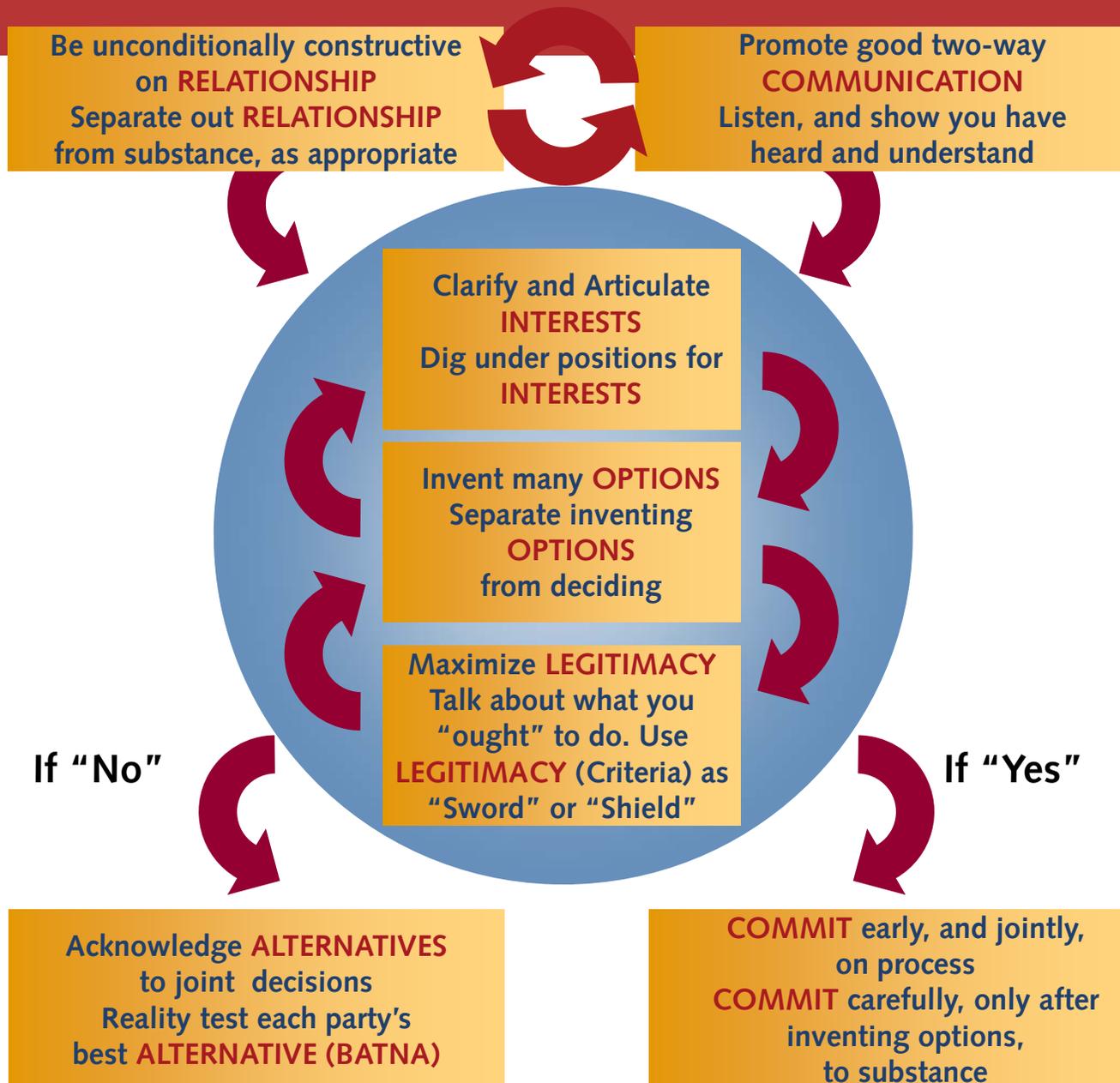
Negotiating on the merits: Alternatives

- **Assumption: “Have to talk” or “Don’t have to talk.”**
- **Partial Validity: In general, it’s OK to talk and OK to walk**
- **Common Error: Ignores your actual BATNA in this situation**
- **Guidelines**
 - **Negotiate as long as the chance of reaching an agreement better than your BATNA and theirs makes it worth your time**
 - **Consider revealing your BATNA when it’s better than they think**
 - **Consider reality testing how well their BATNA satisfies their interests, if you think they are overestimating it**
 - **Use BATNA discussions as an opportunity to learn more about interests and jointly seek options better than your respective BATNAs**

Negotiating on the merits: Commitment

- **Assumption: Negotiation involves trading commitments**
- **Partial Validity: One goal of negotiation is a mutual commitment, if one makes sense**
- **Common Error**
 - Premature commitment limits creativity
 - Since changing circumstances may make negotiated commitments obsolete, building a good working relationship may be as important
- **Guidelines**
 - Commit early to process. Consider a framework agreement
 - Postpone substantive commitments to the end. Clarify that nothing is agreed until everything is agreed
 - Make commitments sufficient, realistic, and operational, and state/record their purpose to facilitate understanding and interpretation during implementation
 - Build in a processes for review, revision, and conflict management

Rules of Thumb



Positional Bargaining

Pros

- Easy to understand
- Simple communication
- Can be quick and efficient
- Very operational
- Requires little preparation
- Universally understood
- Often expected
- Keeps a team in line
- Can be fun
- Always seems like you get something

Cons

- Rewards stubbornness and deception
- Discourage exploration of interests and options
- Promotes arbitrary outcomes
- Takes longer in complex or multiparty situations
- Risks relationship damage and no deal even when agreement makes sense
- Always have to give something up
- Always wondering if you could have gotten more

Best For

Simple transactions; low stakes; market context; one-shot (?) deals; or as a game for fun

Principled (“Circle of Value”) Negotiation

Pros

- Explores interests and promotes efficiency and joint gains
- Benefits from the wisdom of the community (precedent)
- Results can be explained to constituents
- Avoids having to choose between a good relationship and a good deal
- Avoids arbitrary outcomes

Cons

- Risk to relationship from misunderstanding
- May disagree over existence of size of past favors
- Requires crystal clear communication
- Often ignores the merits and sets lousy precedents
- Seldom persuasive to constituents
- Big risk if parties change

Best For

High stakes; where precedent and relationship matter; for important, complex, and/or multiparty problems

Effective Preparation (Beyond Gives, Gets, Bottom Lines, Trades) is a Key Enabler: A 7-Element Checklist for Negotiation Preparation

- **INTERESTS** – What are Ours? Theirs? Others?
- **OPTIONS** – How can we satisfy their and our interests?
- **LEGITIMACY** – What objective standards, criteria, or fair processes can we use to sort through Options?
- **ALTERNATIVES** – How can we satisfy our interests without them? Any ways to improve? How might they satisfy their interests without us? Any ways to weaken?
- **COMMITMENT** – What level of authority do we have? Do we think they have? What level of commitment do we want to have by the end of this upcoming negotiation session?
- **COMMUNICATION** – What process/agenda do we think is best for this upcoming session? What questions do we want to ask? What messages do we want to send?
- **RELATIONSHIP** – What kind of working relationship do we want to build? What do we want to do/avoid in the upcoming session to develop this kind of relationship?

Kissinger (Tries to) Brief Nixon: As You Choose How to Negotiate, Beware of Rewarding Bad Behavior



Nixon and Kissinger

Success Requires a Critical Shift

From To
What do you want?	Why do you want it?
Will you accept/give up?	What are some different possible ways we might resolve this?
How about we just split it?	By what criteria/legitimate process can we evaluate (and defend) the best answer?
Saying, "I understand"	Showing I understand
Thinking my strength comes from knowing I am right, anchoring well, and effectively using threats	Thinking my strength comes from being open to learning and persuasion, being skilled at figuring out their motivations, and being extremely creative



And It Requires Discipline

In the context where we are most tempted – and have the best excuses – to revert to our natural approach to negotiation, we have the greatest need to take a step back, consider our choices, shape the process and act “purposively”.

Extreme Negotiations – Negotiating in High Risk, High Stakes Situations (HBR November 2010)



www.hbr.org

SPOTLIGHT ON LEADERSHIP LESSONS FROM THE MILITARY

What U.S. soldiers in Afghanistan have learned about the art of managing high-risk, high-stakes situations.

Extreme Negotiations

by Jeff Weiss, Aram Donigian,
and Jonathan Hughes

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Implementing Strategies in Extreme Negotiations

Ideas in Practice

HBR.ORG To read the full article, go to hbr.org/2010/11/extreme-negotiations/ar/1.



Implementing Strategies in Extreme Negotiations

A conversation with Jeff Weiss and Jonathan Hughes



In November 2010, Jeff Weiss and Jonathan Hughes, along with Major Aram Donigian, published an article in HBR called “Extreme Negotiations.” It described the temptations we all face when negotiating under duress—for example, acting too quickly or relying too much on coercion—and suggested that the principles of effective negotiation become even more important when the stakes are high and the pressure is on. The authors used examples from military negotiations in Iraq and Afghanistan to illustrate those principles.

We followed up with Weiss and Hughes to understand more about how readers could apply these negotiating principles to their own situations.

 **Jeff Weiss** is an adjunct professor at the U.S. Military Academy at West Point and a partner at [Vantage Partners](#), a Boston-based consultancy specializing in corporate negotiations and relationship management, where he focuses on sales negotiations and strategic alliances. He is also the codirector of the [West Point Negotiation Project](#). **Jonathan Hughes** is a partner at Vantage Partners, specializing in supply-chain management, strategic alliances, and change management.

HBR: In a business context, what do you define as an “extreme” negotiation?

Weiss and Hughes: It’s when the stakes and risks are especially high. Some examples in the corporate world would be resolving a dispute with a joint-venture partner, working with a government that’s decided to nationalize your assets, or negotiating with a Top 10 customer who’s threatening to leave unless you cut prices drastically.

Remind us of what the principles are.

W & H: They’re not so different from strategies you use in other negotiations—but they’re more difficult to remember under pressure, and yet even more important to apply. Understand what’s motivating the other party; come up with a variety of possible solutions and invite critiques; use facts to persuade; demonstrate a commitment to a fair and reasonable outcome; build trust over time; and focus on actively shaping the process of the negotiation.

Please Be in Touch ...

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