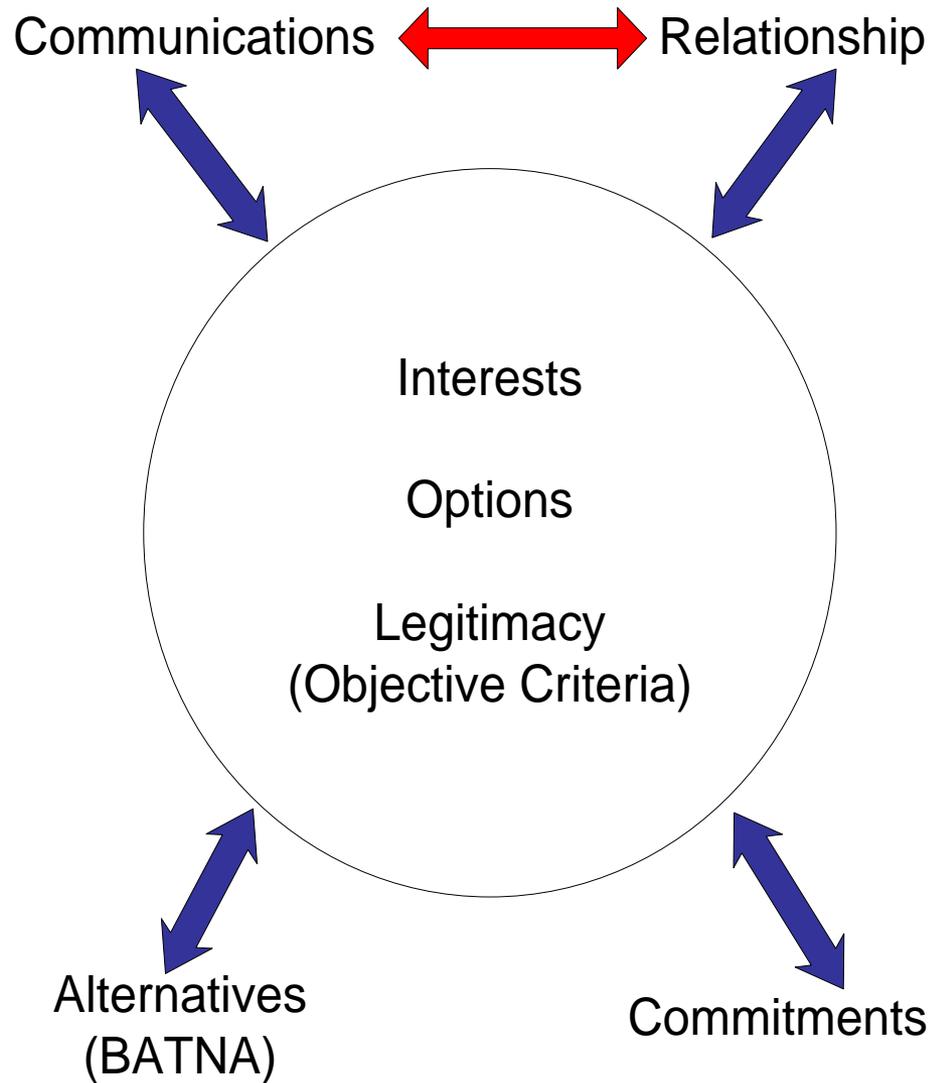

Getting to Yes Model of Negotiation

- Roger Fisher – the Godfather
 - Reason for Writing
 - Published in 1981
 - Translated in numerous languages
 - Offers an alternative mindset for negotiation
 - Made “Win-Win” part of everyday lexicon
-

Getting to Yes Model of Negotiation

- Goal is to be a SMART negotiator who:
 - Looks for available trade-offs that create better deal for both sides
 - Is able to handle distributive issues -- \$\$ -- to obtain fair portion of cooperative surplus
-

Sputnik Diagram



Strategies and Tactics for Integrative Bargaining

- What is the first of the five basic tenet of Getting to Yes?
 1. Separate the People from the problem
What does that mean?



Separate the people from the problem

Importance of building a positive relationship

- Integrative bargaining cannot occur
 - Without some level of trust between the parties
 - If each party is trying to win at the expense of the other
 - Only by working together can parties come up with the best possible solution
-

Separate the people from the problem

Importance of building a positive relationship

- Be willing to reveal your interests and preferences **reciprocally** with the other side
 - Listen carefully to understand opponent's interests and preferences
-

Separate the people from the problem

Importance of efficient/clear communications

- Become a good listener
- Confirm understand with restatements
 - Facts, offers and agreements
- Take care that you are understood correctly

Good relationship and communication essential for integrative bargaining

Strategies and Tactics for Integrative Bargaining

- What is the second of the five basic tenet of Getting to Yes?
 1. Separate the People from the problem
 2. Focus on Interests and not positions
-

Focus on interests not positions

- Position

- What someone demands

- Interests

- The many reasons why someone wants something



Focus on interests not positions

- Underlying interests can be a desire for:
 - Respect, recognition, approval, acceptance, security, safety, power, control, autonomy, trust, understanding, order, privacy, comfort, self-esteem, stability
-

Focus on interests not positions

- Avoid the Fixed Sum Assumption –
 - Gains can only be oppositional
 - A \$ to you mean a \$ less for me
 - Focus on understanding the underlying interests of
 - Your client
 - The other party
-

Strategies and Tactics for Integrative Bargaining

- What is the third of the five basic tenet of Getting to Yes?
 1. Separate the People from the problem
 2. Focus on Interests and not positions
 3. Invent Options for Mutual Gain
-

Lax and Sebenius Article

- Potential gains because of similar or different
 - Interests and preferences
 - Possessions
 - Forecasts of the Future
 - Aversion to Risk
 - Passage of Time
 - Capabilities
 - Access to Resources
-

Capitalizing on Trade-offs

- Probe for similarities and differences
 - Identify opportunities for trade-offs that result in mutual gain
 - Craft options that
 - Capitalize on the parties' varying preferences
 - Add Value for both parties
 - Are indifferent to the gains of the other side so long as they continue to make gains
-

Shared Interests

Capitalizing on shared interests

- E.g., delivery date for Prado Scoot
 - Common interest in delaying delivery for a month
 - Thereby increasing the cooperative surplus
 - Seller willing to accept less because no rental car
 - Buyer willing to pay more because no storage
-

Opposing Interests: Famous Orange Example

- Capitalizing on opposing interests
 - Orange example
 - 50% satisfaction if Mom cuts the orange in $\frac{1}{2}$
 - 100% satisfaction if kids gets entire portion of orange they wanted
-

Invent options for mutual gain

Address Risk Concerns

- **Adverse Selection – Buyers risk of selecting inferior goods**
- **Can be addressed by:**
 - **Due diligence investigation of seller's goods**
 - **Make seller a guarantor of quality**
 - **Via Representations, guarantees and warranties.**



Invent options for mutual gain

Address Risk Concerns

- **Moral Hazard – Seller’s post-deal behavior inconsistent with buyer’s expectations**
 - **Can be addressed with**
 - Reputational considerations
 - Contingent payments
 - Third party evaluation of performance
-

Strategies and Tactics for Integrative Bargaining

- What is the fourth of the five basic tenet of Getting to Yes?
 1. Separate the People from the problem
 2. Focus on Interests and not positions
 3. Invent Options for Mutual Gain
 4. Insist on objective criteria
-

Insist of objective criteria

- Evaluate options based on available objective criteria
 - Market
 - Real Estate Comparables
 - Jury Verdict reports
 - Avoid customary distributive/power tactics
 - Persuade by arguing a particular set of criteria is “objective” -- more the appropriateness standard
 - Final differences can be bridged e.g., by splitting the difference
-

Strategies and Tactics for Integrative Bargaining

- What is the fifth of the five basic tenet of Getting to Yes?
 1. Separate the People from the problem
 2. Focus on Interests and not positions
 3. Invent Options for Mutual Gain
 4. Insist on objective criteria
 5. Know your BATNA
-

Know your BATNA

- Knowing your BATNA is just as important in integrative bargaining
 - Don't commit to an agreement unless it is better than your BATNA (+/- valuation factors)
-

Sputnik Diagram

