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Basketball and the Fiscal Cliff

For Democrats and Republicans to agree on spending and taxes, they'll need to follow these four basic rules for good negotiating. So far, these best practices have been notable mainly by their absence.

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With the fiscal cliff looming, members of Congress are staking out positions and engaging in negotiations that have the feel of a sloppy game of hoops, full of turnovers, technical fouls, and missed opportunities. Like any competitive sport, basketball is a zero-sum game of us versus them. The current budget negotiation is being similarly portrayed as a win-lose contest. But negotiation should never be viewed this way; the goal is to reach mutual agreement, not defeat an opponent.

OPINION

Positional bargaining is inherently antagonistic. Parties with diametrically opposed goals strive to score points. In this environment, even the best intentions for collaborative discussions often devolve into heated competition. The problem arises from a poorly defined framework for discussion. Last summer it was exactly the unstructured nature of the debt negotiations over the "Gang of Six" deficit-reduction proposal that led to repeated breakdowns in the talks. The impending fiscal cliff is the direct result.

Unhappily, the current negotiations are now following a similar path.

There are fundamental tools that can help overcome the competitive nature of such negotiations, regardless of whether the framework is political or with your company's customers, vendors, partners, or investors. In fact, the best structure for collaborative agreement can be found within the context and structure of competitive sports like basketball.

1. Agree on the rules. Parties should engage in meta-negotiations before the actual bargaining, clearly outlining how the negotiations will be conducted in terms of both the process and the procedures. Through meta-negotiations, the terms, methods, expectations, and roles are agreed upon in advance. As in basketball, rules must be clearly defined, documented, and enforced.

If congressional leaders and the President conducted meta-negotiations, there would be no question when, where, and how the negotiations occur – and which leaders are ultimately responsible for a deal.

2. Assign positions. Who has the authority to lead the negotiations? Who's the point guard? Guidance comes from numerous sources, but there ultimately must be one individual or committee selected and empowered to get a deal done. Good-faith negotiations are not possible without confidence that an agreement will be honored.

Throughout last summer's debt crisis, no one was sure who had authority to negotiate. President Obama and House Speaker John Boehner, House Majority Leader Eric Cantor and Vice President Joe Biden, "the Gang of Six," Republican Rep. Paul Ryan, Republican Sen. Mitch McConnell, Democratic Senate Majority Leader Harry Reid: all engaged in negotiations, yet no one had full authority or the support to commit his side to an outcome.

In a basketball game, the coach draws up plays but the point guard may improvise or change the play based on what he sees on the floor. Coaches put faith in their team's leaders to make the necessary adjustments, and each player understands his or her role. If Congress collectively selects and delegates representative authority, negotiations can be conducted efficiently, focused on the overall goal.

3. **Be aware of the clock.** Most negotiations are time-based. As December 31, 2012, approaches, the opportunity to avert the expiration of the Bush tax cuts and the automatic implementation of spending cuts, i.e., the fiscal cliff, ticks away. Good negotiations focus first on elements of a deal that both parties can more easily agree on. Starting with less contentious "common ground" ensures that key components are not thrown together at the last minute, like a last-second heave as the shot clock runs out. In addition, early successes create momentum and build trust between parties as they begin to see progress toward an agreement.

4. **Practice good sportsmanship.** Respect, honesty, and a sense of fairness are critical elements in a collaborative and principled negotiation. Flagrant fouls such as threats or ultimatums only entrench positions and erode trust, particularly when the game is being played out on the public stage. Basketball officials ensure that the rulebook is followed, and the rulebook demands that the players abide by the rules of good sportsmanship. When negotiators "play dirty," other participants must call them out and refer back to the framework agreed on during meta-negotiations.

Competing parties often assume they understand each other's motivations and, as a result, they focus on holding their respective positions rather than trying to understand the interests of the other party. The better approach is for both parties to focus on the underlying needs of the other and then brainstorm for solutions to meet those needs. Success often involves compromise, as true win-win outcomes are not always possible. But creative brainstorming ensures that the best opportunities for mutual benefit are explored, and that necessary concessions are not arbitrary.

Ideological differences make negotiations more challenging, but those difficulties can be managed through a collaborative approach within a well-defined framework. If our elected officials can change the game in time, they might even win back a few fans.

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