

ENTERPRISE

Creativity can help negotiation



Negotiation strategies

■ **Raphael E. Lapin**

One of the toughest international boundary disputes was one that occurred between Ecuador and Peru involving a piece of land called Tiwintza. And it holds some valuable lessons for all negotiators.

That South American dispute lasted 50 years during which time many battles over this piece of land ensued.

Tiwintza was not particularly strategic, nor did it have abundant resources, but it was a territory that both sides had claimed for centuries. By this time, it had become a symbol of power between the two countries with neither willing to cede moral or legal authority. Another military battle over this dispute was imminent.

On Oct. 26, 1998, 10 weeks into negotiations, President Jamil Mahuad of Ecuador and President Alberto Fujimori of Peru reached an amicable agreement that satisfied all sides.

The secret to this successful negotiation was the ability of both leaders to jointly approach the problem creatively. The solution was reached by making a distinction between sovereign rights and property rights. It was agreed that Peru would retain sovereign rights while Ecuador would own property rights much the same as any government can own property in another country. Neither leader had to back down. The government of Peru said to their people "Tiwintza is part of our sovereign territory" while the government of Ecuador told their people "we own Tiwintza."

In any negotiation, when true underlying needs have been uncovered, it is crucial to engage the other party in collaboratively searching for creative options that will drive mutual gains. Rather than to try to narrow the gap between each party's positions (which often leads to compromise or impasse) attempt to broaden the range of possible options. The purpose of this phase of the negotiation is to generate a menu of potential solutions from which we can then select the best, rather than accepting the first one that comes to mind. By using this approach in a negotiation, the chances of reaching an optimal and mutually agreeable solution are greatly enhanced. In addition, it also allows agreement and commitment to build incrementally rather than either side feeling that they are being pressured and rushed into commitment.

Here are some tips to help manage the creative option generating phase of the negotiation:

- **Separate the inventing from deciding.**

In encouraging creative ideas, it is important that participants are not concerned that their idea will be judged, criticized or deemed stupid or unrealistic. This will inhibit them from presenting other ideas, some of which may have more potential. To foster an environment that is conducive for creative ideas, it should be made explicit that the purpose of this phase of the negotiation is to invent and generate as many ideas as possible without judging or criticizing. It should also be agreed upon that even wild and unrealistic ideas are acceptable because sometimes those can trigger more realistic ideas that otherwise may not have occurred.

- **No commitments.**

Another real concern that parties may have is that if they present an idea as an option, that idea will be construed as a commitment and they will be held to it. This too will repress a free flow of ideas. It therefore needs to be made clear that these are only possible options that

either side may or may not be willing to talk about further, but these are not commitments. This allows for a safe environment to explore a wide range of possible ideas without any commitments.

- **Record ideas in full view.**

As the ideas are being presented, it is helpful to record them in full view on a flip chart or whiteboard. As participants see the ideas on the chart, it stimulates their thinking and they are able to think of more ideas. This also helps to objectify the problem as separate from the personalities and sets the tone for more collaborative problem solving.

- **Evaluating.**

After an exhaustive list of options has been captured, the evaluation process can begin. The parties should identify which are the options that they all agree have potential and which they are willing to talk about further. Those options should then be further cultivated, developed and refined. The framework agreement will emerge from these developed options.

This was the process used by President Mahuad and President Fujimori in the Tiwintza negotiations and which allowed them to reach the creative and mutually satisfying agreement that they did. (I know this, you see, because my mentor at Harvard, Roger Fisher was advising President Mahuad in these negotiations.)

You should also use this approach in your business negotiations, both internal and external, and it will allow you too to reach optimal agreements which all parties can find fair and satisfying.

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