

## **Negotiation**

### **Class 3 - Introduction to Strategy**

#### **What is strategy?**

When we talk about strategy in negotiation, we mean the overall *manner* of approaching the transaction, and the *plan* for resolution of the transaction. Strategy describes the broader overview. The particular actions taken in the context of that broader overview are *tactics*. We will discuss both.

#### **Why is strategy important in negotiation?**

Developing and executing the correct strategy is important for at least three key reasons. The proper strategy (1) makes it more likely the negotiating party's interests will be addressed, (2) makes that process more efficient, and (3) helps ensure the relationships between and among the parties are appropriately maintained or otherwise handled.

An aggressive posture in a situation where gentleness would be more appropriate will be counterproductive. And it will make it less likely those parties will do business with one another again in the future. Similarly, a passive posture inappropriately taken will result in the same lack of accomplishment on the part of the negotiating party. The party will either fail to get what it needs from the transaction, or be taken advantage of by other more assertive parties.

#### **What kinds of strategies might a party employ?**

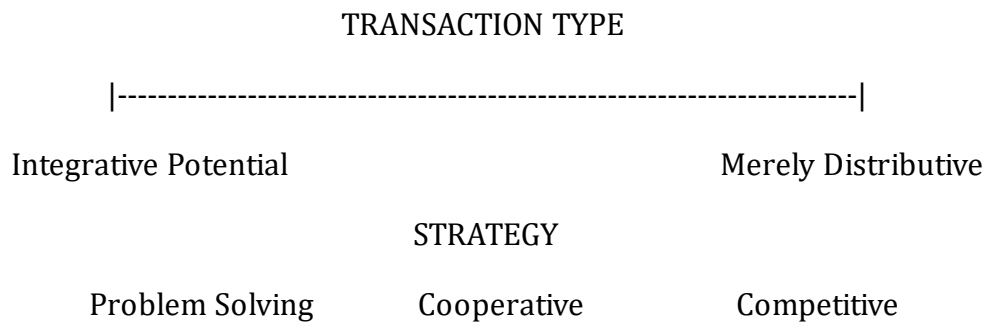
It is helpful to think of strategies falling into one of three categories (though there may be attributes of more than one type used in a particular transaction). These three categories are *competitive*, *cooperative* and *problem-solving*:

- **Competitive Strategies:**
  - The party is at odds with the other party or parties.
  - The party exhibits an aggressive attitude toward the other party or parties.

- The party has an objective to undermine the other party's confidence in the validity of its interests and positions
- Common tactics: threats, high demands, expressions of unwillingness to compromise.
- **Cooperative strategies:**
  - The parties are not necessarily at odds with each other and have certain interests in alignment.
  - They are businesslike, reasonable, polite in their interactions with one another.
  - The parties look to objective and fair standards to guide them in the transaction (e.g. fair market value).
- **Problem-solving strategies:**
  - The parties' interests are completely aligned.
  - There are high amounts of goodwill in the parties' interactions.
  - The parties seek to maximize each others' benefit in the transaction.

**How does one determine the right strategy to use?**

There is a simple rule one can sensibly employ to determine the right strategy to use: Competitive strategies are more effective in transactions that tend to be merely distributive, problem solving strategies are more effective in transactions that tend to have more integrative potential, and cooperative strategies are effective in transactions in between. The spectrum would look like this:



Transactions with *integrative potential* are those where the parties stand to mutually benefit from the transaction. These are called

*integrative* because the solution integrates both parties' interests into the resolution of the transaction. You hear people talk about "win-win" situations - those are transactions with high integrative potential. Few transactions are all the way to the left of the spectrum above. A very high level of integrative potential would exist in a situation where a benefactor wants to donate to a charitable organization. In that transaction, the parties' interests would be completely in line, and a very amenable problem solving approach would be most appropriate. (How are we going to write up this contact by which you donate \$1 Million?)

Many (actually most) transactions fall somewhere in the middle of the spectrum above. For example, in the employer-employee context (assuming the employee is being paid fairly and not otherwise being exploited), there is some integrative potential because the employee gets the job and a source of income, while the employer's business obtains the benefit of the employee's labor. But the interests are not completely aligned. The employee would, if he or she answered honestly, rather not work at all (it's only for the money) and the employer would, to benefit the company's bottom line, rather not expend resources to pay the employee. But neither completely selfless goodwill nor depraved greed carry the day, and the parties work in the middle.

Transactions that are *merely distributive* tend to be those in which the parties are essentially fighting over a limited set of resources, and they want the other side to get the least benefit. The word *distributive* is appropriate because the parties desire the outcome of the transaction (usually an amount of money) to be distributed most in that party's favor. A personal injury case is usually distributive. The injured party wants as much as it can procure to be made whole. The defendant is just trying to avoid liability. The prospect of a future good relationship between the parties is usually of no importance. So there is no need for any sort of cooperation.

So the best strategy to use depends on what kind of transaction in which you find yourself. The more integrative, the more problem solving. The more distributive, the more competitive. Then there is the wide bell curve in the middle, where most negotiations take place.

## **Does one use the same strategy throughout the entire transaction?**

If a negotiator has all the facts at the beginning of the transaction, has appropriately taken them into account and there are no outside factors or new developments that affect the transaction in the course of its negotiation, then it will not be necessary to change strategy during a negotiation. But seldom are all those elements present in a transaction. New facts come to light. A party's interests may change - for example, one entering into a transaction as a prospective purchaser of a business may either run out of money or get a better opportunity. So while developing and faithfully executing the appropriate strategy is critically important, a party must retain the right flexibility to adapt to changed circumstances during the transaction.

Rather than a change in overall strategy, it may be appropriate for a negotiating party to adjust its tactics. During the course of the negotiation, one may find that it is not useful, for example, to provide a lot of information to the other side. (We will talk more about this later in the course in the discussion of information exchange in the negotiation process.) The negotiating party may still find, however, because of the integrative potential of the situation, that a cooperative strategy is still the best way forward. Providing less information would be an adjustment of the tactics used while still furthering a cooperative effort to resolve the transaction.

When the deeper interests have fundamentally changed, a change in strategy may be more appropriate. For example, a party may enter into a transaction where there is a perceived great amount of integrative potential. As the facts emerge, however, there may be an indication that the party with whom the negotiations are taking place has engaged in some form of wrongdoing in the past. In a situation like that, one may switch from a cooperative strategy to more of a competitive approach. There is less integrative potential when one has become engaged in a dispute over a finite set of resources.

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