

# Getting to YES

**Negotiating an agreement without giving in**

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With Bruce Patton, Editor

Second edition by Fisher, Ury and Patton  
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## GETTING TO YES

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### Books by Roger Fisher

International Conflict and Behavioral Science: The Craigville Papers (editor and co-author, 1964)

International Conflict for Beginners (1969)

Dear Israelis, Dear Arabs: A Working Approach to Peace (1972)

International Crises and the Role of Law: Points of Choice (1978)

International Mediation: A Working Guide; Ideas for the Practitioner (with William Ury, 1978)

Improving Compliance with International Law (1981) Getting Together: Building Relationships As We Negotiate (1988)

### Books by William Ury

Beyond the Hotline: How Crisis Control Can Prevent Nuclear War (1985)

Windows of Opportunity: From Cold War to Peaceful Competition in U.S.-Soviet Relations (edited with Graham T. Allison and Bruce J. Allyn, 1989)

Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict (with Jeanne M. Brett and Stephen B. Goldberg, 1988)

Getting Past No: Negotiating with Difficult People (1991)

# Contents

<i>Acknowledgments</i> .....	4
<i>Preface to the Second Edition</i> .....	5
<i>Introduction</i> .....	6
<b>I THE PROBLEM</b> .....	<b>7</b>
1. DON'T BARGAIN OVER POSITIONS .....	7
<b>II THE METHOD</b> .....	<b>13</b>
2. SEPARATE THE PEOPLE FROM THE PROBLEM .....	13
3. FOCUS ON INTERESTS, NOT POSITIONS .....	23
4. INVENT OPTIONS FOR MUTUAL GAIN .....	31
5. INSIST ON USING OBJECTIVE CRITERIA .....	42
<b>III YES, BUT...</b> .....	<b>49</b>
6. WHAT IF THEY ARE MORE POWERFUL? .....	50
7. WHAT IF THEY WON'T PLAY? .....	54
8. WHAT IF THEY USE DIRTY TRICKS? .....	64
<b>IV IN CONCLUSION</b> .....	<b>71</b>
<b>V TEN QUESTIONS PEOPLE ASK</b> .....	<b>72</b>
ABOUT <i>GETTING</i> TO YES .....	72

## Acknowledgments

This book began as a question: What is the best way for people to deal with their differences? For example, what is the best advice one could give a husband and wife getting divorced who want to know how to reach a fair and mutually satisfactory agreement without ending up in a bitter fight? Perhaps more difficult, what advice would you give *one* of them who wanted to do the same thing? Every day, families, neighbors, couples, employees, bosses, businesses, consumers, salesmen, lawyers, and nations face this same dilemma of how to get to yes without going to war. Drawing on our respective backgrounds in international law and anthropology and an extensive collaboration over the years with practitioners, colleagues, and students, we have evolved a practical method for negotiating agreement amicably without giving in.

We have tried out ideas on lawyers, businessmen, government officials, judges, prison wardens, diplomats, insurance representatives, military officers, coal miners, and oil executives. We gratefully acknowledge those who responded with criticism and with suggestions distilled from their experience. We benefited immensely.

In truth, so many people have contributed so extensively to our learning over the years that it is no longer possible to say precisely to whom we are indebted for which ideas in what form. Those who contributed the most understand that footnotes were omitted not because we think every idea original, but rather to keep the text readable when we owe so much to so many.

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Finally, we want to thank Bruce Patton, our friend and colleague, editor and mediator. No one has contributed more to this book. From the very beginning he helped brainstorm and organize the syllogism of the book. He has reorganized almost every chapter and edited every word. If books were movies, this would be known as a Patton Production.

Roger Fisher  
William Ury

## Preface to the Second Edition

In the last ten years negotiation as a field for academic and professional concern has grown dramatically. New theoretical works have been published, case studies have been produced, and empirical research undertaken. Ten years ago almost no professional school offered courses on negotiation; now they are all but universal. Universities are beginning to appoint faculty who specialize in negotiation. Consulting firms now do the same in the corporate world.

Against this changing intellectual landscape, the ideas in *Getting to Yes* have stood up well. They have gained considerable attention and acceptance from a broad audience, and are frequently cited as starting points for other work. Happily, they remain persuasive to the authors as well. Most questions and comments have focused on places where the book has proven ambiguous, or where readers have wanted more specific advice. We have tried to address the most important of these topics in this revision.

Rather than tampering with the text (and asking readers who know it to search for changes), we have chosen to add new material in a separate section at the end of this second edition. The main text remains in full and unchanged from the original, except for updating the figures in examples to keep pace with inflation and rephrasing in a few places to clarify meaning and eliminate sexist language. We hope that our answers to "Ten Questions People Ask About *Getting to YES*" prove helpful and meet some of the interests readers have expressed.

We address questions about (1) the meaning and limits of "principled" negotiation (it represents practical, not moral advice); (2) dealing with someone who seems to be irrational or who has a different value system, outlook, or negotiating style; (3) practical questions, such as where to meet, who should make the first offer, and how to move from inventing options to making commitments; and (4) the role of power in negotiation.

More extensive treatment of some topics will have to await other books. Readers interested in more detail about handling "people issues" in negotiation in ways that tend to establish an effective working relationship might enjoy *Getting Together: Building Relationships as We Negotiate* by Roger Fisher and Scott Brown, also available from Business Books. If dealing with difficult people and situations is more your concern, look for *Getting Past No: Negotiating with Difficult People* by William Ury, published by Business Books. No doubt other books will follow. There is certainly much more to say about power, multilateral negotiations, cross-cultural transactions, personal styles, and many other topics.

Once again we thank Marty Linsky, this time for taking a careful eye and a sharp pencil to our new material. Our special thanks to Doug Stone for his discerning critique, editing, and occasional rewriting of successive drafts of that material. He has an uncanny knack for catching us in an unclear thought or paragraph.

For more than a dozen years, Bruce Patton has worked with us in formulating and explaining all of the ideas in this book. This past year he has pulled the laboring oar in

converting our joint thinking into an agreed text. It is a pleasure to welcome Bruce, editor of the first edition, as a full co-author of this revised edition.

Roger Fisher

William Ury

## Introduction

Like it or not, you are a negotiator. Negotiation is a fact of life. You discuss a raise with your boss. You try to agree with a stranger on a price for his house. Two lawyers try to settle a lawsuit arising from a car accident. A group of oil companies plan a joint venture exploring for offshore oil. A city official meets with union leaders to avert a transit strike. The United States Secretary of State sits down with his Soviet counterpart to seek an agreement limiting nuclear arms. All these are negotiations.

Everyone negotiates something every day. Like Moliere's Monsieur Jourdain, who was delighted to learn that he had been speaking prose all his life, people negotiate even when they don't think of themselves as doing so. A person negotiates with his spouse about where to go for dinner and with his child about when the lights go out. Negotiation is a basic means of getting what you want from others. It is back-and-forth communication designed to reach an agreement when you and the other side have some interests that are shared and others that are opposed.

More and more occasions require negotiation; conflict is a growth industry. Everyone wants to participate in decisions that affect them; fewer and fewer people will accept decisions dictated by someone else. People differ, and they use negotiation to handle their differences. Whether in business, government, or the family, people reach most decisions through negotiation. Even when they go to court, they almost always negotiate a settlement before trial.

Although negotiation takes place every day, it is not easy to do well. Standard strategies for negotiation often leave people dissatisfied, worn out, or alienated — and frequently all three.

People find themselves in a dilemma. They see two ways to negotiate: soft or hard. The soft negotiator wants to avoid personal conflict and so makes concessions readily in order to reach agreement. He wants an amicable resolution; yet he often ends up exploited and feeling bitter. The hard negotiator sees any situation as a contest of wills in which the side that takes the more extreme positions and holds out longer fares better. He wants to win; yet he often ends up producing an equally hard response which exhausts him and his resources and harms his relationship with the other side. Other standard negotiating strategies fall between hard and soft, but each involves an attempted trade-off between getting what you want and getting along with people.

There is a third way to negotiate, a way neither hard nor soft, but rather both hard *and* soft. The method of *principled negotiation* developed at the Harvard Negotiation Project is to decide issues on their merits rather than through a haggling process focused on what each side says it will and won't do. It suggests that you look for mutual gains wherever possible, and that where your interests conflict, you should insist that the result be based on some fair standards independent of the will of either side. The method of principled negotiation is hard on the merits, soft on the people. It employs no tricks ' and no posturing. Principled negotiation shows you how to obtain what you are entitled to and still be decent. It enables you to be fair while protecting you against those who would take advantage of your fairness.

This book is about the method of principled negotiation. The first chapter describes problems that arise in using the standard strategies of positional bargaining. The next four chapters lay out the four principles of the method. The last three chapters answer the questions most commonly asked about the method: What if the other side is more powerful? What if they will not play along? And what if they use dirty tricks?

Principled negotiation can be used by United States diplomats in arms control talks with the Soviet Union, by Wall Street lawyers representing Fortune 500 companies in antitrust cases, and by couples in deciding everything from where to go for vacation to how to divide their

property if they get divorced. Anyone can use this method.

Every negotiation is different, but the basic elements do not change. Principled negotiation can be used whether there is one issue or several; two parties or many; whether there is a prescribed ritual, as in collective bargaining, or an impromptu free-for-all, as in talking with hijackers. The method applies whether the other side is more experienced or less, a hard bargainer or a friendly one. Principled negotiation is an all-purpose strategy. Unlike almost all other strategies, if the other side learns this one, it does not become more difficult to use; it becomes easier. If they read this book, all the better.

## I The Problem

### 1. Don't Bargain Over Positions

Whether a negotiation concerns a contract, a family quarrel, or a peace settlement among nations, people routinely engage in positional bargaining. Each side takes a position, argues for it, and makes concessions to reach a compromise. The classic example of this negotiating minuet is the haggling that takes place between a customer and the proprietor of a secondhand store:

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CUSTOMER	SHOPKEEPER
How much do you want for this brass dish?	That is a beautiful antique, isn't it? I guess I could let it go for \$75.
Oh come on, it's dented. I'll give you \$15.	Really! I might consider a serious offer, but \$15 certainly isn't serious.
Well, I could go to \$20, but I would never pay anything like \$75. Quote me a realistic price.	You drive a hard bargain, young lady. \$60 cash, right now.
\$25.	It cost me a great deal more than that. Make me a <i>serious</i> offer.
\$37.50. That's the highest I will go.	Have you noticed the engraving on that dish? Next year pieces like that will be worth twice what you pay today.

And so it goes, on and on. Perhaps they will reach agreement; perhaps not.

Any method of negotiation may be fairly judged by three criteria: It should produce a wise agreement if agreement is possible. It should be efficient. And it should improve or at least not damage the relationship between the parties. (A wise agreement can be defined as one which meets the legitimate interests of each side to the extent possible, resolves conflicting interests fairly, is durable, and takes community interests into account.)

The most common form of negotiation, illustrated by the above example, depends upon successively taking — and then giving up — a sequence of positions.

Taking positions, as the customer and storekeeper do, serves some useful purposes in a negotiation. It tells the other side what you want; it provides an anchor in an uncertain and pressured situation; and it can eventually produce the terms of an acceptable agreement. But those purposes can be served in other ways. And positional bargaining fails to meet the basic criteria of producing a wise agreement, efficiently and amicably.

#### **Arguing over positions produces unwise agreements**

When negotiators bargain over positions, they tend to lock themselves into those positions. The more you clarify your position and defend it against attack, the more committed you become to it. The more you try to convince the other side of the impossibility of changing your opening

position, the more difficult it becomes to do so. Your ego becomes identified\* with your position. You now have a new interest in "saving face" — in reconciling future action with past positions — making it less and less likely that any agreement will wisely reconcile the parties' original interests.

The danger that positional bargaining will impede a negotiation was well illustrated by the breakdown of the talks under President Kennedy for a comprehensive ban on nuclear testing. A critical question arose: How many on-site inspections per year should the Soviet Union and the United States be permitted to make within the other's territory to investigate suspicious seismic events? The Soviet Union finally agreed to three inspections. The United States insisted on no less than ten. And there the talks broke down — over positions — despite the fact that no one understood whether an "inspection" would involve one person looking around for one day, or a hundred people prying indiscriminately for a month. The parties had made little attempt to design an inspection procedure that would reconcile the United States's interest in verification with the desire of both countries for minimal intrusion.

As more attention is paid to positions, less attention is devoted to meeting the underlying concerns of the parties. Agreement becomes less likely. Any agreement reached may reflect a mechanical splitting of the difference between final positions rather than a solution carefully crafted to meet the legitimate interests of the parties. The result is frequently an agreement less satisfactory to each side than it could have been.

#### **Arguing over positions is inefficient**

The standard method of negotiation may produce either agreement, as with the price of a brass dish, or breakdown, as with the number of on-site inspections. In either event, the process takes a lot of time.

Bargaining over positions creates incentives that stall settlement. In positional bargaining you try to improve the chance that any settlement reached is favorable to you by starting with an extreme position, by stubbornly holding to it, by deceiving the other party as to your true views, and by making small concessions only as necessary to keep the negotiation going. The same is true for the other side. Each of those factors tends to interfere with reaching a settlement promptly. The more extreme the opening positions and the smaller the concessions, the more time and effort it will take to discover whether or not agreement is possible.

The standard minuet also requires a large number of individual decisions as each negotiator decides what to offer, what to reject, and how much of a concession to make. Decision-making is difficult and time-consuming at best. Where each decision not only involves yielding to the other side but will likely produce pressure to yield further, a negotiator has little incentive to move quickly. Dragging one's feet, threatening to walk out, stonewalling, and other such tactics become commonplace. They all increase the time and costs of reaching agreement as well as the risk that no agreement will be reached at all.

#### **Arguing over positions endangers an ongoing relationship**

Positional bargaining becomes a contest of will. Each negotiator asserts what he will and won't do. The task of jointly devising an acceptable solution tends to become a battle. Each side tries through sheer will power to force the other to change its position. "I'm not going to give in. If you want to go to the movies with me, it's *The Maltese Falcon* or nothing." Anger and resentment often result as one side sees itself bending to the rigid will of the other while its own legitimate concerns go unaddressed. Positional bargaining thus strains and sometimes shatters the relationship between the parties. Commercial enterprises that have been doing business together for years may part company. Neighbors may stop speaking to each other. Bitter feelings generated by one such encounter may last a lifetime.

#### **When there are many parties, positional bargaining is even worse**

Although it is convenient to discuss negotiation in terms of two persons, you and "the other

side," in fact, almost every negotiation involves more than two persons. Several different parties may sit at the table, or each side may have constituents, higher-ups, boards of directors, or committees with whom they must deal. The more people involved in a negotiation, the more serious the drawbacks to positional bargaining.

If some 150 countries are negotiating, as in various United Nations conferences, positional bargaining is next to impossible. It may take all to say yes, but only one to say no. Reciprocal concessions are difficult: to whom do you make a concession? Yet even thousands of bilateral deals would still fall short of a multilateral agreement. In such situations, positional bargaining leads to the formation of coalitions among parties whose shared interests are often more symbolic than substantive. At the United Nations, such coalitions produce negotiations between "the" North and "the" South, or between "the" East and "the" West. Because there are many members in a group, it becomes more difficult to develop a common position. What is worse, once they have painfully developed and agreed upon a position, it becomes much harder to change it. Altering a position proves equally difficult when additional participants are higher authorities who, while absent from the table, must nevertheless give their approval.

### **Being nice is no answer**

Many people recognize the high costs of hard positional bargaining, particularly on the parties and their relationship. They hope to avoid them by following a more gentle style of negotiation. Instead of seeing the other side as adversaries, they prefer to see them as friends. Rather than emphasizing a goal of victory, they emphasize the necessity of reaching agreement. In a soft negotiating game the standard moves are to make offers and concessions, to trust the other side, to be friendly, and to yield as necessary to avoid confrontation.

The following table illustrates two styles of positional bargaining, soft and hard. Most people see their choice of negotiating strategies as between these two styles. Looking at the table as presenting a choice, should you be a soft or a hard positional bargainer? Or should you perhaps follow a strategy somewhere in between?

The soft negotiating game emphasizes the importance of building and maintaining a relationship. Within families and among friends much negotiation takes place in this way. The process tends to be efficient, at least to the extent of producing results quickly. As each party competes with the other in being more generous and more forthcoming, an agreement becomes highly likely. But it may not be a wise one. The results may not be as tragic as in the O. Henry story about an impoverished couple in which the loving wife sells her hair in order to buy a handsome chain for her husband's watch, and the unknowing husband sells his watch in order to buy beautiful combs for his wife's hair. However, any negotiation primarily concerned with the relationship runs the risk of producing a sloppy agreement.

### **PROBLEM**

#### **Positional Bargaining: Which Game Should You Play?**

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#### **SOFT**

Participants are friends.

The goal is agreement.

Make concessions to cultivate the relationship.

Be soft on the people and the problem.

Trust others.

Change your position easily.

Make threats.

#### **HARD**

Participants are adversaries.

The goal is victory.

Demand concessions as a condition of the relationship.

Be hard on the problem and the people.

Distrust others.

Dig in to your position.

Make offers.

Disclose your bottom line.	Mislead as to your bottom line.
Accept one-sided losses to reach agreement.	Demand one-sided gains as the price of agreement.
Search for the single answer: the one <i>they</i> will accept.	Search for the single answer: the one <i>you</i> will accept.
Insist on agreement.	Insist on your position.
Try to avoid a contest of will.	Try to win a contest of will.
Yield to pressure	Apply pressure

More seriously, pursuing a soft and friendly form of positional bargaining makes you vulnerable to someone who plays a hard game of positional bargaining. In positional bargaining, a hard game dominates a soft one. If the hard bargainer insists on concessions and makes threats while the soft bargainer yields in order to avoid confrontation and insists on agreement, the negotiating game is biased in favor of the hard player. The process will produce an agreement, although it may not be a wise one. It will certainly be more favorable to the hard positional bargainer than to the soft one. If your response to sustained, hard positional bargaining is soft positional bargaining, you will probably lose your shirt.

### **There is an alternative**

If you do not like the choice between hard and soft positional bargaining, you can change the game.

The game of negotiation takes place at two levels. At one level, negotiation addresses the substance; at another, it focuses— usually implicitly — on the procedure for dealing with the substance. The first negotiation may concern your salary, the terms of a lease, or a price to be paid. The second negotiation concerns how you will negotiate the substantive question: by soft positional bargaining, by hard positional bargaining, or by some other method. This second negotiation is a game about a game — a "meta-game." Each move you make within a negotiation is not only a move that deals with rent, salary, or other substantive questions; it also helps structure the rules of the game you are playing. Your move may serve to keep the negotiations within an ongoing mode, or it may constitute a game-changing move.

This second negotiation by and large escapes notice because it seems to occur without conscious decision. Only when dealing with someone from another country, particularly someone with a markedly different cultural background, are you likely to see the necessity of establishing some accepted process for the substantive negotiations. But whether consciously or not, you are negotiating procedural rules with every move you make, even if those moves appear exclusively concerned with substance.

The answer to the question of whether to use soft positional bargaining or hard is "neither." Change the game. At the Harvard Negotiation Project we have been developing an alternative to positional bargaining: a method of negotiation explicitly designed to produce wise outcomes efficiently and amicably. This method, called *principled negotiation* or *negotiation on the merits*, can be boiled down to four basic points,

These four points define a straightforward method of negotiation that can be used under almost any circumstance. Each point deals with a basic element of negotiation, and suggests what you should do about it.

- People: Separate the people from the problem.
- Interests: Focus on interests, not positions.
- Options: Generate a variety of possibilities before deciding what to do.