

CHAPTER 3

Distributive Negotiation: *Slicing the Pie*

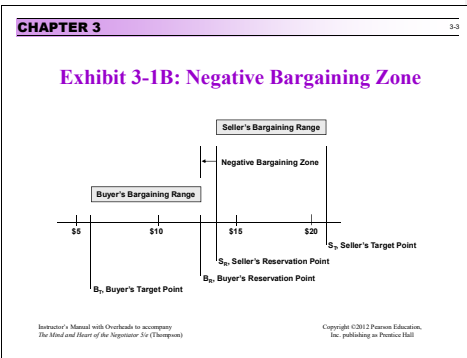
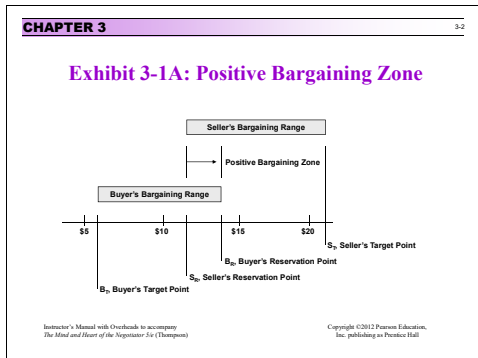
OVERVIEW

This chapter is probably one of the two most important in the book (the other being Chapter 4). The instructor can introduce the BATNA concept (preferably in the form of a debrief of the first exercise of the course). Following this, the instructor can introduce the bargaining zone concept and work through positive and negative bargaining zones. The rest of the chapter is divided into two major skill areas: (1) how to increase one's slice of the negotiation pie; and (2) understanding the psychology (and economics) of fairness. I usually cover pie-slicing skills in detail, as students are so preoccupied with this subject; and later in the term, I raise the topic of fairness. There is any number of ways to make this material come alive in the classroom, ranging from good old-fashioned lecture to small discussion groups. Another alternative is to give students a "homework" assignment to analyze their own negotiations in terms of pie-slicing strategies. The instructor can collect these and share the "best" examples with the entire class. Given that distributive negotiation is competitive, a discussion of lying and ethics is also appropriate.

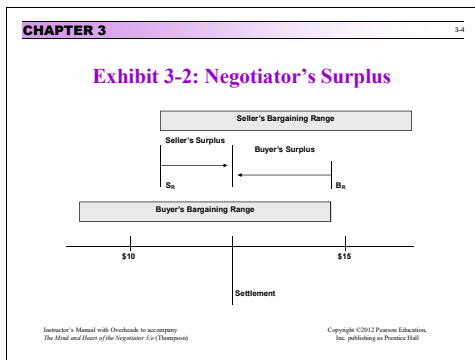
LECTURE OUTLINE

I. THE BARGAINING ZONE AND THE NEGOTIATION DANCE

- A. Bargaining zone, or zone of possible agreements (ZOPA), represents the region between each party's reservation point. Bargaining zone can be positive or negative (Exhibits 3-1A and 3-1B)
 1. If parties fail to reach agreement in positive bargaining zone, the result is suboptimal
 2. In a negative bargaining zone, parties should pursue other alternatives



- B. **Bargaining surplus: Amount of overlap between parties' reservation points**
- C. **Negotiator's surplus (Exhibit 3-2): Positive difference between the settlement outcome and the negotiator's reservation point; it indicates mixed-motive nature of negotiation**



a)

II. PIE-SLICING STRATEGIES

- A. **Assess your BATNA and improve it**
- B. **Determine your reservation point, but do not reveal it**
- C. **Research the counterparty's BATNA and estimate the reservation point**
- D. **Set high aspirations (be realistic, but optimistic)**
 - 1. Your first offer represents the most important anchor point
 - 2. Avoid the winner's curse
 - 3. Avoid boulwarism
- E. **Make the first offer (if you are prepared)**
- F. **Immediately reanchor if the other party opens first**
- G. **Plan your concessions**
 - 1. Pattern of concessions (unilateral or bilateral)
 - 2. Magnitude of concessions
 - a) Graduated reduction in tension (GRIT) model
 - 3. Timing of concessions
- H. **Support your offers with facts**
- I. **Appeal to norms of fairness**
- J. **Do not fall for the "even split" ploy**

CHAPTER 3 3-5

Pie-Slicing Strategies

- Strategy 1: Assess your BATNA and improve it
- Strategy 2: Determine your reservation point, but do not reveal it
- Strategy 3: Research the other party's BATNA and estimate the reservation point
- Strategy 4: Set high aspirations (be realistic, but optimistic)
- Strategy 5: Make the first offer (if you are prepared)
- Strategy 6: Immediately reanchor if the other party opens first
- Strategy 7: Plan your concessions
 - Pattern, magnitude (GRIT model), and timing of concessions
- Strategy 8: Support your offers with facts
- Strategy 9: Appeal to norms of fairness
- Strategy 10: Do not fall for the "even split" ploy

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III. THE MOST COMMONLY ASKED QUESTIONS

- A. Should I reveal my reservation point?**
- B. Should I lie about my reservation point?**
 - 1. Lying is unethical
 - 2. Lying hurts your reputation
- C. Should I try to manipulate the counterparty's reservation point?**
- D. Should I make a "final offer" or commit to a position?**
- E. Saving face**

CHAPTER 3 3-6

The Most Commonly Asked Questions

- Should I reveal my reservation point?
- Should I lie about my reservation point?
- Should I try to manipulate the other party's reservation point?
- Should I make a "final offer" or commit to a position?
- Saving face

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IV. THE POWER OF FAIRNESS

- A. There are multiple methods of fair division**
 - 1. Equality rule
 - 2. Equity rule
 - 3. Needs-based rule

B. Situation-specific rules of fairness

C. Social comparison (Exhibit 3-3)

1. Upward comparison
2. Downward comparison
3. Comparison with similar others
4. What drives the choice of the comparison other?
 - a) Self-improvement
 - b) Self-enhancement
 - c) Accurate self-evaluation

D. People seek equity in their relationships with others

E. Restoring equity — when people sense inequity they seek to restore it (Exhibit 3-4)

1. How to eliminate tension arising from inequity
 - a) Alter the inputs
 - b) Alter the outcomes
 - c) Cognitively distort inputs or outcomes
 - d) Leave the situation
 - e) Cognitively distort either the inputs or outcomes of an exchange partner
 - f) Change the object of comparison

F. Procedural justice — people evaluate not only the fairness of outcomes, but also the fairness of procedures by which those outcomes are determined

G. Fairness in relationships — judgments about what is fair are driven by the nature of the relationship we have with the counterparty (Exhibit 3-5; Exhibit 3-6)

H. Egocentrism taints judgments of fairness

I. Some cognitive mechanisms allow for egocentric judgments

- a) Selective encoding and memory
- b) Differential retrieval
- c) Informational disparity

CHAPTER 3 3-7

The Power of Fairness (I)

- Multiple methods of fair division
 - Equality rule
 - Equity rule
 - Needs-based rule
- Rules of fairness are situation-specific
- People are concerned about the "other person"
- People seek equity in their relationships with others
- When people sense inequity, they will attempt to restore it

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CHAPTER 3 3-8

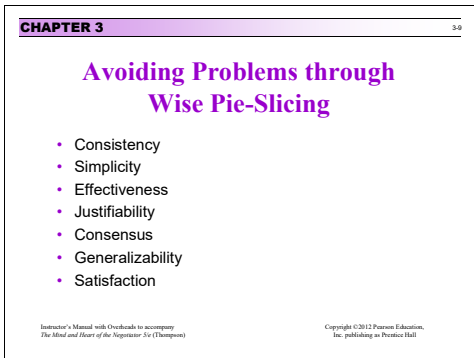
The Power of Fairness (II)

- Procedural justice - fairness of procedures by which outcomes are determined
- Fairness in relationships - judgments about what is fair are driven by the nature of the relationship we have with the counterparty
- Egocentrism taints judgments of fairness
- Some cognitive mechanisms allow for egocentric judgments
 - Selective encoding and memory
 - Differential retrieval
 - Informational disparity

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V. AVOID PROBLEMS THROUGH WISE PIE SLICING

1. Consistency
2. Simplicity
3. Effectiveness
4. Justifiability
5. Consensus
6. Generalizability
7. Satisfaction



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VI. CONCLUSION

- A. When it comes to slicing the pie, the most valuable information is a negotiator's BATNA**
- B. Negotiators can enhance their ability to garner a favorable slice of the pie by engaging in the following strategies:**
 1. Determine their BATNA prior to negotiations
 2. Attempt to improve upon their BATNA
 3. Determine your reservation point
 4. Research the counterparty's BATNA
 5. Set high aspirations
 6. Make the first offer
 7. Immediately reanchor if the counterparty opens with an "outrageous" offer
 8. Plan your concessions, support your offer with facts
 9. Appeal to norms of fairness
 10. Do not fall for the "even split" ploy
- C. Negotiators should not reveal their reservation price and never lie about their BATNA**
- D. A negotiator who is well versed in the psychology of fairness is at a pie-slicing advantage**

KEY TERMS

bargaining surplus The amount of overlap between parties' reservation points.

bargaining zone or **zone of possible agreements (ZOPA)** The region between parties' reservation points in which a final settlement should be obtained.

bilateral concessions Concessions made by both parties.

boulwarism A bargaining style named for Lemuel Boulware, former CEO of General Electric, in which one's first offer is one's final offer.

chilling effect When you ask for something outrageous and risk souring the relationship.

equality rule A principle that prescribes equal shares for all.

equity rule A principle that prescribes that distribution of resources should be proportional to a person's contribution.

even split Dividing evenly the two offers currently on the negotiation table.

face The value a person puts on his or her public image, reputation, and status vis-à-vis other people in the negotiation.

face-threat sensitivity (FTS) Likelihood that a negotiator will have a negative reaction to a threat to his or her public image, reputation, or status vis-à-vis other people in the negotiation ("face").

Goal-setting paradox A negotiator who focuses on ideas and feels less satisfied than a negotiator who focuses on their reservation point.

graduated reduction in tension model (GRIT) Unilateral conciliatory actions designed to de-escalate a conflict.

magnitude of concessions Extent to which one party has conceded from an initial-stated position.

mixed-motive negotiation A negotiation in which parties want to cooperate with their opponent to reach mutual agreement, but must compete to maximize their share of the joint gains.

needs-based rule A rule that states that the benefits people receive should be proportional to their needs; also called *welfare-based allocation*.

negative bargaining zone A negotiation situation in which there is no positive overlap between parties' reservation points.

negotiation dance The process of making offers and counteroffers in a negotiation.

negotiator's surplus The positive difference between the settlement outcome and the negotiator's reservation point.

pattern of concessions In negotiation, the sequence of consecutive concessions made by parties.

premature concessions Making more than one concession in a row before the counterparty responds or counteroffers.

ruthless competitor A person who prefers to have more resources than the counterparty, regardless of relationship.

suboptimal outcome In negotiation, an outcome in which negotiators leave money on the table, reach an impasse, or are generally worse off not reaching agreement than reaching agreement.

timing of concessions In negotiation, determination of whether concessions are immediate, gradual or delayed.

winner's curse A situation in which a negotiator makes an offer that is immediately accepted by the opponent, thus signaling the fact that the negotiator offered too much.

SUGGESTED EXERCISES AND OTHER MATERIALS

1. EXERCISE: **The Biopharm-Seltek Negotiation**

by Leonard Greenhalgh

Biopharm-Seltek is a distributive negotiation over the sale of a manufacturing facility that produces genetically engineered compounds. Negotiators are given information about the costs of their alternatives, but have to determine aspirations, reservation prices, and opening offers themselves. There are no teaching notes; however, the teaching notes associated with *Coffee Contract* (see below) can easily be adapted for this exercise. **Preparation:** 10 min. **Negotiation:** 20 min. Available from Creative Consensus, Inc., P.-O. Box 5054, Hanover, NH 03755. Phone/fax: (603) 643-0331.

2. EXERCISE: **Blue Buggy Buyer**

by Gaylen D. Paulson

This is a two-party deal making exercise with a negative bargaining zone. Nevertheless, 15%–20% of negotiators reach agreement illustrating irrationality and agreement biases. Another 15%–20% generate creative agreements that illustrate the limitations of the frames and assumptions negotiators bring to the table. **Preparation:** 10 min. **Negotiation:** 15 min. Available from the Dispute Resolution Research Center at the Kellogg School of Management, Northwestern University, 2001 Sheridan Road, Evanston, IL 60208. [Phone: \(847\) 491-8068](tel:(847)491-8068); [e-mail: drrc@kellogg.northwestern.edu](mailto:drrc@kellogg.northwestern.edu); [phone: \(847\) 491-8068](tel:(847)491-8068).

3. EXERCISE: **Bullard Houses**

by Ron Karp; revised by Mox Tan, David Gold, Andrew Clarkson, Paul Cramer, Douglas Stone, and Bruce M. Patton

DRRC's version of this Harvard Program on Negotiation (PON) exercise is excellent for raising issues of ethics in negotiation. It is a one-on-one, qualitative negotiation between agents over a piece of prime real estate. It emphasizes the role of agents, lying, misrepresentation, and trust. **Preparation:** 60 min. **Negotiation:** 60 min. Available from the Dispute Resolution Research Center at the Kellogg School of Management, Northwestern University, 2001 Sheridan Road, Evanston, IL 60208. Phone: (847) 491-8068; e-mail: drrc@kellogg.northwestern.edu.

4. EXERCISE: **Buying a House**

by Sally Blount

Buying a House is a two-party, quantified distributive negotiation with a \$10,000 overlapping bargaining range. It can be used to teach pure distributive negotiations and the use of comparative standards. **Preparation:** 15 min. **Negotiation:** 20 min. Available from the Dispute Resolution Research Center at the Kellogg School of Management, Northwestern University, 2001 Sheridan Road, Evanston, IL 60208. [Phone: \(847\) 491-8068](tel:(847)491-8068); [e-mail: drrc@kellogg.northwestern.edu](mailto:drrc@kellogg.northwestern.edu); [phone: \(847\) 491-8068](tel:(847)491-8068).

5. EXERCISE: **Club West**

by Craig R. Fox & Alan C. Fox; adapted by Stephen B. Goldberg, and Jeanne M. Brett

Club West is a lawsuit. *Club West* illustrates setting reservation prices in legal disputes, egocentric bias and reactive devaluation. **Preparation:** 30-60 min. **Negotiation:** 30 min. Available from the Dispute Resolution Research Center at the Kellogg School of Management, Northwestern University, 2001 Sheridan Road, Evanston, IL 60208. [Phone: \(847\) 491-8068](tel:(847)491-8068); [e-mail: drrc@kellogg.northwestern.edu](mailto:drrc@kellogg.northwestern.edu); ~~phone: (847) 491-8068.~~

6. EXERCISE: **Coffee Contract**

by Tony Simons and Thomas Tripp

This distributive exercise concerns the contract for coffee at the Cornell Hotel School. It provides a good context for teaching fundamental negotiation concepts like bargaining zone, reservation prices, and BATNAs, as well as distributive negotiation tactics, openings, concession making, and threats. Creative students may build in some integrative elements, and even if the students fail to find these creative ideas, the instructor can use them to introduce integrative negotiations. **Preparation:** 15 min. **Negotiation:** 30 min. Available from the Dispute Resolution Research Center at the Kellogg School of Management, Northwestern University, 2001 Sheridan Road, Evanston, IL 60208. Phone: (847) 491-8068; e-mail: drrc@kellogg.northwestern.edu.

7. EXERCISE: **Energetics meets Generex**

by W. Trexler Proffitt, Jr.

This is a two-party distributive negotiation based on a real California wind energy farm transaction in 2002. It is good for illustrating biases including anchoring and availability. There is the option to provide an outside offer during the negotiation that illustrates the power of BATNA. **Preparation:** 10 min. **Negotiation:** 30 min. Available from the Dispute Resolution Research Center at the Kellogg School of Management, Northwestern University, 2001 Sheridan Road, Evanston, IL 60208. Phone: (847) 491-8068; e-mail: drrc@kellogg.northwestern.edu.

8. EXERCISE: **GI-Fix**

by Max H. Bazerman

GI-Fix is a two-party distributive negotiation between the head of a pharmacy for an HMO and the sales representative of a pharmaceutical company over the price and volume of a drug. **Preparation:** 30 min. **Negotiation:** 30-45 min. Available from the Dispute Resolution Research Center at the Kellogg School of Management, Northwestern University, 2001 Sheridan Road, Evanston, IL 60208. Phone: (847) 491-8068; e-mail: drrc@kellogg.northwestern.edu.

9. EXERCISE: **Hollywood**

by Holly A. Schroth, Clarence Chen, Edward Sieh, and Patricia Yu

Hollywood is an exercise designed to illustrate the role of agents in negotiation. It has two parts, a negotiation between each principal and his/her agent, and a negotiation between agents. The exercise is primarily distributive over salary, but there is the opportunity to add issues to the table. **Preparation:** 15-20 min. **Negotiation:** 45 min. Available from the Dispute Resolution Research Center at the Kellogg School of Management, Northwestern University, 2001 Sheridan Road, Evanston, IL 60208. [Phone: \(847\) 491-8068](tel:(847)491-8068); [e-mail: drrc@kellogg.northwestern.edu](mailto:drrc@kellogg.northwestern.edu); ~~phone: (847) 491-8068.~~

10. EXERCISE: **MAPO**

by Mark N. Gordon, Tim Reiser, Elizabeth Gray, Lynn Gerber, Bruce M. Patton, and Valerie A. Sanchez

DRRC's version of this Harvard University Program on Negotiation (PON) case is a multi-issue union management contract negotiation, with integrative potential. It comes with numerous exhibits that provide an opportunity to discuss using fairness standards while negotiating distributive agreements. **Preparation:** 60 min. **Negotiation:** 120 min. Available from the Dispute Resolution Research Center at the Kellogg School of Management, Northwestern University, 2001 Sheridan Road, Evanston, IL 60208. [Phone: \(847\) 491-8068](tel:(847)491-8068); [e-mail: drrc@kellogg.northwestern.edu](mailto:drrc@kellogg.northwestern.edu); [phone: \(847\) 491-8068](tel:(847)491-8068).

11. EXERCISE: **Sugar Bowl**

by Gaylen D. Paulson

Sugar Bowl is a fun and compact introductory exercise originally designed for use in short negotiation seminars or workshops. The exercise presents a very approachable negotiating context, and one that persons are likely to feel is relevant to their own experiences. The key to the exercise is a relatively generous positive bargaining zone that often leaves both sides initially feeling successful, but later realizing they might have gotten a better distributive outcome (and thereby making them more receptive to course material). In a very short space of time issues are raised related to aspirations, reservation prices, alternatives, bargaining zones, and tactics for effective value claiming. **Preparation:** 5 min. **Negotiation:** 5-10 min. **Debrief:** 15-20 min. Available from the Dispute Resolution Research Center at the Kellogg School of Management, Northwestern University, 2001 Sheridan Road, Evanston, IL 60208. [Phone: \(847\) 491-8068](tel:(847)491-8068); [e-mail: drrc@kellogg.northwestern.edu](mailto:drrc@kellogg.northwestern.edu); [phone: \(847\) 491-8068](tel:(847)491-8068).

12. EXERCISE: **Virtual Victorian**

by Wendi Adair, Gaylen D. Paulson, and W. Trexler Proffitt, Jr.

Virtual Victorian is a distributive, house buying negotiation that is carried out through agents and via e-mail. There are four parties: the buyer, the buyer's agent, the seller, and the seller's agent. **Preparation:** 60 min. **Negotiation:** one week (e-mail). Available from the Dispute Resolution Research Center at the Kellogg School of Management, Northwestern University, 2001 Sheridan Road, Evanston, IL 60208. [Phone: \(847\) 491-8068](tel:(847)491-8068); [e-mail: drrc@kellogg.northwestern.edu](mailto:drrc@kellogg.northwestern.edu); [phone: \(847\) 491-8068](tel:(847)491-8068).

13. CHAPTER: **Judgmental biases in conflict resolution and how to overcome them.**

In M. Deutsch, P.T. Coleman, and E.C. Marcus (Eds.) *Handbook of Conflict Resolution*, 2nd Edition, Jossey-Bass.

by Leigh Thompson, Janice Nadler, and Robert Lount

From the introduction of the paper: A common misconception held by negotiators and dispute resolution professionals is that conflict escalation, stalemates, impasses, and lose-lose agreements are driven by intransigence and self-interested motivations. Whereas self-interest and opposing motivations do interfere with productively resolving conflict, there are many seemingly benign beliefs and cognitions that also interfere with effective conflict resolution but often go undetected. Unfortunately, these beliefs are not easily corrected during the process of conflict resolution itself because it is difficult for negotiators to monitor them. Furthermore, third-party intervention is no guarantee that erroneous beliefs and cognitions will be adequately identified and eliminated. In fact, the mere presence of a third party may exaggerate the tendency of these faulty and erroneous beliefs to disturb the otherwise effective resolution of conflict. Further, third parties and other self-proclaimed "neutrals" often fall prey to similar cognitive biases. We argue in this chapter that identifying and challenging negotiator biases can do much to effectively resolve disputes and conflicts of interest. Unfortunately, most negotiators are not aware of the existence of cognitive biases and their deleterious effects. In the first section, we introduce our basic framework and key assumptions. In the second section, we provide illustrative examples of the effects of cognitive bias

on conflict management. Finally, we examine methods by which to eliminate or reduce cognitive bias at the bargaining table.

MULTIPLE-CHOICE QUESTIONS

1. The bargaining zone, or zone of possible agreements (ZOPA), is the range
 - A. below the seller's reservation point and above the buyer's target point
 - B. below the seller's target point and above the buyer's reservation point
 - C. between negotiators' reservation points
 - D. between negotiators' target points
2. The negotiator's surplus is the positive difference between
 - A. negotiators' reservation points
 - B. the settlement outcome and the negotiator's reservation point
 - C. the bargaining surplus and the settlement outcome
 - D. the best possible economic outcomes
3. If you reveal your reservation point during the course of negotiation
 - A. the other party has little or no interest to offer you anymore
 - B. parties will reach an impasse
 - C. the counterparty will reveal its reservation point
 - D. you will get a bigger slice of the pie
4. A negative bargaining zone indicates that
 - A. parties are worse off by not reaching agreement than reaching agreement
 - B. there is no positive overlap between the parties' reservation points
 - C. parties should keep negotiating to find a positive bargaining zone
 - D. the counterparty's first offer was not accepted
5. Which of the following is a strategically wise method of anchoring?
 - A. setting an assertive aspiration point early in the negotiation
 - B. immediately rejecting the counterparty's first offer
 - C. determining the exact midpoint between the last two offers on the table
 - D. refusing to make any concessions
6. When formulating counteroffers and concessions, negotiators need to consider three things
 - A. the starting value, the end value, and the magnitude of concessions
 - B. the fairness, the misuse, and the pattern of concessions
 - C. the pattern, the magnitude, and the timing of concessions
 - D. the impact, the size, and the timing of concessions
7. Lying about your reservation point
 - A. is known as the "chilling effect"
 - B. reduces the size of the bargaining zone
 - C. reduces the size of concessions
 - D. will lead to a lose-lose outcome

8. Which of the following statements is most true regarding *equity* in negotiation?
 - A. People tend to use equal division rule most of the time
 - B. Distribution should be equal regardless of one's contribution
 - C. People feel entitled to make what others do despite their efforts
 - D. Most people prefer to receive outcomes that are fair
9. Procedural justice concerns fairness
 - A. of the processes in legal proceedings
 - B. of the processes by which decisions are made
 - C. in the distribution of rights or resources
 - D. in the rectification of wrongs
10. If the counterparty opens with an "outrageous" offer, the negotiator should
 - A. lower his/her aspirations
 - B. reveal his/her reservation price
 - C. immediately re-anchor
 - D. appeal to norms of fairness and justice

Answer key: 1.C; 2.B; 3.A; 4.B; 5.A; 6.C; 7.B; 8.D; 9.B; 10.C.

DISCUSSION QUESTIONS

1. What is the bargaining zone in a negotiation? How does a positive or negative bargaining zone affect the outcome of a negotiation?
2. What are the most important factors to consider when making concessions in negotiation (so as to maximize your share of the bargaining zone)?
3. Should a negotiator reveal his or her reservation point? Why or why not?
4. What are some of the costs of lying in a negotiation?
5. What are some factors that dictate which rules of fairness are employed in a specific negotiation situation?

Suggested answers:

1. The bargaining zone is the range between negotiators' reservation points. Positive bargaining zone means that mutual agreement is better than resorting to BATNAs. Negative bargaining zone indicates there is no positive overlap between the parties' reservation points and negotiators should not waste time negotiating but exercise their BATNAs instead.
2. When making concessions, negotiators need to consider the pattern, the magnitude, and the timing of concessions. Negotiators should not offer more than a single concession at a time, however, many negotiators make premature concessions—more than one concession in a row before the counterparty responds. Another consideration is to determine how much to concede—the amount reduced or

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added (depending upon whether one is a seller or buyer) from one's previous offer. It is unwise to make consistently greater concessions than one's opponent. The timing of concessions refers to whether they are immediate, gradual, or delayed.

3. Revealing one's reservation point is generally not a good strategy unless it is especially good and the bargaining zone is small. This knowledge allows a negotiator to make offers that barely exceed the counterparty's reservation point and claim the entire bargaining surplus for oneself. Some negotiators reveal their reservation point to demonstrate that they trust the other party, however, more effective ways exist to build trust. Additionally, "trusting" the counterparty with your reservation point does not help to maximize your surplus.
4. Lying about your reservation point reduces the size of the bargaining zone and negotiations may end in impasse. The most common lie in negotiation is "This is my final offer" and it would be embarrassing to continue negotiating after making such a statement. Finally, lying hurts your reputation. Once you have a reputation of a tough negotiator, people will behave more competitively with you. Additionally, people who discover that they have been deceived, seek retribution.
5. Some of the factors are: the goals involved in a negotiation situation (e.g., equality-based rules to maintain group solidarity, equity-based to enhance productivity). Similarly, a negotiator's relationship to the other party influences the choice of fairness rules (equality rule for negotiators who share similar attitudes and beliefs, or are likely to engage in future interaction, or if public decisions and allocation are made). Fairness rules also depend on whether people are dealing with rewards versus costs (equality is used to allocate benefits, but equity is used to allocate burdens). The selection of fairness rules is also influenced by extenuating circumstances (e.g., in complex situations people are more likely to use the equality rule).