PROGRAM ON NEGOTIATION
HARVARD LAW SCHOOL
EXECUTIVE EDUCATION

HARVARD NEGOTIATION **MASTER CLASS**

ADVANCED STRATEGIES FOR EXPERIENCED NEGOTIATORS

November 16–18, 2016 Cambridge, MA

PROGRAM ON NEGOTIATION
HARVARD LAW SCHOOL
EXECUTIVE EDUCATION

November 2016

Dear Program Participant,

We are delighted to welcome you to the ***Harvard Negotiation Master Class.***

We want this to be a practical and worthwhile educational experience for you and have designed it – through the use of negotiation simulations and special exercises – to maximize your participation.

Among the materials in this binder, you will find:

- An agenda
- PON Code of Conduct
- Book Table Info
- Biographical information on our faculty
- A set of presentations

Additional program materials will be distributed to you throughout the session.

We'd like to make sure you continue to be part of our growing community, so we invite you to stay connected through our LinkedIn Group, Twitter feed and Facebook pages. Faculty members offer advice, and course participants network and discuss relevant topics and keep up-to-date on PON Executive Education.

If there is any way in which we can be helpful to you, please don't hesitate to ask. Thank you for joining us for what we hope will be a most valuable and productive event.

Cordially,

Robert H. Mnookin
Samuel Williston Professor of Law and
Chair, Program on Negotiation at Harvard Law School

P.S. Please remember to complete your evaluation of the course and collect your Certificate of Completion.

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Harvard Negotiation Master Class

AGENDA

Nov. 16-18, 2016

Wednesday Evening Location (Nov. 16): Harvard Faculty Club
20 Quincy St., Cambridge, MA

Main location (Nov. 17-18): The Charles Hotel
1 Bennett St., Cambridge, MA

Wednesday, Nov. 16

5:00 – 6:45 p.m.	Registration
5:30 – 6:45 p.m.	Welcome Reception
6:45 – 7:30 p.m.	Welcome and Overview – Jared Curhan, Francesca Gino, Guhan Subramanian, Larry Susskind
7:30 – 8:30 p.m.	Dinner

Thursday, Nov. 17

7:30 a.m. – 8:30 a.m.	Breakfast
8:30 a.m. – 9:00 a.m.	Opening Session – Jared Curhan, Francesca Gino, Guhan Subramanian, Larry Susskind
9:00 a.m. – 12:30 p.m.	Analyzing Objective and Subjective Value in Negotiation – Jared Curhan
12:30 p.m. – 1:30 p.m.	Luncheon
1:30 p.m. – 5:00 p.m.	Dealing with the Toughest Questions: Anticipating and Responding Effectively – Guhan Subramanian
5:15 p.m.	Dinner

Friday, Nov. 17

7:30 a.m. – 8:30 a.m.	Breakfast
8:30 a.m. – 12:00 p.m.	Uncovering and Overcoming Bias at the Negotiation Table – Francesca Gino
12:00 p.m. – 1:00 p.m.	Luncheon
1:00 p.m. – 4:10 p.m.	Building a World-Class Negotiating Organization – Lawrence Susskind
4:10 p.m. – 4:30 p.m.	Synthesize Learnings and Wrap Up – Jared Curhan, Francesca Gino, Guhan Subramanian, Larry Susskind
4:30 p.m.	Adjournment

Note: Throughout the program, you will have opportunities to meet with faculty members in small groups to discuss personal negotiation challenges and opportunities. Please note that you will have the opportunity to meet with a faculty member over two meals of the program. Please make yourself available for all meals until such time that we provide you your schedule of working groups.

Introductory Materials

Participant Code of Conduct

We extend a warm welcome to our community of learners!

The Program on Negotiation (PON) is a consortium program of Harvard University, the Massachusetts Institute of Technology, and Tufts University. PON's mission includes helping individuals become more effective negotiators, providing a forum for the discussion of ideas, and nurturing the next generation of negotiation teachers and scholars.

As a consortium of local institutions, we support our Universities' missions to foster safe and respectful environments in which to work and learn. Since PON brings together a diverse group of individuals for a short time, the guidelines we describe below are intended to establish community norms, communicate the standards of our consortium Universities, and outline our expectations.

Attendance and Participation
Our programs are highly interactive. A hallmark of our programs is the use of negotiation simulations and activities; we will place you in pairs or in small groups to engage in activities at regular intervals throughout the program. We expect participants to:

- Attend all sessions in order to ensure the learning of each individual, pairing, and group. In our programs that provide certificates of completion, participants must have attended all sessions to receive a certificate.
- Refrain from email correspondence, text messaging, and other personal activities during class sessions, except in an emergency.

English Proficiency
We expect that all participants will be fully conversant in English. Should you encounter a context or situation in the classroom that puts you ill at ease in English, please speak to the PON program manager so that we may make appropriate adjustments.

Consideration of Intellectual Property
Participants are prohibited from video and/or audio recording, or photographing any portion of the program content. All program materials are owned or licensed to PON by the authors and are copyright protected. All of these materials are shared with participants for their personal use only.

If PON plans to film or record any program activities, PON will inform participants and seek permission.

Professionalism
All individuals are expected to demonstrate respect for each person's worth, dignity, and capacity to contribute.

- Disrespectful or intolerant behavior and sexual harassment are unacceptable.
- If you are subject to inappropriate behavior we ask that you notify the PON program manager immediately. PON takes its obligation to provide a safe and professional environment for everyone very seriously.

Confidentiality
Our programs are designed to promote professional growth and personal reflection. We ask that you respect the privacy of all participants and any sensitive information you may obtain while working with and learning from your program colleagues.

Guests
Since we strive to foster the development of a tight-knit community of peers, participation in the classroom, academic activities, and meals is limited to enrolled program participants only. Guests may be invited to social functions.

Representing your Harvard Experience
You may want to describe your experience at Harvard in your biography, curriculum vitae, LinkedIn profile, or within your organization. You are welcome to say that you attended or participated in a Program on Negotiation at Harvard Law School Executive Education course. It is not appropriate to say that you studied at Harvard/MIT/Tufts without qualifying the experience as an Executive Education course. Although you will receive a Certificate of Completion for your full attendance in one of our courses, it is not appropriate to characterize yourself as Harvard/MIT/Tufts trained or certified.

Thank you. Your contribution to others' learning and growth is appreciated by the PON community. Your participation is greatly valued and we look forward to a vibrant and engaging program.

Book Table

The Program on Negotiation's Teaching Negotiation Resource Center offers a book table where ***Harvard Negotiation Master Class*** participants may order books written by our faculty and other experts in negotiation.

Please note that participants will receive copies of *Dealmaking: The New Strategy of Negotiauctions* by Professor Subramanian, *Sidetracked: Why Our Decisions Get Derailed, and How We Can Stick to the Plan* by Professor Gino, and *Built to Win: Creating a World-class Negotiating Organization* by Professor Susskind and Hallum Movius.

Hours

Luke Adolph, from the Teaching Negotiation Resource Center, will be on site from 7:00 to 9:00 a.m. on Thursday and Friday. Participants may submit their orders and speak with him during those times.

Ordering Books

Orders submitted in person or phone by 2:30 p.m. on Thursday will be available for pick-up at the book table the following day.

Orders can also be shipped. Shipping and handling charges apply, and the Center representative can discuss these with you.

Orders can also be placed online at www.pon.org. These orders will be shipped to the address you supply.

Questions

For questions, please speak to the Center representative when he is on site, call **781-966-2751,** or email tnrc@law.harvard.edu.

Jared Curhan

Jared R. Curhan is the Sloan Distinguished Associate Professor of Organization Studies at MIT's Sloan School of Management, where he specializes in the psychology of negotiation and conflict resolution. He received his BA in Psychology from Harvard University and his MA and PhD in Psychology from Stanford University. A recipient of support from the National Science Foundation, Curhan has pioneered a social psychological approach to the study of "subjective value" in negotiation (i.e., social, perceptual, and emotional consequences of a negotiation). His current research uses the Subjective Value Inventory (SVI), a measure he developed, to examine precursors, processes, and long-term effects of subjective value in negotiation.

Curhan serves on the Executive Committee of the Program on Negotiation at Harvard Law School. Deeply committed to education at all levels, Curhan received Stanford University's Lieberman Fellowship for excellence in teaching and university service, as well as MIT's institute-wide teaching award and MIT Sloan's Jamieson Prize for excellence in teaching.

Curhan is Founder and President of the Program for Young Negotiators, Inc., an organization dedicated to the promotion of negotiation training in primary and secondary schools. His book, *Young Negotiators* (Houghton Mifflin, 1998), is acclaimed in the fields of negotiation and education and has been translated into Spanish, Hebrew, and Arabic. The book has been used to train more than 35,000 children across the United States and abroad to achieve their goals without the use of violence.

Guhan Subramanian

Guhan Subramanian is the Joseph Flom Professor of Law and Business at Harvard Law School (HLS) and the Douglas Weaver Professor of Business Law at Harvard Business School (HBS). Professor Subramanian is the first person in the history of Harvard University to hold tenured appointments at both HLS and HBS. At HLS, he teaches courses in negotiation and corporate law. At HBS, he teaches several executive education programs, including Strategic Negotiations, Changing the Game, Managing Negotiators and the Deal Process, and Making Corporate Boards More Effective. He is the faculty chair for the JD/MBA program at Harvard University and the Vice Chair for Research at PON. Prior to joining the Harvard faculty, he spent three years at McKinsey & Company.

Professor Subramanian's research explores topics in corporate governance and negotiation. He has published articles in the *Stanford Law Review*, the *Yale Law Journal*, the *Harvard Business Review*, and the *Harvard Law Review*, among other places. His recent book, *Dealmaking: The New Strategy of Negotiations*, synthesizes the findings from his research and teaching over the past decade. This book has been translated into Chinese (Mandarin), German, Japanese, Portuguese, and Spanish. He is also co-author of *Commentaries and Cases on the Law of Business Organization*, a leading textbook in the field of corporate law.

Professor Subramanian has been involved in major public-company deals, such as Oracle's $10.3 billion hostile takeover bid for PeopleSoft, Cox Enterprises' $8.9 billion freeze-out of the minority shareholders in Cox Communications, the $6.6 billion leveraged buyout of Toys "R" Us, and Exelon's $8.0 billion hostile takeover bid for NRG. He also advises individuals, boards of directors, and management teams on issues of dealmaking and corporate governance. Over the past 10 years he has been involved as an advisor or expert witness in deals or situations worth over $100 billion in total value.

Francesca Gino

Francesca Gino is the Tandon Family Professor of Business Administration in the Negotiation, Organizations & Markets Unit at Harvard Business School. She is also formally affiliated with the Program on Negotiation at Harvard Law School, with the Mind, Brain, Behavior Initiative at Harvard University, and with the Behavioral Insight Group at Harvard Kennedy School. Professor Gino teaches Decision Making and Negotiation in the MBA elective curriculum and in Executive Education programs at the School. She co-chairs an HBS Executive Education program on applying behavioral economics to organizational problems. She also teaches a PhD course on Behavioral Approaches to Decision Making, a PhD course on Experimental Methods and one on Micro Topics in Organizational Behavior.

Professor Gino has won numerous awards for her teaching, including *the HBS Faculty Award* by Harvard Business School's MBA Class of 2015 and the 2015 Charles M. Williams Award in recognition of remarkable teaching in the MBA Program, and for her research, including the 2013 Cummings Scholarly Achievement Award, from the Academy of Management Organizational Behavior Division. In 2015, Francesca was chosen by *Poets & Quants* to be among their "40 under 40", a listing of the world's best business school professors under the age of 40.

Professor Gino's research focuses on judgment and decision-making, negotiation, ethics, motivation, and productivity. Her work has been published by academic journals in both psychology and management, as well as in numerous book chapters and practitioner outlets. Her studies have also been featured in *The Economist*, *The New York Times*, *Newsweek*, *Scientific American*, *Psychology Today*, and *The Wall Street Journal*, and her work has been discussed on National Public Radio and CBS Radio.

In addition to teaching, Professor Gino advises firms and not-for-profit organizations in the areas of negotiation, decision-making, and organizational behavior.

Professor Gino is the author of *Sidetracked: Why Our Decisions Get Derailed and How We Can Stick to the Plan* (HBR Press, 2013).

Lawrence Susskind

Lawrence E. Susskind has been a professor at Massachusetts Institute of Technology for more than 35 years. He teaches negotiation as well as a number of other advanced subjects and runs a substantial research program as Director of the MIT-Harvard Public Disputes Program (http://web.mit.edu/publicdisputes). He has supervised more than 60 doctoral students who now work around the world in academia, government and the private sector.

Professor Susskind is one of the founders and directors of the Program on Negotiation (PON) at Harvard Law School where he is Vice-Chair, Education, for the PON Executive Committee. Professor Susskind created the Consensus Building Institute in 1993 (www.cbuilding.org) and has been delivering tailored learning and organizational development solutions on a worldwide basis ever since. Through the executive training programs at PON he has offered specialized negotiation training (e.g., Technology Negotiation, Dealing with an Angry Public, Teaching Negotiation in the Corporation) to more than 40,000 people. He has published more than 70 teaching simulations, a dozen teaching videos and DVDs, and is a columnist for *Negotiation Briefings* published at Harvard. He has been a visiting lecturer at more than 50 universities in 20 countries.

Recent clients include: Hewlett-Packard, Biogen-Idec, CSX Transportation, Proctor & Gamble, Reed-Elsevier, Canadian Medical Association, National Association of Pediatric Hospitals, Blue-Cross/Blue Shield, Eastman-Kodak, University of Michigan Health Systems, Bristol-Myers Squibb, Genentech, State Street Bank, Manitoba Hydro, J. W. Homes, Brown-Forman, NPD Group, Stop & Shop, Siemens, AstraZeneca and WPP.

Professor Susskind is the author or co-author of 20 books including *Good for You, Great for Me* (Public Affairs Books, 2014)*, Water Diplomacy: A Negotiated Approach to Managing Complex Water Networks* (RFF Press, 2012), *Built to Win: Creating a World-Class Negotiating Organization* (Harvard Business School Press, 2009), *Multiparty Negotiation* (Sage, 2008), and *Breaking Robert's Rules: The New Way to Run Your Meeting, Build Consensus and Get Results* (Oxford University Press, 2006). He has won a number of prizes and awards including a Pioneer Award from the Association for Conflict Resolution, the 2005 Distinguished Educator Award from the Association of Collegiate Schools of Planning and the Global Environment Award given by the International Association for Impact Assessment. *Dealing with An Angry Public* (Free Press, 1996) and *The Consensus Building Handbook* (Sage, 1999), won Best Dispute Resolution Book of the Year awards in 1997 and 2000 respectively.

Professor Susskind received a BA from Columbia University in English Literature in 1968, a Master of City Planning from MIT in 1970 and a Ph.D in Urban and Regional Planning from MIT in 1973.

Analyzing Objective and Subjective Value in Negotiation

Analyzing Objective and Subjective Value in Negotiation

Jared R. Curhan

Sloan Distinguished Associate Professor of Organization Studies
Massachusetts Institute of Technology

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Agenda

- Assessing Your Negotiation Skills
- Creating and Claiming Value – A Review
- Individualized Feedback on Your Performance
- Subjective Value in Negotiation
- Wrap-up

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Assessing Your Negotiation Skills

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Two Scored Negotiations

	First	Second
Your role is either…	**Hollywood Movie Negotiation**	**Health Insurance Negotiation**
(Pink)	Director	Business Owner
or		
(Yellow)	Producer	Insurance Salesperson

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Ground Rules

- Do not show your written confidential instructions or view anyone else's instructions.
- Please stay "in role" during and afterwards.
- You have no obligation to reach an agreement, and should do so only if you think it serves your long-term best interest.
- Feel free to reveal verbally any information you choose, but do not talk about "points" explicitly.

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Logistics

- You choose your counterparts for each negotiation.
- Please choose counterparts whom you don't know.
- In a moment, choose ***only your first*** counterpart and ***indicate that counterpart online***.
- Do ***not*** choose your counterpart for your second negotiation until your second negotiation is about to begin. Choose a ***different*** counterpart than your first!
- Immediately after each negotiation, use your laptop or tablet to complete the **outcome form** (together with your counterpart) and **private survey** (by yourself).

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Dealing with Their Hardest Question: Anticipating & Responding Effectively in the Room

Dealing with Their Hardest Question: Anticipating and Responding Effectively in the Room

Guhan Subramanian

Joseph Flom Professor of Law & Business, Harvard Law School
H. Douglas Weaver Professor of Business Law, Harvard Business School

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Agenda

1:30 pm	Case Studies: Anderson News, The K-Dow Joint Venture, Fairstar Heavy Transport
2:45 pm	Break & Read Confidential Role Assignment
3:15 pm	Negotiation Exercise: Hamilton Real Estate
3:45 pm	Hamilton Real Estate Debrief
4:30 pm	"Hardest Question": Synthesis and Best Practices
5:00 pm	End of Session

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Seven Elements

Seven Elements	Critical Questions
Interests	What are the issues in this negotiation? What are our Interests with respect to those issues? What are our priorities? What are their interests likely to be? What interests of others should I account for?
Options	What possible options (solutions) are available? Considering the interests, resources, and capabilities of both sides, what are possible value-creating trades?
Alternatives (BATNA)	What can I do to satisfy my interests if I walk away? What are their alternatives?
Criteria for Persuasion	What are objective criteria or norms? What principles of fairness can I use? What process can I use to select relevant norms and make decisions?
Relationships	How important is this relationship? How will this negotiation affect the relationship? Does the nature of the relationship affect strategy or tactics? Will there be a next time?
Commitments	What authority do I have? What commitments do I seek?
Communications	What is the purpose of the meeting? What are possible communication problems and solutions?

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Case Study: Anderson News Corp.

Anderson News Corp. is the largest distributor of newsstand magazines in the country (*Time*, *People*, *Newsweek*, etc.) but is suffering from declining newsstand sales.

Proposes seven cent surcharge for all unsold magazines that have to be returned to the publisher or destroyed (reduces incentives for publishers to “stuff the channel”).

Charlie Anderson, President and CEO, goes on well-known industry talk show to discuss the change.

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Case Study: The K-Dow Joint Venture

December 2007: Dow Chemical and Kuwait Petroleum Corporation (KPC) announce formation of 50-50 Joint Venture ("K-Dow").

The deal: Dow to contribute 50% share of five major businesses to the JV and receive $9.5 billion in cash for other 50% from KPC.

Provisionally approved by the Emir of Kuwait, the Kuwait Supreme Petroleum Council, and the Kuwaiti Parliament, with final approvals forthcoming.

Liveris agrees to interview with CNBC about the deal.

What will be the hardest question?

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The K-Dow Valuation (Dec. 2007)

K-Dow valuation Based on Morgan Stanley EBITDA Multiples (Nov. 2007) and JPMorgan EBITDA Estimates (Feb. 2008):

Businesses	Morgan Stanley EBITDA Multiple	JPMorgan 2007 EBITDA Estimate ($MM)	Valuation ($MM)
Polyethylene and Polypropylene	5.0	$2,089	$10,445
Polycarbonate	7.0	$236	$1,652
Ethanolamines and Ethylenamines	7.5	$124	$930
TOTAL		**$2,450**	**$13,027**

Source: Morgan Stanley Analyst Report on Dow Chemical (Nov. 27, 2007) at 21; JPMorgan Analyst Report (Feb. 4, 2008) at 3. EBITDA estimates are grossed up from JPM EBIT estimates.

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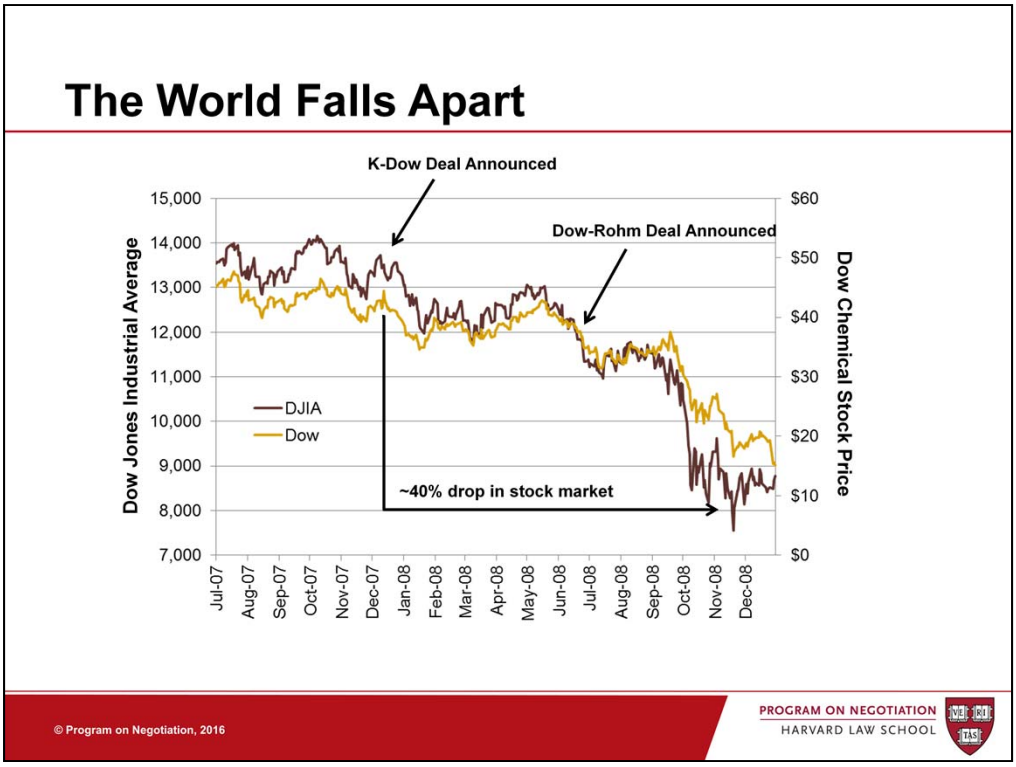

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December 1, 2008: K-Dow Renegotiated

December 1st, 2008: After considerable political controversy about the deal, Kuwait insists on renegotiating terms before agreement is finalized.

Value cut from $19.0 billion to $17.4 billion.

Liveris agrees to interview with CNBC about the renegotiated deal.

What will be the hardest question?

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Kuwait Is, In Fact, Watching

Within hours, CNBC interview is up on YouTube and is downloaded on PCs in offices and homes throughout Kuwait.

Ordinary people—"literally, everyone in the country," says an observer – huddle around their mobile phones to watch and re-watch the Liveris interviews.

The clips are shown in a session of Kuwait's Parliament.

Observers note that Liveris spelled backwards is "Sir Evil."

December 31, 2008: Dow receives official written notice that Kuwaiti Supreme Petroleum Council is withdrawing its earlier approval of the transaction.

Liveris is "shocked" by the news. Dow shares drop 20%.

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Case Study: Fairstar Heavy Transport

May 2009: Chevron, ExxonMobil, and Shell unveil plans to develop $42 billion Gorgon energy project off the northwestern coast of Australia. KBR to handle downstream logistics.

June 2009: KBR announces formal tender process for transportation of modules and other equipment from manufacturing sites in Singapore, Korea, and northern China to Australia for a period of 0.5 – 3 years.

Sept. 2009: Fairstar offers the Fjord for $95,000 per day, 60% higher than competitors.

Oct./Dec 2009: Two bid announcement deadlines pass with no word from KBR.

Jan. 2010: Fairstar signs letter of intent with Guangzhou Shipyard Intl. to purchase one vessel for $101 million, with verbal commitment for a second vessel at same price.

May 11, 2010: Philip Adkins, Fairstar CEO, flies to KBR headquarters in London for an in-person meeting, with authority from his board to do whatever it takes to close the deal.

Question from KBR project manager: "What's your best price?"

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Adkins' Response

"I do not have authority to change my price from $95,000 per day. I would have to go to my Board of Directors to do that, in which case I can't do anything for you today.

But before I have that conversation with them, can you tell me what's really important to you? Because this is a 42 billion dollar energy project, and if your contractor is late by a day or two or has a problem, the value of that delay or that problem is in millions and millions of dollars.

The safety, the preparation, the impact on the environment, if they've got the wrong crew and someone leaves a bag of potato chips on the deck and the Australian quarantine officer shuts this thing down for two weeks—it's going to cost somebody a lot of money. That's not going to happen with our team…

And when a problem comes up at 4 AM on Christmas, and you need to get in touch with someone, who would you call at most companies? I will be there. And that's what you're paying for. So tell me again what it is that's really important to you.

Because now that I think about it, I'm not even prepared to go to my Board and recommend that we cut our price."

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Hamilton Real Estate: Logistics

1. Once you have found your negotiation counterpart, you may negotiate anywhere you would like; however, please do not go so far as to cut into your negotiation time.
2. During the negotiation, you may say or do anything you'd like, except that you may not physically show your confidential role assignment to the other side.
3. Please limit yourself solely to negotiating price. If you reach a deal, please bring the terms of your deal in writing to class.
4. We will begin the debrief at **3:45 pm**. If you do not reach a deal by then, it will be considered a no-deal.
5. In general: Negotiate as you would in a real situation. Do not feel any obligation to reach a deal if the terms are not acceptable.

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Uncovering and Overcoming Bias at the Negotiation Table

Uncovering and Overcoming Bias at the Negotiation Table

Francesca Gino

Tandon Family Professor of Business Administration
Harvard Business School

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Part 1
Biased Minds

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Two Questions

- Where have you seen this bias occur in your negotiations?
- How can you ‘fix it’?

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Building a World-Class Negotiating Organization

Building a World-Class Negotiating Organization

Overcoming Organizational Obstacles to Improving Individual Negotiating Performance

Lawrence Susskind

Ford Professor of Urban and Environmental Planning,
The Massachusetts Institute of Technology;
Author of *Good for You, Great for Me* and co-author of *Built to Win*

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Reviewing Pre-Workshop Accounts of The Organizational Obstacles to Negotiator Effectiveness

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Let's talk about some of the organizational obstacles and difficulties you reported:

Issues of Agency/Authority –

- Co-worker would not engage in negotiation; had to "go it alone"
- Difficulties in getting decision-makers around the table
- Outside approval required for every counter and alternative offer
- No clear process by which decision-makers will be informed or will influence an ongoing negotiation
- Restructuring resulting in interim managers with limited authority
- Senior leadership's misalignment between stated approach and delegated agency
- Real (or perceived) political agendas
- Disproportionate distribution of power between parties
- Personal interests and power struggles

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Let's talk about some of the organizational obstacles and difficulties you reported:

Issues of Inter-team Authority/Process –

- Negotiating team called upon to represent siloed units of the organization, when interests across divisions not fully understood
- "Friendly fire" phenomenon; interests of entire negotiating term are ambiguous or divergent
- Organizational constituents without historical alignment
- Data was not clearly understand by unit at negotiation table
- Obedience is valued more than new perspectives

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Let's talk about some of the organizational obstacles and difficulties you reported:

Issues of Workload/Limited Resources –

- Institutional barriers to hiring / training of staff
- Governance obstacles to robust stakeholder representation
- Requirement to consult with many organizations / members as parties to an agreement
- Timeframe for negotiation not adequate
- Inadequate resources applied to ascertain essential roles / responsibilities
- No time, reliance on capable direct report, but limits own ability for value creation
- Organization has limited scope for change at any one time
- Perception that preparation / execution of negotiation are independent
- Preparation time is discounted
- Cyclical nature of negotiation not understood by organization

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Let's talk about some of the organizational obstacles and difficulties you reported:

Constraints of Culture –

- Senior leadership is isolated from disagreement
- Loss of key champion; failure to establish a new point of contact
- Rigidity in terms of point of contact
- Shared leadership positions requires complete agreement or edict from CEO; both are extremes
- Interpersonal fit valued over addressing substantive issues – or the reverse
- Change in organizational structure required to implement negotiated results
- Organization has limited negotiation repertoire
- Limited success due to filter of information from counsel (present at table) to client (not present)
- Organizational dynamics were ambiguous, limited option generation

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Review of eight key organizational obstacles that undermine the effectiveness of individual negotiators

- Unclear mandate with regard to negotiator authority.
- Inattention to preparation. (No organizational assistance.)
- Lack of clarity with regard to organizational interests or priorities
- Lack of interest in (indeed, hostility toward) the other side's interests.
- Not ready to offer packages for mutual gain.
- Not prepared to offer evidence or arguments that can be used to make a case to the other side's "Back Table"
- No chance to talk through technical, legal or other concerns with appropriately senior people. (No procedure for getting internal advice.)
- Unwillingness to think about things that could go wrong and ways to head them off.

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Topics covered in this segment of the Master Class

I. Diagnosing organizational obstacles to individual negotiator effectiveness

II. Synchronizing individual and organizational skill-building

III. Maintaining organizational support for individual negotiators

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I. Diagnosing organizational obstacles to individual negotiator effectiveness

Assignment #1: In groups of three, select an organization one of you knows a lot about. List the three or four most important things you would have to find out in order to identify or diagnose the most serious organizational obstacles to ensuring individual negotiator effectiveness in this organization. Quickly sketch how you would query the necessary people or collect the relevant data to confirm your diagnoses. Please complete this assignment in 20 minutes. Select one person in your group to summarize what you have produced.

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Building a World-Class Negotiation Organization

ASSESS *current challenges and opportunities*

1. **Start with A Good Theory**
   - *Define success*
   - *Provide a process model*
   - *Keep culture in mind*
2. **Elicit Critical Examples of Recent Negotiation Outcomes**
   - *Use confidential interviewing*
   - *Assess current learning strategies*
3. **Include Prescriptions & Recommendations in the Assessment**
   - *Analyze the findings from multiple perspectives*
   - *Diagnose opportunities*
   - *Avoid assigning blame*
   - *Provide a vision for the future*
4. **Identify Sponsors & Champions**
   - *Start with a champion*
   - *Secure senior leader sponsorship*
   - *Create funding for intervention*
   - *Commit to goals*

INTERVENE *in the most effective ways*

5. **Provide a Common Model and Language**
   - *Provide training to core leaders*
   - *Tailor the training materials*
   - *Provide new templates*
   - *Encourage opportunistic experiments*
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   - *Document successes (and failures)*
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   - *Develop quantitative estimates*
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Introducing Negotiation Audit Procedures

- Ways to assess your organization's negotiating performance:
  - Use confidential interviewing: Confidential interviewing has proven to be crucial in evaluating organizational negotiating performance. Given the reluctance of professionals to reveal their weaknesses or failures, confidential interviewing often generates more meaningful information for documenting performance.

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10 Key Questions in a Negotiation Audit

These questions are not exhaustive. There is, in fact, no fixed set of questions for an organizational negotiation audit. This list is indicative of the kinds of information we try to gather when we want to establish patterns of organizational behavior. So, the following questions can serve as a “provisional checklist” for getting at the ways in which organizations either support or make it difficult for individual negotiators to negotiate effectively.

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Part I: Stories and Examples

1. Think back to 2 or 3 successful negotiations and 2 or 3 challenging or less-successful negotiations in which you and your department have been involved. What made them successful or difficult?
2. What experience(s) have surprised you most in negotiating with counterparts?

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Part II: Evaluating Success

3. What does negotiation success mean in your organization? How do you measure negotiation success? What is your mandate going into most negotiations? How do you know?

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Part III: The Negotiation Process

4. How do you prepare for most negotiations? How are roles and responsibilities structured to support preparation?

5. How do you set the stage for negotiations with the other side? How do you open the conversation?

6. How do you work to understand interests/objectives/priorities on the other side?

7. How do you formulate options, proposals or packages? Do you attempt to generate many options (with the other side) before locking in on the terms of a deal?

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Part III: The Negotiation Process

8. Do you explore or discuss the use of objective criteria or standards to ensure a fair outcome for all sides?

9. Do you talk effectively about the nature of the organizational relationship you are likely to be left with after the negotiations are over? Do you discuss ways you intend to resolve future disagreements or differences?

10. Do you or other negotiators ever make use of “neutral” or trusted third parties to assist in reaching agreement or dealing with differences?

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Organizational Assessments

- The Goal of a Negotiation Audit is to identify ways in which organizational norms make it difficult for individual negotiators to succeed (such as unclear priorities, inexplicit mandates, blurred lines of authority, lack of information to support preparation, etc.)

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Organizational Assessments (Part of an Audit)

- Assessment reports should highlight (1) opportunities for improved negotiation outcomes being missed because of current organizational structure, (2) likely costs associated with missed opportunities, (3) bright spots, exemplary deals, and examples of good practices.

- Assessments must guarantee that no one who participated is hurt by the findings. While responsibility for negotiation improvement must be owned by someone, it is best to avoid assigning blame for past mistakes or missed opportunities.

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Additional Guidelines for Negotiation Audits

- Analyze the findings from multiple perspectives
- Highlight opportunities
- Avoid assigning blame
- Diagnose gaps and opportunities

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Making Sense of the Results of the Negotiation Audit: Illustrative Findings

- Urgency
- Workload and Deal-making Timing
- Analytical approach to preparation and knowledge sharing
- Walking away

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Urgency

- Culture of “getting it done yesterday.”
- Deals too rushed, without overall strategy
- Procurement: pressure from internal clients to close deals quickly
- Sales: concerns about losing competitive advantage
- Insufficient focus on longer-term opportunity
- Impact on preparation, team work, knowledge sharing and learning

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Workload and Deal-making Timing

- Insufficient time to excel at negotiations
- Limited human resources, multiple roles (project mgt., admin.)
- Reluctance of internal customers to engage early
- Multiple contracts expire at the same time
- Changes in scope, midstream shifts in approach from cross-divisional teams impact negotiation success

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Analytical Approach, Preparation and Knowledge Sharing

- Analytical Approach
  - Need a more methodical approach to understanding interests, establishing walk-aways and playing out scenarios with different possible options
  - Analytics (e.g. market research) are underutilized
  - Need more time for preparing the company's value proposition
  - Knowledge Sharing

    Team meetings are helpful but vary in frequency and information shared

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Walking Away

- Approximately half feel comfortable or authorized to walk away.
- In narrower markets, more concern about walking away.
- Procurement: clearing new vendors takes time, impacts BATNA
- Overall concerns about walking away due to
  - Unclear guidelines on general deal parameters
  - Lack of Clear Performance Metrics that might incentivize walking away under the right conditions
  - The culture of urgency that drives to deals too soon

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Plenary Discussion

- What advice would you give to this organization in light of the Negotiation Audit results? Why? Who would you give it to?
- How can this organization take steps to enhance rather than thwart individual negotiator effectiveness?

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Key Take-Aways

- Negotiation Audits can help to identify the obstacles that make it hard for negotiators to get the support they need.
- Audits can also show how normal operating procedures get in the way and might need to be changed.
- Audits almost always require outside help.
- Audits are only successful if negotiators are willing to be honest about what they have tried to do and why. Reports of difficulties and failures are the most valuable. There need to be incentives for people to reveal this information.

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II. Synchronizing Individual and Organizational Skill-building

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II. Designing Negotiation Training in A Way that Addresses Organizational Obstacles to Individual Negotiator Effectiveness

Assignment #2: Please work in groups of 3 to address the questions that follow. Choose one of the three organizations represented in your trio to focus on.

If you had all the resources you required, as well as full authority, what kind of negotiation training would you implement in your organization to help enhance BOTH the negotiation skills of your key employees AND the capacity of your organization to support individual negotiator effectiveness? Describe the key elements of the training you have in mind. For whom would the training be provided? How can individual skill-building and organizational improvement be achieved simultaneously?

Try to finish this assignment in 20 minutes. Select one person in your group to present your suggestions.

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The Basic Curriculum Model

- Preliminary activity aimed at holding up a mirror to the group's general approach to negotiation (ex., X/Y game, Oil Pricing game, Pepulator game)
- Initial lecture/presentation of key terms or elements, phases or stages of the negotiation process; prevailing wisdom (research findings); what negotiators can count on by way of help from their organization
- Two-party negotiation game: scorable, monolithic parties, small number of issues
- Debriefing of key lessons; understanding the organization's negotiation culture

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The Basic Model

- Second game (add complexity): Non-scorable, non-monolithic parties, agents, larger number of issues, more uncertainty
- Debriefing of key lessons
- Second lecture/presentation dealing with more advanced techniques and strategies focused on preparation, value creation, value distribution, follow through (possible use of video or video analysis of participant game results)
- Problem-solving clinic focused on examples/problems/ cases from the participants; focusing on the ways in which the organization can help and the ways in which it tends to make negotiation more difficult
- Feedback, evaluation and discussion of follow-up

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Key Design Questions

- Who is the audience? (Do you really want a “mixed” group if the training is interactive?) How large will the group be?
- What are the instructional objectives? (How will organizational as well as individual success be measured?)
- Where will the training take place? How much time will be available for the training?
- What “homework,” if any, can the participants be counted on to do? What follow-up interaction with the participants is possible?

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Key Design Questions

- How much do you have to spend? What return on the training investment is expected?
- Who is expected to deliver the training? (Insiders vs. outsiders? Most experienced instructors? Sector-specific experts?)
- What style of training is desired? (Lecture, highly-interactive role playing/gaming, on-line, reflections on personal practice?)
- What theory of negotiation do you want to teach? (Mutual gains, principled negotiation, win-win, hard bargaining, some other hybrid?)
- What theories of (adult) learning do you prefer? (Situated vs. cognitive, problem-based, experiential, inquiry-based, etc.?)
- How will the organization's support for individual negotiator's be portrayed? Will the organization point out some of the ways in which it creates problems for its negotiators?

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Negotiation Training As Part of a Strategy to Build an Organization's Negotiation Competence

- Make sure the training happens at every level
- On-line vs. In-person training
- Answer the important design questions
- Build on the Basic Model
- Training is just one step

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Negotiation Training As Part of a Strategy to Build an Organization's Negotiation Competence

Design training as part of an organizational development strategy.

ASSESS *current challenges and opportunities*

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INTERVENE *in the most effective ways*

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III. Maintaining Organizational Support for Individual Negotiators: the Importance of Coaching

Assignment #3: Your task (in a group of 3) is to explain how you would select a small group of people in your organization to be part of an elite Negotiation Coaching Unit. What attitudes, experience or skills would you be looking for? Why? How would you locate this unit so it would be fully accessible to individual negotiators who want and need advice and assistance? How would you ensure that the Unit uses what it learns to help the organization improve its negotiating effectiveness?

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Watch the following three exchanges between a top level manager and his direct report

- The first segment takes place right before a very important negotiation.
- The second segment takes place while that negotiation is still on-going, but before anything is final.
- The third segment takes place right after a deal has been negotiated.

We will listen to and then discuss one segment at a time. Make some notes to yourself as you listen. How effective do you think the senior manager is as a negotiation coach and why? What can the organization do to improve the coach's effectiveness and, thus, the organization's negotiation effectiveness?

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- What criteria would you use to assess the senior manager's performance as a coach to his direct report?
- What else could he have said or done in the pre-negotiation interaction?
- What else could he have said or done in the interaction once the negotiations began?
- What else could he have done after the negotiations to help his direct report learn from the experience (and identify ways in which the organization could have been more supportive)?
- How can an organization ensure that its managers are providing good negotiation coaching?
- How can negotiation coaches use what they learn to help enhance the organization's negotiation effectiveness?

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Effective Negotiation Coaches Help You:

- Set goals
- Assist you in figuring out what techniques to try and what adjustments to make
- Enable you to understand what happened after the fact

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Specifically, Good Coaches:

- offer advice that's consistent with their own negotiation behavior
- stress the importance of preparation
- rehearse new techniques
- debrief the final results

Can someone you report to be your negotiation coach? Who else could play this role?

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What qualities should you focus on when evaluating a potential negotiation coach?

In my view, effective coaches:

- Help you set your own goals rather than telling you what your goals should be.
- Encourage you to try new tactics and take risks.
- Offer support while leading you to confront what went wrong and why.
- Ask questions that enable you to figure out what you can learn from your experience.
- Model advice in their own practice.
- Honestly and humbly share their own negotiation experiences, positive and negative.

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Please Remember:

- Negotiation is an organizational, not just an individual task.
- Whatever your role or rank in an organization, you can help enhance the effectiveness of your organization's individual negotiators (including yourself!) by eliminating organizational obstacles to individual negotiating performance. Use negotiation audits, tailored negotiation training and carefully designed coaching to build more of a world-class negotiating organization.

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