Four Common Negotiation Errors and How to Avoid Them

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Even experienced negotiators make mistakes. Relatively simple negotiation strategies—and equally simple, yet catastrophic errors—have dramatically altered outcomes for companies, countries, and military commanders. This article taps Napoleon Bonaparte, Sony Corporation, and the Hotel Rwanda to vividly illustrate four common negotiation errors—relating to preparation, commitment, stakeholder analysis, and issue arbitrage—and suggests ways to avoid them.

Preparation

People, as everyone knows, behave in subjective and unpredictable ways and can sometimes act ignorantly or irrationally. Consequently, negotiators often incorrectly assume that negotiation is an irrational process not amenable to preparation, planning, or analysis. This assumption is a serious mistake that can lead, in turn, to other errors. The reality is that despite the sometimes irrational behavior of the players, negotiation has a recognizable structure well-suited to careful preparation (Watkins, 1999). Careful preparation is widely recognized in the negotiation literature as a habit of skilled negotiators (Shell, 2006). When used effectively, this structure can significantly reduce the frequency and gravity of errors and increase the value of negotiated
outcomes for all parties. In fact, payoffs are typically maximized when all parties know the negotiation process and are well-briefed on the specific issues at hand.

Effective preparation requires assessment of the interests, goals, BATNAs (best alternatives to negotiated agreement), and reservation values of the parties (Raiffa, Richardson, & Metcalfe, 2002; Shell, 2006). In short, preparation for negotiation requires thorough investigation of the factual milieu in which the parties find themselves. Unfortunately, negotiators too often short-change preparatory investigation. This concept is illustrated by my experience in coaching a corporate executive (we'll call him “Alan”) through a particularly challenging negotiation involving a strategic product-supply alliance which he initially saw as a “dismal failure.”

About a year before Alan approached me, he had negotiated a strategic alliance between his firm (a distributor of eye-care products) and a publicly-traded manufacturer. The alliance was announced with great fanfare, setting high expectations for both companies. After signing the deal, however, the manufacturer missed product delivery deadlines by months and, thereafter, delivered product of such poor quality and in such small quantities that Alan and his company decided to get out of the deal. When I first heard from Alan, in mid-April, he thought he had done a thorough job of preparing a detailed strategic negotiation document. His optimistic objectives for the negotiation at that point were, well, not so optimistic. He was aiming to get a full refund from the manufacturer, circumvent costly litigation, and avoid a “black mark” on his employment record for having negotiated the boondoggle in the first place. I wondered if more value might not be lurking somewhere.

After reading through Alan's plan, it seemed clear to me that he had overlooked key external sources of information. A few minutes of research into public sources revealed that the counterparty manufacturer had been suffering financial problems, was in the midst of a public bond issue, and had touted its strategic alliance with Alan's company to increase the perceived value of the bonds in the eyes of
investors. This information completely changed Alan's perception of his leverage in the situation, dramatically improving his outlook.

Shortly thereafter, near the end of April, as the manufacturer continued dragging its feet in reaching a settlement, Alan told his VP-level negotiating counterpart that Alan's attorneys would deliver a letter terminating the strategic alliance if no settlement were reached by May 10. The next morning, the manufacturer's CEO left Alan a voicemail saying that a termination letter at that point in time would cause "all hell to break loose." The VP suddenly became much more responsive and, by May 12, the companies had signed a final settlement restructuring their alliance. In the settlement, the manufacturer made such generous concessions to avoid the termination letter that Alan was seen by his supervisors and co-workers as a negotiating superstar. Thorough preparation—which often involves more research, data-mining, and analysis than first appears—almost invariably adds significant value to a serious negotiation. Preparation requires time, commitment, and the willingness to sift through the facts to discover what really matters to a negotiating counterparty.

Commitment

In negotiation settings, commitment-related errors come in three primary varieties. First, a negotiator may lack internal commitment to his or her objectives or fail to adequately communicate that commitment to others. Either of these may lead allies or opponents to behave in ways that counter the negotiator's immediate aims or damage the ongoing relationship. Second, a negotiator may fail to accurately assess a counterparty's commitment to the counterparty's goals. This assessment failure can lead to garden-variety missed opportunities or catastrophic missteps. A third common error is failure to obtain counterparty commitment to follow through with a perceived agreement. This error typically occurs after much of the negotiating is done and can lead a negotiator to think she has a deal when, in fact, she does not.
Sony Corporation's negotiations over US sales of its first-ever transistor radio offer a counter-example of commitment error one and an example of commitment error two. Napoleon Bonaparte's 1812 invasion of Russia vividly illustrates errors two and three while counter-illustrating error one.

In 1955, Sony founder Akio Morita went to New York in an effort to find US distributors for Sony's new, small transistor radio. Most potential distributors turned him down, saying the small radio was a crazy idea that would never catch on. Bulova, however, saw it differently, offering to buy one hundred thousand units per year from Sony. At $29.95 per radio, the Bulova offer was worth a multiple of Sony's entire market capitalization and ten times Sony's manufacturing capacity at the time. Morita was stunned by the size of the offer but taken aback by Bulova's insistence that the radios should carry the Bulova brand, not Sony.

When Morita conveyed the essence of the offer to Tokyo, Sony's head office said, "Take the order." After mulling it over, Morita rejected the Bulova offer (and Tokyo's advice) because of his commitment to develop Sony as an international brand. His Bulova negotiating counterpart first thought Morita's rejection was a joke and then tried to cajole him into changing his mind because "nobody has ever heard of [Sony]" (Morita, 1986). Morita's response displayed solid commitment to and focus on his international-branding goal: "Fifty years ago, your brand name must have been just as unknown as our name is today. I am here with a new product, and I am now taking the first step for the next fifty years of my company. Fifty years from now I promise you that our name will be just as famous as your company name is today" (Morita, 1986).

Details of the conversations between Morita and Bulova are not publicly available, but we may speculate that Bulova's surprise at Morita's "no" resulted in part from Bulova's failure to become sufficiently knowledgeable about Sony's and Morita's objectives, interests, and attitudes. Fifty-five years on, Sony's global brand and market
capitalization of nearly $20 billion dwarf Bulova’s. Perhaps Sony could have achieved similar results while taking the Bulova order. However, the fact is that Sony has thrived without it, confirming Morita’s gutsy call to say “no” to Bulova. On the other hand, Bulova’s failure to appreciate the strength of Morita’s commitment and consequent failure to foster a strategic relationship with Sony in its infancy was a strategic error.

Long before Akio Morita was born, on June 24, 1812, Napoleon Bonaparte crossed the River Neman, launching his five hundred thousand-strong Grand Armee into Russia. His objective was to overwhelm the Russian armies in a single, decisive clash. In this goal, Napoleon would be repeatedly frustrated. Over the ensuing three months, Napoleon was drawn deeper and deeper into Russia by Tsar Alexander’s disciplined rear-guard action. This eventually ended in September, at the gates of Moscow. There, Napoleon assumed that capturing Moscow would demoralize the Russians and thereby force Alexander to sign a favorable peace (Lieven, 2009). In making this assumption, he misjudged the commitment of Alexander, his armies and the Russian people.

In reality, the Russians were so bitterly opposed to Napoleonic rule and so deeply incensed by his invasion that they were prepared to fight to the death even if that meant giving up Moscow (Lieven, 2009). The intensity of the Russian commitment is captured by Alexander’s impassioned response upon receiving report of Moscow’s surrender and destruction by fire:

I will make use of every last resource of my empire; it possesses even more than my enemies yet think. But even if Divine Providence decrees that my dynasty should cease to reign on the throne of my ancestors, then after having exhausted all of the means in my power I will grow my beard down to [my chest] and will go off and eat potatoes with the very last of my peasants rather than sign a peace which would shame my fatherland and