Effective negotiation – the Harvard Project

Alan Sharp, Managing Director of Coverdale Scanas – the Coverdale Organisation Scandinavia ApS, Denmark – discusses a most useful link between that company and Harvard Law School.

Being able to reach sound and lasting agreements without giving in to the other party, even if he is hard and aggressive, is a necessity for success in any field. The skills involved are not easy to acquire and cannot be taught, yet like all skills they can be developed with practice. This conference, to enable participants to do so, has been developed jointly with the staff of the Harvard Negotiation Project and is updated regularly with the latest results of wide-ranging research at that project. It provides theory in an understandable form, coupled with intensive yet enjoyable practice.

The conference is tailored for, and has been found very successful internationally by, directors and managers from industry and business, by officials from international agencies and from national and local government, and by members of the legal and accountancy professions.

Aims

The overall aim of this conference is to enhance the ability of participants to negotiate in any situations where they need to influence the decisions of others. More specifically it sets out to:

- assist participants to assess the strengths and weaknesses of their existing approaches
- increase participants’ effectiveness in preparing for negotiations
- provide a clear and practical framework which participants can use to guide their negotiations in future.

The conference method includes some lectures and demonstrations, but in particular concentrates on ensuring ample opportunity for practice in preparing and carrying out simulations of actual negotiations both as individuals and in teams. The conference covers:

- The main elements of effective negotiation
- Different styles and systems of negotiating
- Importance and nature of preparation
- Distinguishing issues of perception, communication, emotion and values from those of substance
- Identifying underlying interests
- Seeking options for mutual gain
- Importance of objective standards
- Protecting oneself against powerful and aggressive opponents
- Negotiating on behalf of others
- Team negotiations
- Developing one’s own framework, strategies, and tactics.

Who should attend?

Similar conferences have been run in the USA, Denmark, Germany, Switzerland and New Zealand. In-house courses have been conducted for, among others, the Asian Development Bank, New Zealand Development Finance Corporation, Saudi International Bank, Credit Suisse, and Morgan Guaranty. Participants on open courses have included managers from a wide range of organisations – industry, business, international agencies including the International Monetary Fund, local and national government, education.

The Harvard Negotiation Project

This is a research project created in 1979 at Harvard University, and concerned with improving the theory and practice of negotiation. Its chief activities focus on developing theory and applying it to real cases; generating written material suitable to practitioners; training people to understand the process of negotiation; and use of negotiation techniques to resolve conflicts. It develops programmes for professionals, including lawyers, businessmen, diplomats, journalists, government officials, union leaders, service officers. A current major focus is on US-Soviet negotiations and international relationship. Three conferences with Soviet negotiation experts have been held.

In April 1983 the Project became part of an overall Program on Negotiation based at Harvard Law School. This is a collaborative effort among faculty members, graduate students and full-time administrative staff from a range of disciplines and professional schools at Harvard University, MIT, Tufts University and other Boston area schools.

Professor Roger Fisher, Samuel Williston Professor of Law at Harvard Law School, is Director of the Harvard Negotiation Project and Chairman of the Steering Committee for the Program.

Advocates, negotiators, or both?

A prominent trade union leader remarked that one continuing difficulty with the dispute between the NCB and the NUM was that there were “three advocates and no negotiators”. Obviously there have been other underlying issues in that dispute, but the observation does raise such interesting questions as:

- what constitutes effective negotiation?
- how does it differ from advocacy?
- how can effective negotiators be trained?

These are far-reaching questions. They have relevance to US-Soviet nuclear negotiations, and therefore have some bearing on the continued existence of the human race. When one considers major industrial disputes, like that in the coal industry, they have significance to the economic well-being of the country; at the individual level they are of interest to most of us when trying to ensure we get a fair deal for ourselves or those we represent.

In discussing these and related questions this article draws substantially on recent and continuing research at the Harvard Negotiation Project, and in particular on exchanges of ideas with Professor Roger Fisher and Bruce Patton, its Director and Associate Director. In addition some parts of the article owe much to the comments and suggestions of Bernard Babington Smith, formerly Senior Lecturer in Experimental Psychology at Oxford University.
What is negotiation and why do we negotiate?
Not all transactions between people involve negotiation. If I purchase an item at the advertised price, or if I enter into a free exchange of information or ideas with another person, that transaction is obviously not a negotiation. However, as soon as I attempt to seek some improvement or variation in its terms — e.g., by seeking a discount off a purchase or some payment for my ideas — then negotiation offers one way forward.

In some instances there may be other ways to achieve what I require without negotiating. I may be able to take some unilateral action — self-help — by purchasing an item from another supplier who is advertising something similar at a lower price. However if such alternatives are not open to me and I therefore need to influence another party to choose to modify his terms to meet my needs, then negotiation is involved.

Thus negotiation is a transaction between two or more people, where one or more seeks to secure some variation or improvement in terms by influencing the choice of others. We negotiate thus so that they do something we would like then to do, or stop doing something we don’t want them to do.

“Closed” and “Open” approaches
At first sight the main, if not the sole, objective for a negotiator is to secure as good an outcome as possible for himself, his clients, his organisation. Too frequently however very little thought is given to what actually constitutes a “good” outcome; as a result people tend to adopt what may be described as “closed” approaches to negotiation. Many years ago Bernard Babington Smith drew attention to the fact that much conventional education involved the solving of “problems” where the answers were to be obtained from the available data. He observed that this tended to cause people to want to deal with every issue as if it were a problem which had a solution; in other words they wanted to treat everything as being closed, with a clear precise end-point. However life in general is much less clear, and we are all faced commonly with situations where we do not know whether a precise solution exists but where we do have a need to get something done. Therefore we need an approach which will help us to work through such unclear or “open” situations to get things done, not one designed primarily to solve “closed” problems. It is for this reason that Coverdale Training, which Bernard Babington Smith helped to originate, focuses on “getting things done” and not on “solving problems”.

A closed approach to negotiating is likely to lead a negotiator to specify the clear end-point he wants to achieve without reference to the other party’s interests, and to do everything he can to get there. However, situations which involve negotiation require someone else to choose to do something. They are therefore likely to be more “open” than “closed” in nature, since it is not easy to obtain all the information available to the other party nor to predict how another will behave. Thus it is likely to require a more “open” approach where a negotiator attempts to clarify the underlying interests, concerns and aims of both parties, to check and share these with the other party, to try to take account of the relevant facts, ideas, opinions available to both parties, to share these where it is not damaging to his or his client’s interests to do so, and to explore options which will be of some benefit to both parties.

Difficulties of closed approaches
One underlying difficulty for anyone adopting a rather closed approach to negotiating is the tendency to see every situation as win/lose or zero/sum. As Howard Raiffa, among others, has pointed out:

“We really are not a zero/sum society — it is not true that what one gains another must necessarily lose. The trouble is that often we act as if this were the case.”

This tendency leads to a negotiator measuring his success by the number and size of concessions he extracts from the other party as compared with those he concedes. It also of course leads to claims of reasonableness based on the number of moves made from one’s initial position — not of itself a very sound argument. It leads to games of “chicken” or “sink the lifeboat”, where both sides display a tendency to prefer a “lose/lose” outcome rather than to move from a strongly-held and publicly advocated position. The Plan for Coal must be applied to the letter until re-negotiated; the NCB must have the right to close uneconomic pits. In such circumstances a point may be reached where both sides risk losses which they cannot recover, and no further pain they can inflict on each other makes any difference.

What is a good outcome?
Adopting an open approach to negotiating involves accepting that its main objective is not simply to win, but to arrive at a “good” outcome. What are some important criteria of a good outcome?

• It satisfies the underlying interests rather than merely meeting the positions of the parties. For any negotiated settlement to be satisfactory it must be in line with at least some of the underlying interests, concerns and needs of all parties as they perceive them. Positions taken up by two parties may not appear compatible. Rarely is it impossible to find a way forward which is in line with the true interests of the parties.

• It must be better than any alternative available to either party that can be obtained without negotiating. If I can achieve an outcome more in line with my interests, or those of my clients or my constituents, by means other than negotiating, why should I spend time in negotiating? Similarly an outcome must be better than that which the other party can obtain by other means.

• The outcome must appear fair to all parties, as judged by some criteria accepted as relevant by the parties involved. An outcome cannot be good if either party believes it has no basis of fairness.

• It must not leave substantial possible benefits on the table. Too often a concern to protect one’s own position leads to a reluctance to explore to mutual benefit other options for increasing the size of the cake to be shared.

• There must be a clear closure, a positive commitment to take some action, to implement something — or to stop doing something. An outcome to a negotiation cannot be regarded as good unless some forward progress is made, unless the parties can see that there is a better alternative available which they will take than can be achieved by continuing to negotiate.

• The outcome should have been reached efficiently, in that the process of negotiation should have been effective. Sound procedures should have been used, and the personal interaction between the parties should have been handled skilfully. It is not just what is said or done, but how it is said or done, that has a bearing on the efficient progress of negotiations. Issues to be managed include...
those of communication and understanding, of emotion and perception. It needs to be kept in mind that it is people’s perception, not the objective reality, of a situation — whatever that may be — that is relevant.2

Finally not only must the outcome itself meet certain standards, but it also should have been reached through standards of behaviour that improve, or at least do not worsen, the relationship between the parties. Bernard Babington Smith has suggested that one criterion for any successful transaction is that it should leave both parties willing to do business again in the future. There may be occasions where this seems unimportant, in that one has no desire or likelihood of doing business with a particular party again. However these tend to be few; and in any event, as Fisher points out, the way you deal with one person may very well colour your reputation when you come to deal with someone else. It seems clear, too, that the cultivation of a sound relationship improves the ability of both parties to obtain outcomes satisfactory to each.3

Does effective advocacy equal effective negotiation?

Obviously the trade union leader quoted at the start of this article did not think so. Certainly it is true that the word advocacy conjures up a picture of someone who concentrates on pleading his own side’s case, emphasising its strong points while attacking the weak points of the other side. It does therefore suggest a closed rather than open approach to negotiating. However it is by no means clear that this need, or should, be so.

Roger Fisher has suggested that you are not ready to negotiate until you can plead the other side’s case better than he can. Similarly an effective advocate will be as well briefed on the other side’s case as is possible. The difference is less between advocacy and negotiation, than between open and closed approaches to either. If the purpose of dealing with some issue is to arrive at a good outcome as judged by the parameters above, this is more likely to be achieved by an open approach. The key lies in successful managing of the elements briefly described. Training in being able to do so will improve one’s ability as an advocate, as well as a negotiator.

How can people be helped to reach a better outcome?

In addressing this question, the Harvard Negotiation Project tries to develop and disseminate improved methods of negotiation and mediation. In working to produce a coherent and useful general theory and framework, the Project staff draw on experience and ideas from a wide range of different disciplines and test them on real issues. To help people become aware of, and understand, such ideas as those contained in this article and to practise their application, training courses have been developed in conjunction with the Project staff which are being run by the staff and their associates. These courses, which have already been run successfully in the USA, UK, New Zealand, Germany, Holland, Denmark and Switzerland, provide what seem to be the essentials in helping people to improve their effectiveness as negotiators. These essentials are:

- the opportunity for planned, guided and purposeful practice4
- the provision of a sound framework to which individuals can relate their future experience and learning, and to guide whatever strategy and tactics they develop for themselves.

Conclusion

This article has contained one or two passing references to the dispute in the Coal Mining industry, as yet unresolved at the time of writing. In this particular case it may well be of course that there has not been present the real will to search for a joint way forward, that neither party was genuinely convinced that there was a negotiated settlement possible that was better than the other alternatives available to them for meeting their own interests. It is hard to believe that the majority of the constituents on either side shared that view. Fortunately most negotiations in which we are directly involved do not present quite the same level of difficulty; and greater skill in negotiating, not just the will to do so, is our main need.

References

4. As Gary Player is reported as saying to a reporter after a “lucky” round (Daily Telegraph 23 March 1971): The more I practise the luckier I get. Also quoted in McCormack What They Don’t Teach You at Harvard Business School. Collins 1984.

from page 29

such as emotional problems, mental illness, drug abuse, or alcoholism with which they are not trained to deal. They then call in another appropriate expert to help out. But they have used their problem solving skills to assure that nothing under their control is responsible for the problem.

Self assessment

The next time you feel frustrated, angry, or dismayed because of a problem other people have created, you might ask yourself some of the following questions:

- What is the real problem? Is my description crisp and clear, stating what the others have done or failed to do, or is it vague and general? Am I using emotionally loaded words, or value-free nouns and verbs?
- What is my analysis of why they acted that way? Am I stopping to analyse at all, or am I just placing blame? Is my analysis one of fact, focusing on what led up to the problem and what happened after it occurred? Am I using the science of human behaviour to guide my analysis, or just guessing and speculating? Is my analysis leading to a set of practical steps to resolve the issue?
- What method of problem resolution will I use? Does this question even make sense to me? What are the possible actions I could take? Has my problem analysis led me to choose the best action of all those possible? How will I know if my method of problem resolution has really worked?

Managers who ask questions such as these will either be encouraged by the answers, or spurred on to gather further knowledge and build better people problem solving skills so that they can truly manage for excellence.

*References