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## UNIT 11 NEGOTIATION: CONCEPT, PROCESS AND APPROACHES\*

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### Structure

- 11.0 Objectives
- 11.1 Introduction
- 11.2 Negotiation, Mediation and Arbitration
- 11.3 Batna and Zopa
- 11.4 The Process of Negotiation
- 11.5 Different Approaches to Negotiation
- 11.6 Some Common Tactics
- 11.7 Conclusion
- 11.8 Glossary
- 11.9 References
- 11.10 Answers to Check Your Progress Exercises

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### 11.0 OBJECTIVES

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After reading this Unit, you should be able to:

- Understand the concept of negotiation;
- Ascertain the BATNA and ZOPA of a negotiation;
- Understand the different steps in the negotiation process; and
- Understand the difference between traditional and modern approaches to negotiation.

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### 11.1 INTRODUCTION

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Negotiation is a discussion the objective of which is to reach an agreement. Normally the discussion happens between people who have different aims and interests. Formal negotiations are usually carried out in the business context or in politics, but informal negotiations can happen anywhere, anytime, between anyone. For example, negotiations can happen in sales and legal proceedings, but also in cases like marriage, divorce etc. And then there are people who have made negotiation their profession: hostage negotiators, peace negotiators etc.

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### 11.2 NEGOTIATION, MEDIATION AND ARBITRATION

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Negotiation is the process of discussing something with someone in order to resolve differences, to protect one's self-interests or to create win-win situations for all the stakeholders. When a neutral third party assists the negotiating parties

to fulfil the objectives of a negotiation, it becomes mediation. In the case of arbitration, the decision will be made by the third party and the other parties are expected to accept the decision.

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### **11.3 BATNA AND ZOPA**

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The term BATNA (Best Alternative to Negotiated Agreement) was coined by Roger Fisher and William Ury (1991) who first used it in their bestseller, *Getting to Yes: Negotiating Without Giving In*. The negotiator negotiates to get a result that is better than what he can get without negotiating. If there are a range of outcomes that are possible without a negotiation, one of them should be chosen as the best among them. It is the best alternative to the negotiated agreement and is called the BATNA for the negotiation in question. Suppose you are negotiating with a potential buyer the price of a house that you want to sell. You have been offered INR 70 lakh by the other party to the negotiation, whereas your hope is that you will be able to realise INR 80 lakh for the house. If you already have an offer from someone else to buy your house for INR 75 lakh, you have the option to sell it to him if the negotiation fails. Thus selling the house to that third party for INR 75 lakh is your BATNA. Only if you are offered anything above your BATNA (INR 75 lakh) during the negotiation, it is beneficial for you. If it is less than your BATNA, you should not concede, since you can walk away from the negotiation and can still sell the house for INR 75 lakh to the other party.

Now imagine that the opposite side in the negotiation (the party who wants to buy your house) has the option to buy a similar house in the same locality for INR 78 lakh. Buying that house for INR 78 lakh is his BATNA. Only if you offer your house to him at a price that is less than INR 78 lakh is he likely to accept your offer.

You are not likely to sell below INR 75 lakh (your BATNA). The other party is not likely to buy above INR 78 lakh (his BATNA). The deal will go through if the negotiated price falls in the range INR 75 lakh to INR 78 lakh. This range is called ZOPA (Zone of Possible Agreement) or the bargaining range.

Thus, the maximum value that the negotiation can generate is INR three lakh. Both the parties will agree to split it in some proportion, if the deal goes through. For example if the deal is concluded at a selling price of INR 78 lakh, the seller gets INR three lakh, more than his BATNA, and hence the value that the negotiation generated for him is INR three lakh, whereas the buyer got the house at a price equal to his BATNA. If the deal is struck at INR 75 lakh the buyer gets the house at a price which is lower than his BATNA by INR three lakh. Thus the value for him is INR three lakh. If the deal was struck at say INR 77 lakh, there is value for both the buyer and the seller. The buyer could sell at a price which is INR two lakh higher than his BATNA and the seller got the house for a price which is INR one lakh lower than his BATNA. The bottom-line is that in all the cases, the combined value that the parties get is INR three lakh.

A ZOPA results when there is an overlap between each party's BATNA. With no overlap, a negative bargaining zone will result, and hence the negotiation is bound to fail. However, it is possible to overcome this issue by 'enlarging the

pie'. If a car seller's BATNA is INR five lakh and the buyer's BATNA is INR 4.75 lakh, a deal cannot be struck because the seller will not sell below INR five lakh and the buyer will not buy if the price is above INR 4.75 lakh. However if, during an open conversation between the parties, the seller comes to know that the prospective buyer plans to paint the car at an estimated cost of INR one lakh, to change the colour to one of his liking, and if the seller assures that he can get the prospective buyer a discount of 35% (INR 35000) at a paint shop run by the seller's relative if he pays INR 5.05 lakh for the car, the sale can easily go through; although the prospective buyer has to pay INR 5.05 lakh for the car, he will save INR 35000 by way of the discount at the paint shop, and hence the effective cost is only INR 4.70 lakh, which is in fact INR 5000 less than his BATNA of INR 4.75 lakh. At the same time, the seller receives INR 5000 more than his BATNA. Thus integrative negotiations can create win-win situations by enlarging the pie of benefits.

**Check Your Progress 1**

**Note:** i) Use the space given below for your answers.

ii) Check your answers with those given at the end of the Unit.

1. Define Negotiation and differentiate between Negotiation, Mediation and Arbitration.

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2. What are BATNA and ZOPA?

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**11.4 THE PROCESS OF NEGOTIATION**

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According to Robins and Judge(2019), the negotiations process is made up of five steps: (1) preparation and planning (2) definition of ground rules (3) clarification and justification (4) bargaining and problem solving, and (5) closure and implementation.

a) During the preparation and planning stage, the negotiator makes it clear to himself what he is negotiating for and why. Although this sounds too obvious, this is an absolute necessity without which the negotiation can go astray. He needs to identify his 'main' goals and should, if possible, figure out the main goals of the other party as well. An understanding of why this negotiation has become necessary in the first place will let him understand

what is the likely position that will be taken by the other party and what are the concessions that he can get from him. The negotiator should also ascertain what his BATNA is, and what the possible BATNA of the other party is.

If you have a strong BATNA, and if the opposite side's BATNA is weak, you will normally get an upper hand during the negotiation. There is difference of opinion about whether it will benefit you to reveal your BATNA to the other side during the negotiation. It is generally believed that revealing the BATNA can be advantageous if the BATNA is a strong one. Once the other party comes to know that your BATNA is strong, it is unlikely that he will make unreasonable demands. But the opposite is also true: if the other party becomes aware that your BATNA is weak and that you do not have much of a choice he will start to dictate terms during the negotiation. It follows that it will help you to know whether the other party's BATNA is strong or weak (although it is not easy to know it precisely).

Collecting data about the other party (including information about his BATNA) can be of great help in strategising for an upcoming negotiation. But it is equally important to know your alternatives, as it will decide how desperate you are while going into the negotiation. More often than not, perceptions come into play while trying to ascertain what one's BATNA is. Often a party may feel that he has a strong BATNA, when in reality it is not so strong. For example, a political party may feel that it need not concede to the demands of other parties in a coalition regarding seat-sharing, if it feels that they can win the elections even if they go it alone. In other words, they feel that their BATNA (contesting the elections alone) is a strong one and hence they may walk out of the negotiation. But the perception can often turn out to be wrong. Hence while preparing for a negotiation, it is not enough that you know your BATNA, but you should also ensure that it is a reasonably certain one.

- b) Before beginning the actual negotiation, the ground rules for the same are to be defined. It is just like setting the rules of a game before the game begins. At this stage, matters like the scope of the negotiation, what can be discussed, what cannot be discussed, who will represent the negotiating parties, what steps, if any, are to be taken if the negotiation fails, the place(venue) and time of negotiation etc. will be defined.
- c) During the 'Clarification and Justification' stage, both the parties try to justify why they have taken the stand that they have taken. They exchange information with each other to enable them to understand each other's perspectives. This will ensure transparency and will set the stage for a fruitful negotiation.
- d) The 'Bargaining and Problem Solving' stage is the most important part of the negotiation process. This is when the actual negotiation take place. Both sides bargain with each other, and during the process they make concessions as well so as to take the negotiation forward. The problem solving abilities of the negotiators come to the fore, as they try to find solutions that are acceptable to all the parties.

- e) The negotiation comes to an end in the 'Closure and Implementation' stage. The decisions that have been taken and the mutually acceptable solutions that have been devised are usually incorporated in a formal written agreement. The steps to be taken to implement the decisions are also finalised at this stage.

Rober Heller and Tim Hindle (1996) suggest the following guidelines for a successful negotiation:

1. A negotiator should be clear in his priorities and be ready to concede less important points.
2. Being flexible is a sign of strength, not weakness. One should identify issues that are open to compromise and those that are not.
3. Objectives should be realistic.
4. Key information should be collected through research in advance of the negotiation.
5. It will be prudent to pay close attention to the other party's proposal and understand its intricacies. Try to understand the agenda of the opposition, including its hidden agenda. Continue your understanding during the course of negotiation.
6. One should begin a negotiation with uncontroversial general points and stress the need for agreement.
7. One should engage only in constructive arguments.
8. Keep an eye on the body language and tone of the opposition's negotiators. One should use repetition and positive body language to stress key points.
9. It will not be advisable to concede ground unless you receive something in return.
10. To break an impasse, matters may be referred to an arbitrator to mediate.
11. Agreements finalised at a negotiation's finalisation should be recorded. One should be assertive, not aggressive while closing a deal.
12. Negotiation should be undertaken in a time-frame but should not be unnecessarily speeded up. Otherwise, important issues could be ignored. In case, negotiations are not finalised in a meeting, fix the next date. Deadlock, if any, should be resolved patiently and wisely.
13. An action plan for implementation of decisions, arrived at should be drawn in mutual consultation.
14. Schedule of updates in future should be formulated at the end of negotiation.
15. Negotiations should be conducted in an atmosphere of goodwill and respected for each other's dignity. Emotional intelligence can help the whole process of negotiations.

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## 11.5 DIFFERENT APPROACHES TO NEGOTIATION

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Negotiations can be sub-divided into Distributive negotiation and Integrative negotiation. Distributive negotiations are those in which both the parties try to get the upper hand by scoring over the other. The parties perceive that one side's gain is the other side's loss and hence they try to push the opposite side back as far as possible and to 'defeat' them. They believe that there is a pie of benefits of a fixed size that is to be shared between the parties, and all efforts are made to get as big a slice of the pie as possible. Thus distributive negotiations inevitably lead to win-lose situations.

By contrast, integrative negotiations can lead to win-win situations. The parties to an integrative negotiation believe that it is possible to 'expand the pie' and hence it is possible for each party to receive a bigger slice than what would have been possible without the negotiation. In such negotiations, one side's gain is not necessarily from the other side's loss. Integrative negotiations that are open and transparent take place in an atmosphere of trust and lead to innovative and constructive solutions that will benefit everyone.

Let us consider the example of a negotiation between the management of a company and a trade union leaders, for a proposed wage-hike. If the negotiation tends to be a distributive one, both sides will bargain hard and try to snatch as much as benefit as possible from the other side. The management will try not to allow any wage hike or to increase wages as little as possible. On the other hand, the trade unions will demand very high levels of wages. Every rupee conceded by the management will directly affect the profits of the company and hence it is in the interests of the management not to show largesse. Here one party's gain is the other's loss.

But an integrative negotiation for the same purpose will take a totally different form. During such a negotiation, all the stakeholders - the management representatives and the trade union leaders - will probably sit and discuss what the employees can do for the betterment of the company so that the resulting increase in profits can offset the additional expenses incurred for paying higher wages. This way the size of the pie gets expanded and both parties eventually benefit. Such win-win outcomes are the hallmark of integrative negotiations.

Many one-off negotiations tend to be distributive. They are transactional in nature and a long term relationship between the negotiating parties is not envisaged. Price negotiations between the seller and buyer of a house is a likely candidate for a distributive negotiation. Once the deal is closed, no more transactions are likely to take place between the two parties. Hence establishing a relationship is not at all a priority, neither for the seller nor the buyer.

Negotiations between parties who are in a relationship or who aspire for a long-term relationship are likely to be integrative. The relationship between an employer and an employee is undoubtedly a long-term one, except in the case of casual contract labourers. Neighbouring countries who come to the negotiation table would like to have a peaceful and harmonious relationship between them. Such an environment is a fertile ground for conducting an integrative negotiation.

Samuel Beckett has written in his world famous play 'Waiting for Godot' that "the tears of the world are a constant quantity. For each one who begins to weep somewhere else another stops. The same is true of the laugh." This possibly is true of distributive negotiations atleast to some extent, but in integrative negotiations all the parties can afford to laugh together.

But it is not that you need to make concessions very early during an integrative negotiation. Doing so will, in fact, hamper an ideal integrative negotiation as it will prevent the parties from exploring all options to arrive at the most beneficial solution.

Traditional negotiation style tends to be more distributive than integrative. It envisages a win-lose outcome and it is not necessary that you will always end up on the winning side. And even if you win, more often than not, it results in short-term gains only, as the relationship between the parties turns sour after the bitter 'fight' in which all tactics (including intimidating, pressurising and lying) are used to extract as much concessions as possible. Since it is the existing pie that gets distributed in some proportion; the negotiation does not create any value.

Modern approach to negotiation focuses on value creation, long-term benefits and relationship building. Since additional value gets created, win-win solutions are possible. To achieve this, however, it is absolutely necessary that both sides figure out and appreciate the drivers (the real reasons) behind the demands/positions of the other party. Consider, for example, a case where a high performing employee of the department of which you are the head, wants to move to another department citing that he is frequently getting bored in his present role. You enter into a discussion with the employee to sort out this matter, since you know that the other department is not of strategic importance to the organisation and that the employee who is of high caliber will be under-utilised there. But the employee is adamant and insists on leaving. In a typical traditional negotiation, either you or the employee will win, which is an undesirable result. If the employee's arguments prevail and he moves to the other department, the organisation stands to lose. If you manage to put your foot down and prevent the employee from leaving, he will become demotivated and may do more harm than good to your department. Thus, the outcome is not very enviable, whichever way the negotiation goes. But if you have a modern style of negotiation, you will engage with the employee and try to find out whether the stated reason for leaving is the actual driving force. Imagine you found out that the real reason behind the employee's desire to leave is the fact that he is not able to get along well with his immediate supervisor. This is a matter which you can do something about. You can either attempt a rapprochement between the employee and the supervisor, or can move the employee to another team within the department. Either way, the interests of both the parties are satisfied. Such win-win solutions result from the modern approach of interests-based value creation.

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## **11.6 SOME COMMON TACTICS**

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The American Management Association (AMA) has identified the following five common negotiating tactics used by some negotiators, and has advised to always be on guard against these tactics while negotiating:

**Highball/Lowball:** A negotiator using this tactic will start the negotiation with an extreme demand which upsets the calculations of the other party. If you think the other side is being unreasonable, you need to ask them to revise their offer.

**Bogey:** The negotiator will pretend that a relatively unimportant issue is very important for him. At the end, he will give upon his demand pertaining to this issue, as if he is making a great sacrifice. Knowing the other side's actual priorities can help you counter this tactic.

**Snow Job:** The negotiator will overwhelm you with unnecessary facts and figures causing an information overload. You will get distracted and perhaps will not fully understand what the other party is telling you. This tactic can be countered by focusing on the required information alone.

**Nibble:** A negotiator using the 'nibble' tactic will ask for a small concession just before the deal is about to be struck. Even if this was never discussed earlier, and even if it was never even in the scope of the discussion, you will tend to agree to the demand fearing that the negotiation during which so much effort has been expended will fail unless you concede. To avoid falling into this trap, you need to continuously remind the opposite side to discuss all matters of interest during the discussion stage itself.

**Lack of Authority:** Certain negotiators will not have the authority to take decision. This will allow them to avoid making on-the-spot concessions, even while extracting concessions from the other side (if they are represented by someone high up in the hierarchy). This tactic can be countered by insisting that you will negotiate only with the person who has the necessary authority.

**Check Your Progress 2**

- Note:** i) Use the space given below for your answers.  
ii) Check your answers with those given at the end of the Unit.

1. What are the steps in a Negotiation process?

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2. List out the common tactics of Negotiation.

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## 11.7 CONCLUSION

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Man has been negotiating since time immemorial. Probably, Kings, politicians and business people used to negotiate to resolve their differences. It involves persuading people. Everyone should be good at negotiating. Negotiation helps to reach agreements, meet one's goals and build relationships. In an organisational setting, it helps to avoid conflicts and build harmonious relationships among all stakeholders.

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## 11.8 GLOSSARY

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- BATNA** : It expansion of the BATNA is “Best Alternative to a Negotiated Agreement”. It stands for best alternative to a negotiated agreement.
- ZOPA** : Zone of Possible Agreement (ZOPA) is the range in which an agreement is satisfactory to both parties involved in the negotiation process. It is the range between each parties Reservation Values and is the overlap area that each party is willing to pay in a negotiation

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## 11.9 REFERENCES

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## 11.10 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

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Negotiation: Concept,  
Process, and  
Approaches

### Check Your Progress Exercise 1

**1. Your answer should include the following points:**

- Negotiation is the process of resolve differences.
- Resolving the differences through the third party is called mediation.
- The decision will be made by the third party and the other parties are bound to accept the decision is called arbitration.

**2. Your answer should include the following points:**

- The negotiator negotiates to get a result that is better than what he can get without negotiating. If there are a range of outcomes that are possible without a negotiation, one of them should be chosen as the best among them. It is the best alternative to negotiated agreement and is called the BATNA.
- A ZOPA results when there is an overlap between each party's BATNA. With no overlap, a negative bargaining zone will result, and hence the negotiation is bound to fail. However, it is possible to overcome this issue by 'enlarging the pie'.

### Check Your Progress Exercise 2

**1. Your answer should include the following points:**

- Preparation and planning
- Definition of ground rules
- Clarification and justification
- Bargaining and problem solving
- Closure and implementation.

**2. Your answer should include the following points:**

- Highball/Lowball
- Bogey
- Snow job
- Nibble
- Lack of authority