The 21 Rules for Successful Negotiating

“The only negotiating book you’ll ever need. It’s required reading — an absolute must for anyone who wants the edge in negotiating.”
—June Blocklin, vice chairman, Young & Rubicam Brands

Negotiate to Win
How to Get the Best Deal Every Time!

Jim Thomas
America’s Negotiating Coach
NEGOTIATE TO WIN

The 21 Rules for Successful Negotiation

JIM THOMAS
To my parents
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In writing *Negotiate to Win*, I’ve been blessed with the unsparing assistance of family, friends, students, clients, and top-drawer negotiators. It’s said that our best thoughts come from others; most of the credit for this book belongs to them.

So many of my negotiating and legal colleagues contributed that I cannot possibly list, let alone thank, all of them. I am deeply grateful for their priceless help. Thanks also to the tens of thousands of students with whom I have had the pleasure of working in *Negotiate to Win* seminars around the world. They have given me countless invaluable insights.

Special thanks go to my clients—my early clients, in particular. Thomas Edison once said, “I have not failed. I’ve just found 10,000 ways that won’t work.” The number of mistakes one can make in negotiating is very large. I know this because I have made so many of them myself. Trial and error is a brutally inefficient, incredibly costly way to learn how to negotiate. It was at my clients’ expense that I learned my craft, but it is because of them that I can offer you an alternative.
I wish to thank my children, Alex, Kelly, and Ryan, for their sacrifice of a lot of irreplaceable daddy-time during the writing of this book. For his suggestions about real estate negotiating, I thank my friend Bob Brown. For believing in me and guiding me through the process, I thank my amazing agent Bonnie Tandy Leblang, who got the show on the road. For his unfailing objectivity, good humor, advocacy, advice, patience, and confidence, I thank my editor, Herb Schaffner.
Many books have been written about negotiating. *Negotiate to Win* is about how to negotiate. Its purpose is to make you a better negotiator, as quickly and painlessly as possible. If you’re a beginner, it will show you, step by step, how to negotiate with confidence and skill. If you’re more experienced, it will help you become a better negotiator than you ever imagined.

Here’s the plan. When you boil down all the bromides, clichés, theories, and folklore about negotiating, you wind up with a handful of techniques that actually work. Those techniques—the 21 Rules of Negotiating—are the heart and soul of *Negotiate to Win* and the focus of each of its three parts. Part One gets you ready for the Rules, Part Two gives you the Rules, and Part Three helps you use the Rules more effectively. When you know the Rules, you’ll know negotiating.

Part One, *The World Is a Big Blue Negotiating Table*, takes a big-picture look at the topic. In Chapter 1, *Haggling Is Hot*, we consider some of the trends behind the growing, worldwide importance of better negotiating. In Chapter 2, *Trashing the Hallowed Halls of Haggling*, we detail the surprising shortage of practical information
about bargaining that inspired this book. A quick spin around the planet in Chapter 3, Why Johnny and Janey Can’t Negotiate, reveals that Americans are among the worst—if not the worst—negotiators on Earth. We look at some cultures in which people bargain well, and some reasons why Americans don’t. In Chapter 4, Concessions Speak Louder Than Reasons, we mark the all-important boundary between persuasion and negotiation. Often used interchangeably, these terms describe vastly different processes; proficient negotiators must know when to use one technique or the other, and why. The final stop before the Rules is Chapter 5, Win-Win Negotiating. There, we explain how humans come prewired with a deep-seated need to save face, and, when we don’t, a burning desire to retaliate. Win-win negotiating is, by and large, a function of human evolution: If you vanquish the other side, they’ll retaliate.

The heart of the book is Part Two, The 21 Rules of Negotiating, where the Rules are explained in detail. The seven Critical Rules are covered in Chapter 6, the four Important but Obvious Rules in Chapter 7, and the ten Nice to Do Rules in Chapter 8. Part Two concludes with Chapter 9, Putting It All Together, in which each of the Rules is demonstrated in a hypothetical negotiation.

In Part Three, The Practice of Negotiating, the Rules meet the real world. Chapter 10, Ethics, takes on the thorny subject of ethical negotiating. We identify some bargaining moves that are clearly ethical, some that clearly aren’t, and some that aren’t so clear, along with guidelines to help you recognize and avoid ethical traps. Globalism is making Chapter 11, International Negotiating, more important every day. Opportunities abroad are immense, but dealing with the negotiating styles of other countries—especially those where bargaining is commonplace—requires special care and attention. Chapter 12, Quickies, offers specific tips on how to successfully handle everyday negotiations with bosses, children, car dealers, contractors, auto mechanics, and many others. We wrap up with a key-points review and some final words of advice in Chapter 13, Concluding Thoughts, and Chapter 14, Thomas’s Truisms.
Let’s set a few ground rules before we begin:

- I am living proof that God has a sense of humor. My cornucopia of flaws includes being an incurable wise guy. No matter how solemn the occasion, I can’t be deadpan for more than about five minutes at a stretch. Many things in the following pages are said in jest. I mean no disrespect or offense, and I offer heartfelt apologies, in advance, for any that might inadvertently be given.

- *Negotiate to Win* is the product of experience, not research. You won’t find the abundant references and footnotes common to more scholarly works. This approach maintains the long-standing disconnect between me and anything that could remotely be called “scholarly,” while simultaneously making room for stuff that somebody actually might read.

- Many of my examples depict people bargaining over some imaginary order of widgets, doodads, or gizmos. I use such examples only because they can be illustrated quickly and grasped easily, and in no way to minimize the importance of the countless negotiations that have nothing to do with buying, selling, numbers, or tangible things.

- The moment you write about somebody, sex becomes an issue. In English, anyway. That’s because English doesn’t have a gender-neutral, third-person-singular pronoun. In English, everybody has to be *he* or *she*. I try to finesse this, first, by proudly using the forbidden third person plural (*they/them/their*) whenever I think I can get away with it; and, second, by alternating between male- and female-gendered pronouns. Neither solution is ideal—the alternating pronouns, in particular, can make for some awkward going at first—but they’re a start.
The party on the other side of a negotiation is often called “the opponent.” “Opponent” sounds hostile and combative to me, like someone to be vanquished. I view good negotiating as more of a joint problem-solving enterprise than a battle, so I use neutral or positive terms like “the other side,” “counterpart,” “fellow negotiator,” and “colleague” instead.

Canadians, Latin Americans, and everybody else residing on the American Continent may rightly be called “Americans.” However, in Negotiate to Win, “Americans” refers only to people from the United States.

Negotiate to Win lionizes an imaginary “Japanese” negotiator and bargaining style as the standard of excellence. Our superhuman Japanese bargainer is a literary device. Nobody—from Japan or anywhere else—negotiates that well. Like all stereotypes, positive ones included, he is one-dimensional and inherently unrealistic.

Over the years I’ve jotted down various adages about negotiating, often having just experienced their validity firsthand. These sayings have become known as Thomas’s Truisms. You’ll find 50 of them scattered throughout the book and collected at the end.

Thomas’s Truisms can help make important bargaining principles compact and portable, but like all maxims, they must be used carefully. Some of them are flat-out bargaining dogma, but most are in the nature of commentary and observation. Some are deliberate oversimplifications. Others are not applicable in all circumstances. A few are even directly contradictory—and valid nonetheless—requiring the negotiator to balance their competing advice.
PART ONE

THE WORLD IS A BIG BLUE BARGAINING TABLE
We are all going to die. Aside from that, it’s negotiable.

Among animals, only humans negotiate. We negotiate unceasingly, from our first cry to our last breath. We dicker with bosses, subordinates, colleagues, customers, vendors, parents, spouses, children, merchants, laborers, craftspeople, bureaucrats, policemen, lovers, friends, and enemies. We haggle with individuals and groups, at home and at work, day and night, rain and shine. Negotiating is part of practically every human activity. Any time two or more of us confer for agreement—about anything—we could be negotiating.

If you think a lot of haggling is going on now, just wait. Society is being hammered by revolutionary social, political, and economic changes that will sharply raise the stakes on skillful negotiating.

New economic realities. It’s not just your imagination—things really are getting tougher. It’s harder than ever to manage a business, make a profit, raise a child, balance a family budget, or run a government. And the tougher things get, the more important good negotiating becomes.
As I write this, the average net after-tax profit margin of S&P 500 companies is a razor-thin 4%. 4%! Margins of 10 to 20% and more used to be typical; only grocery chains and a few other high-volume businesses had 4% margins. Yes, in some years margins will get better. And in others, they’ll get worse. They constantly fluctuate with economic cycles. But, on average, they’ve been steadily shrinking for the past half-century. I’m no economist, but this looks like a trend to me.

What happens when the sellers and buyers in a company with a 4% net after-tax margin start negotiating 1% better? Just 1%? That 1% drops straight to the bottom line—increasing profit by 25%! Imagine the effect on the price of that company’s stock.

Scarcity is the mother of better bargaining. When times are good and margins are fat, you can get away with a little sloppy negotiating now and then. When margins are 4%, you can’t. The economic landscape has changed, probably forever. We share a future of constrained resources—of 4% margins—in which ever-smaller advantages will determine who succeeds and who doesn’t; a future in which better negotiating can make all the difference.

New globalism. The doors to the Mother of All Bazaars are open. Electronically exchanged information and capital are quickly making international borders irrelevant. We are all citizens of—and competitors in—a wired, global state.

An obvious consequence of our connected world is a huge upsurge in transactions between individuals and organizations with vastly different cultural backgrounds. Westerners just entering the international marketplace are often shocked to discover that the rest of the world negotiates like crazy! New globalism requires successful negotiators to quickly adapt to the ways of other cultures. Chapter 10, International Negotiating examines these issues and highlights some of the shortcomings of the traditional American “one size fits all” approach to cross-cultural negotiating.
New management and work styles. Today’s organizations are smaller, flatter, faster, and increasingly dependent upon capable negotiating. Corporate pyramids topped by shouting, imperial bosses have been replaced by unstructured, collaborative enterprises. Today’s employees, more self-interested and nomadic than their careerist forebears, have little tolerance for dictatorial treatment. Good “office negotiation” skills have become almost indispensable to managerial success.

The rapid growth of strategic alliances between companies has been another boon to bargaining. Members of these alliances trade their traditionally predatory relationships for shared forecasts and technology, pooled financial and human resources, and joint design and production decisions. Maintaining the health of these alliances requires the constant renegotiation of delicately balanced burdens, benefits, rights, and responsibilities.

New frugality. Yet another trend helping make negotiation a growth industry is the “new frugality” movement in America. Many Americans have joined a subtle but widespread retreat from unrestrained conspicuous consumption in favor of simpler pleasures, thriftier ways, and more practical lifestyles. Besides bag lunches, bulk buying, and recycling, negotiating is *de rigueur* for growing numbers of “new frugality” adherents. Even in day-to-day retail dealings, they’re rejecting the traditional American taboo against bargaining.

You ain’t seen nothin’ yet. The future will test our negotiating skills as never before. Haggling is hot, and it’s getting hotter all the time.
Seven hundred years ago, an unknown, penniless Franciscan friar named William of Ockham had a notion that changed the world. “The best answer to a question,” he said, “is the simplest answer that explains the facts.” In modern vernacular, “Keep it simple, stupid!”*

Upon a fourteenth-century society that believed everyday events were governed by mystical forces beyond human reckoning, his proposition—today known as Ockham’s Razor—fell like a bombshell. Suddenly, everything was open to question. Unfortunately for Ockham, “everything” included the Catholic Church, which promptly branded him a heretic and tossed him into the slammer.

His idea, however, refused to be unthought. The first faint glimmers of Renaissance brilliance—kindled, in part, by Ockham’s notion—soon illuminated the Dark Ages. Ockham’s Razor would help to change modern thinking.

* Another modern restatement of Ockham’s rule—*attributed both to Albert Einstein and Yogi Berra*—is “Keep things as simple as possible, but no simpler.”
It changed my thinking about negotiating.

Many years ago, a client requested that I give a short briefing on negotiating techniques. The client was determined to improve the negotiating skills of his people, and had tried everything—every bargainng book and seminar he could find—to no avail. Nothing worked.

The client’s instructions were very specific: “I don’t want any theory. I don’t want to hear about Maslow’s Hierarchy of Needs. Just give me the stuff that works. If you have any doubt about something, leave it out.”

In short, take Ockham’s Razor to the subject of negotiating.

I read everything I could find on the topic. And the more I read, the more frustrated I became. Practically nothing passed the Razor test. Much of the material was naively theoretical, or focused on physical trappings (table shape, clothing, seating protocol, and the like), or preached intimidating or unethical behavior, or worse. Newer works rehashed earlier ones. Instead of nuts-and-bolts guidance, I found theory, folklore, trivia, clichés, and war stories. Here’s a brief, Razor-eye view of some of negotiation’s “accepted wisdom”:

**The academic approach.** For years, respected and influential scholars have rejected ordinary (they call it “hard” or “positional”) bargaining in favor of a more inclusive or “principled” style. A central tenet of this approach is the importance of focusing on the true needs and interests behind the other side’s stated position, rather than the position itself.

**BUYER:** I want a 10% price rollback. *Now.*

**SELLER:** I hear what you’re saying about a 10% price rollback. But what are we really talking about? Is this a recognition thing for you? An empowerment thing? Do you feel that my company hasn’t treated you with enough respect in the past? Let’s be honest with each other.
In the above example, it’s altogether possible that the buyer will respond with a thoughtful, revealing answer, and the parties will go on to form a lasting agreement. However, I wouldn’t bet on it. This is much more likely:

**BUYER:** Thanks, pal, but if I’d wanted psychotherapy, I woulda’ called a shrink. I’m here to talk about pricing. And I’m in a hurry. What’s it gonna be?

When adults haggle—especially at work—you can bet your patootie that most of the time our stated positions are going to be seriously close, if not identical, to our real interests. On those rare occasions when they aren’t, we’ll be absolutely delighted to make our underlying interests abundantly clear, along with the many wonderful ways they can be satisfied. You won’t be able to shut us up about our interests.

Negotiations fail because of conflicting values, perceptions, and beliefs. They fail because of insufficient resources, fear, timidity, and clashing personalities. The interest-based, academic approach rarely works because conflicting interests are rarely the problem. And when, as is frequently the case, one side is adversarial or more powerful than the other, it’s almost completely useless. It’s elegant and well intentioned, and it doesn’t pass the Razor test.

**Folklore.** The subject of negotiating abounds with folklore, much of it about the trappings of the bargaining venue or the bargainers themselves. We’re advised that the person in the “power seat” (head of the table, back to the window, facing the door) is likely to prevail. We’re coached on the best days and times for negotiating, the preferred table shape, whose “turf” we should bargain on, and what biorhythms insure haggling success. We’re urged to wear “power colors” (dark blue, gray, and black). Picture this:
As the blue-suited negotiator strides confidently into the room, her counterpart anxiously whispers to an assistant, “No! She’s wearing the blue suit! We’re toast! Whenever she wears that suit, I give away the ranch! I just can’t help myself! What’s the point of going on? Why don’t we just give up right now?”

Wouldn’t that be great? This would be the shortest negotiating book of all time: “Wear blue. And keep it to yourself. It’ll be our little secret.”

There’s not a shred of empirical evidence behind this stuff. It just gets repeated, gaining undeserved credibility with each retelling. I have never heard of, let alone witnessed, a negotiation that was significantly influenced by when or where it took place, what the participants wore, where they sat, or the shape of the table (if any) they used. In fact, after almost 30 years in this business, I can honestly say that I don’t know of any physical factor that has so much as a measurable effect on negotiated outcomes. Not one. When you Razor-cut it, much of negotiation’s folklore turns out to be fiction.

Body language. Some negotiating pundits insist that an individual’s posture and gestures can be “read” to reveal what he or she is thinking. Everyday nonverbal gestures—an opened palm, a tilted head, a stroked chin—are given elaborate interpretations. Folded arms show skepticism and resistance. An unbuttoned jacket signals openness and readiness to reach agreement.

Then again, maybe it signals that the wearer’s hot. Or needs some air. Or has put on some weight. And maybe those arms are folded because their owner is freezing. Or shy. Or thinks it makes the biceps look bigger. Or any one of a thousand other reasons.

It all fails the Razor test. An insurmountable obstacle will always frustrate the development of any reliable, systematic analysis of body language: Everybody’s different. A gesture or cluster of gestures that convey a specific meaning when exhibited by a particular per-
son in a particular culture at a particular time can easily have an altogether different meaning—or no meaning at all—for another person, or within another culture, or at another time.

Now, don’t get me wrong. I freely admit that a vast amount of important communication takes place without words, and in no way am I suggesting that you ignore nonverbal cues. What I’m suggesting is that you’re a body-language guru right now. Since you were a kid, you’ve been reading the other side’s body language like a highway sign. You know when they’re excited, happy, sad, angry, interested, resistant, or bored. You know that when they stand up, the meeting’s probably over. You don’t have to think about it. You just know it.

If you’re consciously thinking about body language, you’re giving it too much attention. And you’re distracting yourself from more important things you should be thinking about.

**Strategies.** While looking through his desk, the new Manager of Labor Relations finds four envelopes. The first is labeled “Strategy 1,” the next “Strategy 2,” and the third “Strategy 3.” The fourth is labeled “Open Me First,” which he does. Inside is a letter from his predecessor that says: “Welcome aboard! These envelopes contain my best negotiating strategies. If you ever run up against a problem you can’t solve, use Strategy 1 first, then Strategy 2, then Strategy 3.”

The new manager smiles at his predecessor’s thoughtfulness, puts the envelopes back in the desk, and forgets about them.

Six months later the union goes on strike, shutting the company down. It’s losing money fast. After a long night of hostile negotiating with the union, the manager remembers the envelopes. As instructed, he opens the “Strategy 1” envelope. Inside is a note that says, “Blame your predecessor for everything.”

It works. The strike ends and his job is saved.
A few months later, there’s another strike. The union is even more adversarial than before, and its demands are outrageous. After hours of fruitless bargaining, the manager goes to his desk and opens the “Strategy 2” envelope. The note reads, “Blame the government for everything.”

It works like a charm. Once again, the strike ends and his job is saved.

A month later the union declares yet another strike. This time, its demands are simply preposterous. It refuses to compromise on anything. Desperate, the manager runs to his desk, tears open the last envelope, and reads the note. It says: “Prepare four new envelopes . . .”

The literature of negotiation is packed with literally hundreds of so-called “strategies.” Often carrying faux-dramatic names like “salami” and “surprise,” they offer an uneven patchwork of advice that ranges from worthwhile to wrongheaded to downright unethical.

The “forbearance” strategy, for example, advises the negotiator to patiently “wait out” the other side. In Rule 15, Be patient, we’ll show why patience in negotiation—when practicable—is a fine idea. But it’s hardly a strategy, a carefully devised plan of action. Without the host of other elements that animate the negotiation—offers, counteroffers, concessions, and more—forbearance alone accomplishes almost nothing.

The “bland withdrawal” strategy suggests that the negotiator simply leave the discussions—perhaps without so much as an explanation to the other participants:

Where did Bill go? He was here a minute ago. He was going to give us his position on the offshore tax structure. You say he just wandered off? Does this happen a lot? I hope he’s O.K.

This is no strategy; it’s just loony behavior. And it’s no way to reach an agreement.
The *fait accompli* strategy is often illustrated by the sending of a check for less than the agreed amount. Not only isn’t this a negotiating *strategy*, it isn’t even *negotiating*. The negotiation ends when the parties agree on the number. What’s being suggested by this technique is *chiseling*. Or fraud. It’s blatantly unethical, highly offensive, and a virtual guarantee of reprisal.

When you’ve only got a hammer, everything is a nail. The Achilles heel of all negotiating strategies is that they try to solve inherently dynamic problems with inherently static solutions. Every negotiation—and every negotiator—is unique and must be handled differently. You can’t do this with a handful of canned strategies. Even if you could, the exasperating unpredictability of the process would quickly render even the best-planned strategy obsolete.

Strategies fail the Razor test, not because they aren’t simple enough, but because they’re *too* simple. Strategies alone will never make you a good negotiator. You must know *how* to negotiate.

**Intimidation.** There’s something strangely fascinating about intimidation in negotiation. It’s juvenile, rude, unprofessional, and ineffective but, like the proverbial train wreck, we’re mesmerized by it. We love to hear about how somebody gave away the ranch because of a sweltering room, a wobbly chair, a blinding light, a noxious smell, or the other side’s obnoxious behavior.

The concept is simple enough: By behaving antagonistically, irrationally, or offensively, you can intimidate, upset, or confuse the other side into making generous concessions.

Here’s a scenario. You arrive at the appointed time, only to learn that the meeting has been delayed. After an hour’s wait in the reception area, you’re ushered into your counterpart’s office and motioned to a small, soft, stuffed chair. You sit, quickly sinking up to your waist in pillow-soft padding. Your counterpart’s desk—easily the biggest desk you’ve ever seen—sits on a low platform in front of a huge window. You can just make out his head and shoulders from your sunken vantage point.
Shortly after the talks begin, the sun appears from behind an adjacent building. A brilliant sunbeam centers itself perfectly on the back of your counterpart’s head. Now, looking at him is like looking at a solar eclipse: Incandescent rays emanate from the black dot that used to be his face. Tears stream down your cheeks. The room is hotter than a sauna. His calls aren’t being held, so the telephone rings constantly. A stream of visitors interrupt the meeting. Implements of war decorate the walls: axes, maces, bows and arrows, guns, spears, knives, animal heads. There isn’t a square inch of unused flat surface, so you have to hold your paperwork in your lap—but it keeps falling on the floor because one of your chair’s legs is an inch shorter than the other three and you’re uncontrollably rocking back and forth. This aggravates your nausea from the noxious blend of fumes from your counterpart’s rancid cigar and cheap cologne.


No? Precisely. If you’re like most people, concessions are about the last thing on your mind right now. People who are treated like this don’t get generous, they get angry. Or at the very least, defensive. They make fewer, not more, concessions. Aside from insulting or screaming at the other side, it would be hard to dream up behavior less likely than this to elicit concessions. It just doesn’t work.

And it’s a good thing it doesn’t, because it would be even worse if it did.

Here’s what would happen. Let’s make our imaginary victim a complete bargaining neophyte in his very first formal negotiation. He walks into the above-described den of horrors, he panics and he gives away the ranch. In the vernacular of the trade, it’s called “a hosing.”

* From *hose (hoz) *vt. In negotiating, to obtain a highly favorable, one-sided agreement. Probably derived from the Canadian slang “hoser” popularized by the Bob and Doug Mackenzie skits on SCTV: “I can’t wait to hose those tree-hugging geeks.” *Hosed (hozed) *adj. In negotiating, to be bargained into a highly unfavorable, one-sided agreement. “We were totally hosed in that negotiation. And it’s your fault.” See also *dehose, rehose, hoser, hosee.*
The unsuspecting hosee returns to his office and dutifully presents the deal to his boss. At first, the boss is merely incredulous: “This is a joke, right?” he says. “You’re a comedian.” When the true enormity of the debacle sinks in, the boss is apoplectic: “This is the stupidest deal I’ve ever seen! Have you taken leave of your senses?”

With luck, the hosee will keep his job. But he’ll never forget who put him in this humiliating, career-threatening position. As he drifts off to sleep that night, his last thoughts will be of the person behind the big desk—the hoser. And he’ll quietly vow eternal revenge against him, his organization, his family, and his lineage unto the last generation.

Some day, the hoser’s and hosee’s paths will cross again.† And when they do, I’ll bet the hoser gets an unforgettable lesson in the true cost of win-lose negotiating.

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**THOMAS’S TRUISMS**

What goes around comes around. Sooner or later, you have to pay for your sins.

**THOMAS’S TRUISMS**

**Pestering.** A tawdry variant of the “negotiation by intimidation” approach advocates, in essence, negotiating by being a pest: bugging people until they give in. Prescribed techniques include deliberately wasting the other side’s time, making a scene, raising your voice, and complaining endlessly.

Pestering passes the Razor test because, unlike intimidation, it actually works sometimes. But like intimidation, it’s tacky and win-lose. And if you use this approach, have no illusion about the reason you’re getting whatever the other side gives you:

*To get rid of you.*

All of this brings us back to my little briefing. It was now

† The Bargaining Gods will insist on it. There’s been a hosing, the accounts are out of balance, and the Bargaining Gods are offended. They’ll arrange a rematch.
painfully clear that I wasn’t going to be able to cut and paste a presentation out of conventional wisdom. I was going to have to start from scratch. And so, with my client’s instructions (“Just give me the stuff that works”) firmly in mind, I began. I didn’t know it then, but I was writing Negotiate to Win.
Why Johnny and Janey Can’t Negotiate

When it comes to negotiating, Americans have a **biiiiig** problem. How big? Let’s take a quick spin around the planet and see how Americans measure up, bargaining-wise, to the rest of the world.*

Japan, home to the finest negotiators on Earth, is the perfect place to start. You’d be hard-pressed to find much of anything wrong in the way the Japanese negotiate. Their skill at bargaining comes from two fundamental Japanese social imperatives: saving face, and maintaining the *wa*, or harmony, of the group. Here’s the formula: If a deal is unfair, someone will lose face; and if someone loses face, the *wa* of the whole group will be undermined.

If anybody gets hosed, *everybody’s* hosed.

You can see the importance of face-saving to the Japanese in something as simple as the way they say “no.” Blunt language is scrupulously avoided; a straightforward “no” would be unthinkable.

*Disclaimer:* The “cultural descriptions” in this chapter are deliberate, extreme oversimplifications. We’ll take a far more thoughtful look at cultural differences in Chapter 11, International Negotiating.
Among the various gambits that let the Japanese say “no” without causing offense is a little maneuver known affectionately as a “Japanese No.”

A Japanese No is simply a “yes” with an “if” attached—an “if” so extravagant it’s almost certain to be rejected by the other side:

**AMERICAN:** I want X, Y, and Z.

**JAPANESE:** Certainly! We are delighted and honored to give you X, Y, and Z! [ten-second pause] In exchange, however, we will require your firstborn child. Is that agreeable?

Except for the sorry handful of you who screamed “It’s a deal!” the proposed trade has the practical effect of a flat “no.” Its emotional effect, however, is altogether different. A simple “no” is an edict; it precludes discussion; its recipient is a bystander. A Japanese No is a choice; it requires discussion; its recipient must participate:

**AMERICAN:** Firstborn child? Hmmm. Interesting, but for now, I’m gonna have to pass. Thanks for asking, though!

Hobsonian or not, any choice is better than none. I’ll take a Japanese No over the regular kind any day.

How do the Japanese say “yes”? The same way! They just lighten up on the “if”! For the Japanese, the only difference between a yes and a no is the size of the “if.” To say no they crank the “if” up, and to say yes they crank it down.

**THOMAS’S TRUISMS**

For the Japanese, the only difference between a yes and a no is the size of the “if.”

Yes or no, there’s always an “if.” No honorable Japanese negotiator would make a concession without one.
Leaving Japan and moving west, we find competent negotiating throughout Asia. Further west, the Russians are legendary for their bargaining skills, and their Eastern and Central European neighbors are home to some fine hagglers as well.

Unfortunately, the wheels fall off when we get to Western Europe. Germany enjoys the unique distinction of having Europe’s largest economy and its worst negotiators. This isn’t surprising, since Germans worship the very things that negotiation so famously lacks: logic and efficiency. The British, who look down on the whole process as a sign of bad breeding, aren’t much better. The French easily outbargain the Brits; the Italians top the French; the Greeks outdo the Italians; and the Turks whip the Greeks.

Interestingly, there seems to be a lot more negotiating outside of Western Europe and North America than inside. Why? Supply and demand. Our very own incredibly efficient economies have made negotiating slackers out of us. We don’t bargain at the Wal-Mart because there’s a Target just down the street. When Target has a lower price, it’s goodbye Wal-Mart. They burn the midnight oil at Wal-Mart until they figure out how to beat Target’s price, and when they do, it’s goodbye Target! Why don’t we negotiate in the West? Because we have feet!

I’ll grant you that much of the heavy lifting in Western commerce is handled very capably by market forces. But even the most efficient market forces will only drive prices to market levels. To beat the market—especially a highly competitive market—requires skillful negotiating. The results—an extra quarter-percent here, an extra half-percent there—won’t be particularly dramatic. But when viewed over the course of a career, or when multiplied by the colossal scale of routine Western transactions, these little adjustments can become huge, potentially decisive advantages.

And completely aside from commercial negotiations, what about the infinite variety of bargaining encounters that aren’t market-driven? Like what movie we’ll see, or when a project will be done, or where we’ll eat, or what we’ll name the puppy, or when we’ll
go on vacation, or what Junior’s bedtime will be? Supply and demand won’t help you here. There aren’t any market forces to hide behind. Bargaining skills—not economics—will determine these outcomes.

But I digress. Next stop on our tour is the Middle East, legendary home of colorful bazaars and wily merchants. Here, haggling is both social interaction and entertainment, and as common a daily activity as eating. Indeed, refusing to bargain is considered rude in the Middle East—much like refusing a handshake in the West.

Africa, with its dozens of nations and hundreds of languages, religions, and cultures, is a land of incredible diversity. Everywhere on the continent, however, talented bargainers and spirited negotiating are commonplace.

Jumping to the Western Hemisphere, our next stop is Canada—a vast country of wonderful people who mostly can’t negotiate worth a maple leaf. In fairness, however, Eastern Canadians (with a little more French influence, peut-être) are better hagglers than the hapless Westerners.

Latin Americans, on the other hand, are marvelous bargainers. A Latin American negotiation is like an elaborate, highly stylized dance. Each step must be observed. First, we get acquainted in a seemingly endless round of hugs, kisses, dinners, drinking, gift-giving, and discussions about history, politics, and above all, family. These lengthy pleasantries are followed by negotiations that are—by North American standards, at least—interminable. And if a deal is struck, it’s celebrated with more hugs, kisses, small talk, drinking, eating, and gift-giving.

One last westward jump brings us to the Land Down Under. Australians and New Zealanders are forging unique national identities from their many peoples, cultures, and religions. Unfortunately, their bloody awful bargaining proves they’re still British to their bootstraps.

I skipped the States.

America is a cultural icon, the envy of the modern world, the
largest economy, the oldest democracy, and the lone superpower. And Americans are wonderful people: generous, brave, clean, cheerful, thrifty, and reverent. But when it comes to negotiating, we’re among the worst—if not the worst—on the face of the Earth.

It pains me to say this, but I assure you it’s true. We’re neck-and-neck with the Germans for dead last.

Americans hate to negotiate. We find it embarrassing and tacky, something just not done in polite society. We’re bottom-line people. We’re partial to phrases like “Let’s stop beating around the bush,” “Here’s the bottom line,” “Let’s get down to brass tacks,” “Let’s cut to the chase,” “Let’s lay our cards on the table,” and that perennial American favorite, “Do we have a deal, or what?”

We negotiate like John Wayne. Unfortunately, John Wayne didn’t negotiate.

Where did we go wrong? How did we get to be like this? Why do we flock to “no-haggle” Saturn dealers? Why does the mere thought of bargaining for some cheap trinket in a Caribbean straw market send us into a panic?

There is no shortage of theories. Our negotiophobia could stem from our Puritan ethic, our low population density, or our material abundance. It could be the result of our geographical isolation, our military strength, or our need to be liked. It might even be an Old World v. New World thing, the long-forgotten “cultural distancing” of earlier immigrants who tried to Americanize themselves by renouncing the “Old Country” habits—haggling, in particular—that made them most conspicuous.

Lots of theories, but few answers.

I have my own theory about why Americans don’t haggle. I call it Thomas’s Immigrant Theory of Negotiation in America. What did people back in the Old Country do if they couldn’t work a deal where they were? They left. Yep, they split.

And they came here.

That’s the theory. America is a nation of self-selected non-negotiators. We’re the homeland of the People Who Split. “You won’t
let me practice my religion? I’m outta’ here!” “You won’t let me vote? I’m outta’ here!” “You won’t let me own land? I’m outta’ here! I’m going to America!” From all over the world, the “I’m outta’ here” people came to America. Our national motto shouldn’t be “In God We Trust”; it should be “I’m outta’ here!”

Wait, wait, that’s not all. Where did all of these people settle? New York! The entire planet’s “I’m outta’ here” people hung around New York, trying to make a deal. And if they couldn’t make a deal in New York? They left! Using the old “I’m outta’ here” strategy, these Johnny Haggleseds headed west, leaving the better negotiators behind them as they went. St. Louis? “I’m outta’ here!” Denver? “I’m outta’ here!” Salt Lake City? “I’m outta’ here!” At long last, the wretched refuse of the original “I’m outta here!” people—and their descendants—settled in California, having run out of real estate.

According to Thomas’s Immigrant Theory of Negotiation in America:

- The overall skill level of American negotiators should be rather poor, seeing as how we’re the direct descendants of the accumulated “I’m outta’ here” people of the planet Earth.
- New Yorkers should be the best negotiators in the country, and Californians should be the worst.

And you know what? That’s exactly the way it is! My theory may be a joke, but it’s the only one that explains the data!

New York City is the last bastion of hard-core haggling in America. It’s perfectly acceptable, even admirable, for a New Yorker to walk into a camera store on 47th Street, spot a particularly attractive Nikon behind the counter, and launch into a spiel like this:

me! You’re bustin’ my chops! You’re killin’ me! I’m dyin’ over here! Whata’ you, crazy? I thought we were friends!

Try pulling that on Rodeo Drive in Beverly Hills. They’ll think you’re from Mars. They’ll call security on you.

Negotiating skills are not yet an American birthright. Americans become more supportive of negotiation every day, but we still have a long way to go. And while the following chapters should alleviate much of your anxiety about negotiating, a little stress will almost inevitably remain. A couple of butterflies, flying in formation, might just be a healthy sign that you’re taking things seriously.
Concessions Speak Louder Than Reasons

The heart has its reasons of which reason knows nothing.
Blaise Pascal (1623–62),
French philosopher and scientist

Persuasion and Negotiation

There are two ways to get people to voluntarily do something. You can persuade them to do it, or you can negotiate with them to do it. Often used interchangeably, persuasion and negotiation are actually very different processes. To become a successful negotiator you must know the difference, and by the end of this chapter, you will.

Let’s start with our old buddy, the undisputed heavyweight champ of behavior modification, persuasion. Persuasion is the process of getting someone to do something by convincing him that it’s the logical and reasonable thing to do. We persuade each other constantly, vastly more often than we negotiate with each other. Many of our most familiar activities—convincing, requesting, arguing, flirting, coaxing, advertising, debating, buying, selling, nagging, flattering, and criticizing, to name just a few—are rooted in persuasion. Since infancy, we’ve persuaded, and been persuaded, countless times. It’s second nature to us. We’re really good at it.
Thanks, in part, to our history, nobody loves persuasion more than Americans. America is a child of the Age of Reason,* the eighteenth-century celebration of science, order, and logic. Some of our foremost revolutionaries—Thomas Paine, Thomas Jefferson, and Benjamin Franklin among them—were leading proponents of the Age of Reason’s then-unorthodox central tenet: Truth will be found through rational thinking. Age of Reason themes—the common people are fundamentally wise; with free speech and a free press they’ll know the truth; when they know the truth they’ll make the right decisions—suffuse our Declaration of Independence and our Constitution. Way down deep, Americans believe that with a good enough argument, presented well enough, we can persuade anybody.

Persuasion isn’t very complicated: Give somebody a bunch of reasons why they should do something; if they’re convinced, they’ll do it.

**YOU:** Here’s my position. Here are facts and reasons supporting it. So, do we have a deal, or what?

**THEM:** Sure!

To be fair, persuasion doesn’t always work quite so effortlessly. The other side may have an objection, or lots of objections, to your argument. With more logic and reason, you mow down every objection like grass.

**THEM:** But the price is too high!

**YOU:** I understand your concern, and you’ll be happy to know it’s unfounded balderdash! Here are facts and reasons that prove my product would be cheap at twice the price. Now, do we have a deal, or what?

**THEM:** Sure!

* Also known as the Enlightenment.
Persuasion usually works. Sometimes it works quickly. Sometimes—impeded by objections—it works more slowly. But sometimes it doesn’t work at all.

“If Only I Could Make You Understand!”

Let’s change the scenario. What if the other side’s response to your incontrovertible argument is a bit less enthusiastic?

YOU: So, do we have a deal, or what?
THEM: Nope.

What if they aren’t persuaded? What’re you going to do now? If you’re like most people—utterly confident of the power of persuasion and the inevitable triumph of logic—I’ll bet you a zillion dollars what you’re going to do now. You’re going to repeat your argument!

YOU: Let’s go over this again. I’ll go more slowly. Try to stay with me. Ready? O.K., here’s my position. Remember it from before? Excellent! And here are my reasons. Remember them? There’re some new ones in there, too. Still with me? Great! Now, do we have a deal, or what?
THEM: No, we don’t. And please don’t repeat yourself again. I understood you perfectly the first time. I didn’t agree with you then, and I don’t agree with you now.

Can we all agree that, in this case, persuasion probably won’t work? The other side has heard, considered, and firmly rejected your argument. Twice! What’re you going to do now? Of course—repeat your argument!
Once we start persuading, it’s hard for us to stop. We’re fools for logic. We’ve all succumbed to persuasion’s seductive, pernicious fallacy: Understanding must beget agreement. From this delusion flow such familiar laments as “If only I could make them understand!” and “I’m just not getting through to them!” The idea is that the other side doesn’t agree with us simply because they don’t understand us—that is, we haven’t “gotten through” to them. And the moment we do, they will, so what are we waiting for? We must explain ourselves again—unmistakably, this time, and without delay!

I have some good news and some bad news for you on this. The good news is that you got through to them. They understand your position. You can stop repeating yourself.

The bad news is that they don’t agree with it, and never will. Welcome to Persuasion Hell.

**Bubba Meets Beelzebub**

Ever since hostilities erupted in the Middle East in 1948, a parade of eager, hopeful U.S. “peace envoys”—including every president since Jimmy Carter—have struggled fruitlessly to bring peace to the region. Bill Clinton’s turn at Middle East peacemaking arrived with special urgency. The scandals that had scarred his administration raised the stakes on success from mere foreign policy triumph to legacy lifesaver. A deal would instantly transform Clinton from rake to statesman. It would be his crowning achievement, the defining event of his presidency. It might even win him a Nobel Prize.

Like every good American, Clinton carried an unshakable faith
in his ability to convince anybody to do anything. And with good reason. Say what you will about Bill Clinton, he could persuade the chrome off a trailer hitch. Since childhood, his intelligence, charisma, persuasive skills, and aw-shucks grin had rarely failed him. As he presented his peace plan to Palestinian leader Yasser Arafat and Israeli Prime Minister Ehud Barak, he had no reason to think those skills would fail him now. Clinton eagerly looked forward to watching Arafat and Barak do the diplomatic equivalent of slapping themselves on the forehead as they proclaimed, “Bill! That’s it! That’s the answer! Why didn’t we think of it before? How could we have been so stupid? How can we ever thank you?”

But Bill Clinton wasn’t going to Oslo for the Peace Prize. He was going to *Persuasion Hell! Ahhhhhahahahahahaha!!! *

To Clinton’s astonishment, what Arafat and Barak actually said was something like, “Go jump in a lake.” Disappointed but undaunted, Clinton made one increasingly desperate attempt after another to explain how his plan would resolve this ancient, deadly conflict. But even his vast persuasive powers proved no match for the bitter, unyielding reality of Middle Eastern politics, and in the end he accomplished exactly what his predecessors had: nothing.

If understanding had been the impediment to peace in the Middle East, David and Goliath would have been old drinking buddies. Arafat and Barak understood Clinton’s plan just fine. After thousands of years of Middle East conflict, *everybody* understands what the solutions are. Like their predecessors, Arafat and Barak rejected Clinton’s plan because they didn’t like it. Give both sides a plan they like—that is, one that offers something clearly better than what they already have—and they’ll be all over it like a cheap suit. You won’t be able to hold them back!

There are few places on Earth where persuasion is *less* likely to produce agreement than the Middle East. Broad visions and bold statements will never change the minds of millions of Arabs for whom the very existence of Israel is an affront to God, or millions of Israelis who believe they have a covenant with that same God.
making Jerusalem their eternal capital. If peace in the Middle East is ever to be achieved, it will be through concessions—costly, painful concessions—from all parties. Not talk.

The Middle East dispute may be one of Persuasion Hell’s more infamous denizens, but it’s certainly not alone. Care to place odds on China persuading Taiwan to reunify? India convincing Pakistan to forsake Kashmir? North Korea working out a merger with South Korea? Turkey persuading Greece to accept a divided Cyprus? England convincing Argentina that the Falkland Islands will never, ever be Las Islas Malvinas?

Persuasion Hell, everywhere you look.

**Know When to Fold ‘Em**

Hard-core persuaders (and that probably includes you) are a bit like compulsive gamblers. Gambling addicts are sure they’re just one bet away from the “big win.” Devoted persuaders are totally confident that the other side will change its mind—and not eventually, but at any moment! Shut up and deal! This could be the big one!

Psssst! Wanna’ sure thing? Sometimes persuasion doesn’t work. Understanding *may*—and often *does*—beget agreement, but it certainly doesn’t have to. It can also beget rejection. Humans are entirely capable of understanding something perfectly while, at the same time, disagreeing with it vehemently. Not only capable, but proficient.

If your argument failed to persuade the other side the first few times you trotted it out—at the absolute pinnacle of its novelty and vigor—why might it suddenly succeed on the fourth, or tenth, or fiftieth repetition? Because it took that long to get through the other side’s thick skull? Because they had to translate it into their native language, Erdu? Because they were distracted by thoughts of Bora Bora, or chocolate, or their first kiss? Trust me on this: *It’s not going to work.* After the first couple of repetitions, your argument has a
chance of success somewhere between slim and fat. By then, the other side won’t even be listening any more. They’ll just be waiting for you to shut up so they can repeat their argument—the one that you aren’t listening to any more.

This, by the way, is a pretty fair description of your Standard Spousal Discussion. Your better half will patiently listen to one or two iterations of your feeble case. Any subsequent remonstrations by you—passion and eloquence notwithstanding—will be inaudible.

**THOMAS’S TRUISMS**

How do you get agreement when persuasion doesn’t work? You negotiate.

**THOMAS’S TRUISMS**

When persuasion works, it usually works pretty quickly. After one good, solid presentation—and an encore for insurance—the other side will almost certainly understand your argument. If they haven’t been convinced by then, they’ll probably never be convinced. Persuasion-wise, it’s time to fold your cards and go home. If you continue to argue your position thereafter, you won’t just be wasting time, you’ll be annoying the bejeezus out of the other side. Each repetition will only crank up the volume on an already unmistakable message: Your counterpart is obtuse, weak-willed, or both. While you and your counterpart are still on speaking terms, stop persuading and start negotiating.

**Buy ‘Em When You Can’t Sell ‘Em**

**Persuasion**

**UNITED STATES:** You must resign. Your regime is cruel and your people are suffering.

**DIC TATOR:** Who let you in here? Guards!
 Negotiation

**UNITED STATES:** You must resign. Your regime is cruel and your people are suffering. If you’ll go into exile, we’ll let you keep your ill-gotten billions and give you the keys to a magnificent Swiss chateau where, at our expense, you and your family can live out your days in obscene luxury.

**DICTATOR:** Now you’re talking! Throw in a case of Macanudos and you’ve got yourself a deal!

The difference between persuasion and negotiation? *Concessions.* Negotiating is the process of getting someone to do something, even if they disagree with it, by giving them enough concessions to make it worth their while. When you can’t win the other side’s agreement with the compelling power of your argument, you can usually *buy* it with concessions.

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**THOMAS’S TRUISMS**

*When you can’t sell ’em, you can usually buy ’em.*

Persuaders give *reasons.* Negotiators give *concessions.* The other side may or may not like your reasons, but *everybody* likes concessions. Always persuade first. Put your heart into it. Persuasion is faster, easier, more comfortable, and, above all, *cheaper* than negotiation. The agreements you can’t win through persuasion you’ll have to negotiate with concessions, and concessions are expensive. In the following pages I’ll be showing how to make the concessions that are required—no more, no less—to negotiate your way to the agreements you couldn’t achieve through persuasion.

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**THOMAS’S TRUISMS**

Always persuade first. Negotiate only when persuasion fails.