

Shared Identities: Our Interweaving Threads



Negotiating a contract of sale for low-level English proficiency students

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Low-level English proficiency students need a meaningful objective and parameters within which to think, converse, be creative, and make an emotional investment. There is little learning potential for them if a conversation is either too predictable or too unpredictable. To negotiate a contract of sale, students can work within suitable parameters: With a counterpart, they learn to negotiate a price, quantity of goods, shipment date, and credit term—and so reach their objective, a contract. Such negotiations should be an attractive learning endeavor for any low-proficiency students, but could be regarded as especially eligible if the learning goal is early proficiency in English for business.

英語能力の低い学生には、考える・会話する・創造する・心から努力をするために有意義な目標と変動値が必要だ。もし会話が予測可能なもの過ぎても、あるいは不可能なもの過ぎても、彼らにとっては学べる可能性は低い。売買契約の交渉をするために、学生は最適な変動値の中で行動できる：相手と共に、彼らは値段、物の数量、輸送期日、支払い期日の交渉を学び、目標とする契約に至る。このような交渉は、どの英語能力の低い学生にとっても、魅力的な学習課題となるはずだ。しかし、ビジネスの為の初級英語能力を学ぶことが目標の学生であれば、より適切であるといえる。

It is widely recognized in economics that the cost of adopting any one particular choice includes the corresponding loss of all the other choices that one could have made at the same time and with the same resources. This concept, known as the “opportunity cost” (Bishop, 2000), is helpful in raising awareness about all human choices, including choices made in classroom EFL teaching. Almost anything that a good-faith EFL teacher might think of doing is likely to have at least some potential to raise the learners’ EFL proficiency. That alone should not satisfy. If time and energy are devoted to dullness, we now know that a regrettable cost may be paid: the foregone opportunity to use lively communicative or task-based methods, the foregone opportunity to aspire to an “optimal language learning environment” (Egbert, Chao, & Hanson-Smith, 1999, p. 3).

In this paper, I will hint at how textbooks sometimes seem, in practice, to be little concerned with having learners be lively or communicative; will review what it might really mean to aspire to an optimal learning environment; and, on that basis, will propose an integrated short series of lessons: a series that should have potential to be lively and communicative, a series that builds towards a climax in which students negotiate with each other to enter into a contract of sale.

This endeavor evolved to suit students who had chosen to enroll in a business English course. However, the concepts and language skills are apt for all low or intermediate level students. In real life, very often our purpose in communicating is to negotiate one thing or another: Negotiating a contract of sale can be taken as representative of negotiating in general.

In textbooks: Read out, listen, write down

Textbooks sometimes call for students to read out and exchange information with each other. Student A, reading one page of the book, will ask student B for a price or some other data, which student B will read out from another page of the book. Here follow a few fairly representative examples, chosen from a quick perusal of three such books. All three are supposed to be useful for learning business English.

One book is *Getting Ahead: A Communication Skills Course for Business English* (Jones-Macziola & White, 2000). The outside back cover carries an assertion that the book offers “a variety of challenging tasks and

communicative activities.” In one of them (pp. 75, 122, 124), Learner A, reading one page, asks for data such as the price and the delivery date of a printer. Learner B, reading a different page, reads out “£695” and “14 days”. Learner A listens and writes the answers down. When the data exchange is finished, the students use the data to practice making superlatives, which seems to be the final goal.

Another book is *Global Links 1* (Adams & Dovale, 2001). According to the Preface, this book aims to teach businesspeople to “communicate effectively” (p. vii). In one of the activities (pp. 29, 90), Speaker A, reading one page, asks for data such as what a particular company did in 1998. Speaker B, reading a different page, reads out the information that in that year it made a profit of \$830. Speaker A listens and writes the answer down. This data exchange itself seems to be the final goal. The next activity, a fresh start, is reading comprehension.

A third book is *Business Explorer 1* (Knight & O’Neil, 2001). In one “communication activity” (pp. 15, 77), Student A, reading one page, asks for data such as the price of a photocopier. Student B, reading a different page, reads out the information that it costs \$1,999. Student A listens and writes the answer down. This data exchange itself seems to be the final goal. The next activity, a fresh start, is writing.

In a university classroom context, Japanese students are inclined to cooperate and do activities such as these. I have sometimes observed how a diligent student, when the time allotted for the task is over, will open her partner’s page and copy accurately any of the target information that she did not succeed in obtaining during the allotted time; she then, presumably, feels satisfied that she is doing well as a learner.

However, there are reasons to doubt whether such tasks are a sufficiently fruitful use of her classroom time or her energy as a learner. In all of these tasks, students merely read out data supplied for them by the textbook writer. For both students and teacher, the process of *read, listen, write down* may be mechanical and tedious, rather than interesting or enjoyable. The students are not communicating in the target language “genuinely, spontaneously, and meaningfully” (Brown, 2000, p. 14).

Optimal learning environment

In the literature there is widespread agreement that, in an optimal environment, students will learn by a communicative approach, probably “realized methodologically” (Nunan, 2003, p. 7) as task-based learning. According to various summaries and reviews, conditions that are desirable or necessary in an optimal environment include *meaningful purpose, meaningful interaction, and learner autonomy*. Let us consider each of these in turn.

Meaningful purpose

Students need to undertake tasks with a meaningful purpose, approximating to real-life communication outside the classroom, engaging in cognitive challenges of a type that native-speakers also tackle in the complicated real world (Egbert et al., 1999; Brown, 2007). It follows that students interested in business English should be engaged in challenges that approximate to the real world of business.

Meaningful interaction

Students need opportunities for meaningful, purposeful, social and linguistic interaction, engaging with each other as interested listeners (Freeman, 1998; Egbert et al., 1999). They will learn through cooperation, collaboration, and “give and take and spontaneity” (Brown, 2007, 54). They should be involved in negotiation of meaning: In their efforts to understand and make themselves understood they should have opportunities to check, ask questions, and ask for repetition, rephrasing, or elaboration (Bailey, 2003).

Learner autonomy: Competence, creativity and tension

Students need to become aware of “their own competence and autonomy as intelligent individuals” capable of achieving worthwhile goals in the target language (Brown, 2007, p. 56). Tasks should appeal to their need for knowledge and status (Brown, 2007) and to their “imagination and creativity” (Vale, 1991, p. 30). Tasks should “arouse curiosity, excite the emotions, and stimulate thinking,” so that learners are actively “exploring, investigating, reflecting,” and advancing their own self-discovery (Vale, 1991, pp. 30, 31). Students should be taking risks, generating varied and creative language for themselves, to meet the communicative needs of the task (Vale, 1991; Egbert et al., 1999).

The teacher should challenge but not control the learners’ thinking: Within boundaries set by the teacher, learners should have autonomy in the process of developing solutions for the task at hand (Egbert et al., 1999).

Students should be under an optimal degree of stress, tension or anxiety, so that their psychological state is “facilitative rather than debilitating” (Egbert, et al., 1999, p. 6).

It follows that students interested in business English should be exercising autonomy and interacting with each other so as to arrive at desirable business outcomes.

Optimal at current proficiency

Pedagogical tasks

However, students will not attempt a communicative task from a standing start. Consistent with their starting proficiency level, they need to do appropriate language exercises so as to prepare and acquire the necessary skills to do the communicative task. A distinction is made between these “enabling exercises”, or “pedagogical tasks”, and the associated communicative tasks with which they are integrated (Nunan, 2001, p. 62; Vale, 1991). *Pedagogical tasks* focus on language, and the outcomes are language related, while a *communicative task* will have outcomes that resemble real world outcomes (Nunan, 2001); pedagogical tasks are more effective precisely because they are associated with, and integrated with, a purposeful communicative task (Vale, 1991).

Communicative tasks: A continuum

There is a wide range or continuum of tasks that may rightly be categorized as “communicative”, but not all of them will be suitable for students at a given proficiency level. Low-level proficiency students should be aiming to do tasks that

are communicative but not too unpredictable. They need to develop from “more controlled and mechanical to freer and communicative” tasks (Crookes & Chaudron, p. 33). The teacher should design tasks so that students can take part in authentic communication at their current proficiency level (Egbert et al., 1999).

Nunan makes a distinction between “transactional” tasks, which are more predictable, and “interactional” tasks, which are less (1991, p. 42). In a transactional task, the objective is to get something done, often involving an exchange of goods or services.

Nunan also distinguishes between “reproductive” and “creative” language tasks: In a reproductive task, the language to be used is “largely predetermined and predictable” (2001, pp. 62-63). Littlewood makes a similar distinction, using the terms “structured”, as opposed to “authentic” communication (2004, p. 322).

Negotiating a contract of sale

It follows that, for lower level proficiency students, the teacher’s aim should be to devise communicative tasks which (1) are sufficiently structured, guided, and predictable, but also (2) give students sufficient free space in which to be autonomous, thoughtful, and creative, in which to make an emotional investment. The solution which I propose here is to have students negotiate a contract, specifically, a contract of sale.

Four elements

Students will be called on to negotiate and agree on four distinct elements. Four elements may be an optimal number:

sufficiently many to introduce variety in the language used, provide negotiating space, and provide unpredictability in the outcome, but sufficiently few for the task to be manageable and accomplished in 5 or 6 minutes.

As an example, the four elements can be seen in the following set of matched negotiating limits (Figure 1.)

You are the Seller selling GameStation 27	You are the Buyer buying GameStation 27
Minimum unit price: \$900	Maximum unit price: \$950
Minimum quantity: 2,000 units	Quantity: Ideal: 1,800 units Maximum: 2,200 units
Earliest shipment date: 15th February 2009	Latest shipment date: 25th February 2009
Maximum credit term: 60 days	Minimum credit term: 45 days

Figure 1. A pair of cards on the basis of which two students negotiate

Activities to prepare to negotiate

Preliminary

Students first need an introduction to the concept of negotiating and entering into a contract. For this purpose, they study a story such as the one given in Appendix 1. To suit the actual learning situation, the story can be processed in various ways, for example, by using a cloze version and/or comprehension questions.

Opposing interests

Next, on the basis of the story, students should be guided to bring out into full awareness that the Seller and Buyer do not have the same best interests, but tend to have some opposing interests. This leads to the concept of negotiating.

Students will readily agree that the Seller prefers a high *price*, while the Buyer prefers a low price. With prompting, they will agree that there are no limits—the seller wants the price to be as high as possible, while the buyer wants it to be as low as possible. How then can they reach agreement? The answer is that they will have to negotiate.

Students will probably also volunteer the information that the seller prefers to sell a large *quantity*, in order to maximize profit; by contrast, the buyer is likely to have a target quantity, perhaps both an ideal target quantity and a maximum.

Next it is necessary to discuss and agree that the buyer will generally prefer prompt *shipment*, while the seller will prefer a less demanding shipping schedule.

Finally, it is easy to see that the buyer will typically prefer a longer *credit* term, as long as possible, while the seller will prefer a shorter credit term or no credit at all.

These opposing interests are summarized below in Table 1.

Table 1. Opposing interests of Seller and Buyer

	Seller prefers	Buyer prefers
Price	high	low
Quantity	bigger	buyer's own target
Shipment date	late	early
Credit term	short or none	long

Negotiating gaps

While looking at two matching sets of negotiating data, students must now notice that there are four negotiating gaps. Referring back to Figure 1, the Seller's minimum unit price is \$900, while the Buyer's maximum is \$950, so there is a negotiating gap of \$50. The Seller's minimum quantity is 2,000 units, while the Buyer's maximum is 2,200, so there is a negotiating gap of 200 units. The Seller's earliest shipment date is 15th February 2009, while the Buyer's latest shipment date is 25th February 2009, so there is a negotiating gap of 10 days. Finally, the Seller's maximum credit term is 60 days, while the Buyer's minimum is 45 days, so there is a negotiating gap of 15 days.

Content-based and pedagogical tasks

The opposing interests may seem obvious to the teacher,

when considering them one by one without the extra cognitive load of processing in a foreign language. In practice, however, even the most proficient students may not escape getting confused during an actual negotiation: A Seller may inadvertently negotiate for an earlier shipment date or a longer credit term. An astute Buyer will accept this calmly as an unexpected gift, but often the result is the opposite: The Buyer too wobbles and takes the Seller's mistake as a cue to negotiate against his own best interest.

So the students need to practice thinking carefully about these opposing interests of Buyer and Seller. They do tasks that could be regarded as content-based, such as the one given in Appendix 2; and pedagogical tasks, such as those given in Appendixes 3 and 4.

Example negotiations—reading

At the same time, students read several example negotiations such as the one given in Appendix 5. To suit the actual learning situation, these readings can be processed in various ways, for example, by using a cloze version and/or comprehension questions.

The target task: Negotiating

Objectives

The students are given these negotiating objectives:

- (1) Enjoy yourself: Enjoy using your power to express yourself in the target language and make your own negotiating choices.

(2) Make a good effort to get the best possible deal for yourself. In particular:

- (a) Bluff continuously;
- (b) Respect your negotiating limits: If your minimum price is \$1,000 but you accept \$995, you will be fired by your company; but if you obtain an excellent deal, you will be promoted;
- (3) On the other hand, cooperate realistically with your partner so as to finish the negotiation within about 5 or 6 minutes.

Strategies

Students are now ready to do several practice negotiations, sometimes as Seller and sometimes as Buyer, with a variety of different partners, and using a variety of different data sets. They practice and implement these strategies:

- (1) Always know and be ready to say what you want (what is in your own best interest). For example, as Buyer, don't make the mistake of negotiating for a later shipment date or a shorter credit term.
- (2) Never disclose your own negotiating limits: Always bluff.
- (3) Promptly check all details, especially data involving numbers, by asking, for example, "Did you say February 12th?"
- (4) Always be up-to-the-moment in the negotiation: Note down every offer or counteroffer; cross out any superseded offer or counteroffer.
- (5) Be ready to protest appropriately, e.g., "I'm afraid that price is too high for us."

(6) Be ready to give reasons that are appropriate in the context, e.g.

- (a) "Sorry, it's not economic for us to accept such a small order."
- (b) "Sorry, we can't place such a large order—we don't have enough storage space for so many units."
- (c) "Sorry, we can't give you such a long credit term. One of our other customers has gone bankrupt. We have to be careful with our cash flow."

(7) Be ready to negotiate using the typical negotiating pattern: "We can give you A, if you give us B," e.g., "If you increase your order, we can offer you a lower price."

(8) Don't finally agree to anything until ready to agree to everything.

(9) When the negotiation seems to have reached a conclusion, read out from your notes and confirm all the agreed details; only then express final agreement, possibly by saying "It's a deal" and shaking hands.

Assessment

Students will then be ready to do a negotiation for a final assessment of their skills and achievement.

Conclusion

Students doing this type of negotiation are likely to be closer to an optimal learning situation than if they were doing tasks in the pattern of *read*, *listen*, and *write down*. They will feel

responsible for finishing the negotiation successfully and for insisting on reasonable terms. They will not want to be seen agreeing to terms that are foolish or contrary to their own best interest. This will be within their competence even at a rather low level of English proficiency. They will be creative, will be thinking actively, will be emotionally engaged, and will invest self-esteem in the outcome. When they have sufficiently mastered negotiating a contract of sale, they will be ready to learn how to negotiate a contract of employment, a contract of lease, or any other kind of contract that seems appropriate for their rising proficiency level in the given classroom situation.

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Appendix 1

First introduction to the concept of entering into a contract of sale

Barry Jefferson owns a motor-bike repair workshop in a small town situated about 50 kilometers from Chicago. To do repairs, he often needs spare parts. Two weeks ago, he noticed that he had only a small number of spark plugs left in inventory [在庫].

He looked at the webpage of a company in Chicago called Davidson Spares, and made a few notes. He then telephoned and spoke to a company saleswoman. He told her that he wanted some XR676 spark plugs. The saleswoman said that the list price was \$23.65. Barry said that he wanted 100 of them, and asked what bulk [大量] discount Davidson Spares could offer. The saleswoman knew that Barry was a good customer and promptly offered a 3% discount off the list price. She also confirmed that Davidson Spares could ship the goods within two days and, as usual, the payment terms [条件] would be 30 days. Barry was satisfied and placed his order. The saleswoman accepted the order, acting for Davidson Spares.

Barry and the saleswoman reached agreement on all the important points. They agreed on the type of goods—XR676 spark plugs. They agreed on the quantity—100. They agreed on the price—\$2,365, minus 3%. They agreed on the shipment date—within 2 days. And they agreed on the payment terms—30 days. That means that the two parties (the two sides) entered into a contract. This kind of contract is called a contract of sale. Of course, Davidson Spares was the seller under the contract and Barry was the buyer.

Actually, Davidson Spares shipped the goods the next day. Before shipping, they printed out an invoice. On the invoice, they printed all the important details about the sale. They enclosed [= put] the invoice in the package before shipping the goods.

Soon, the package was delivered to Barry's workshop. However, Barry did not have to pay for the goods immediately. The payment terms were 30 days. That means that Davidson Spares gave him credit. Barry did not have to pay for the goods until the end of the following month.

Appendix 2

Content-based instruction: Opposing interests of Seller and Buyer

Practice thinking about what is in the Seller's best interest, and what is in the Buyer's best interest. Read the questions, below. Choose (A) or (B) or (C).

- (1) For the buyer, which is better?
(A) a low price (B) a high price
- (2) For the seller, which is the best?
(A) no discount at all (B) a small discount (C) a big discount
- (3) If the buyer and the seller succeed in negotiating a compromise, what is the most likely compromise?
(What is good enough for both sides?)
(A) a big discount (B) a small discount (C) no discount at all
- (4) For the seller, which is the worst?
(A) a sale for cash (B) a short credit term (C) a long credit term
- (5) For the buyer, which is generally better?
(A) an early shipment date (B) a late shipment date
- (6) The buyer can pay up to \$1,000. The seller's price is at least \$900. Is it possible for them to enter into a contract?
(A) Yes (B) No
- (7) The buyer's maximum price is \$65. The seller's minimum is \$58. Is it possible for them to enter into a contract?
(A) Yes (B) No
- (8) The buyer's maximum price is \$58. The seller's minimum is \$65. Is it possible for them to enter into a contract?
(A) Yes (B) No
- (9) The buyer's maximum price is \$63. The seller's minimum is \$63. Is it possible for them to enter into a contract?
(A) Yes (B) No
- (10) The seller can ship by February 16th at the earliest. The buyer requires shipment by February 24th, at the latest. Is it possible for them to enter into a contract?
(A) Yes (B) No

- (11) The buyer says the goods must be shipped by February 5th. The seller can ship by January 31st, at the earliest. Is it possible for them to enter into a contract?
(A) Yes (B) No
- (12) The buyer says the goods must be shipped by January 21st. The seller can ship by February 5th, at the earliest. Is it possible for them to enter into a contract?
(A) Yes (B) No
- (13) The buyer requires a minimum of 60 days' credit. The seller can offer a maximum of 60 days. Is it possible for them to enter into a contract?
(A) Yes (B) No
- (14) The buyer requires at least 30 days' credit. The seller can offer 60 days at the most. Is it possible for them to enter into a contract?
(A) Yes (B) No
- (15) The buyer requires a minimum of 60 days' credit. The seller can offer a maximum of 120 days. Is it possible for them to enter into a contract?
(A) Yes (B) No

Appendix 3

Pedagogical task: Expressing the opposing interests of Seller and Buyer

For each sentence, use either *too* or *enough*. Also, use the best adjective. Choose the adjective from this list: *high :: late :: low :: long :: short :: soon*. Also, for (1) ~ (4) and (7) ~ (8), choose the correct verb from these two: *increase :: reduce*

- (1) The buyer can pay up to \$900. The seller is asking for \$1,000. The buyer says: "The price is Can't you the price?"
- (2) The buyer can pay up to \$1,900. The seller is asking for \$2,000. The buyer says: "The price isn't Can't you the price?"
- (3) The buyer can pay up to \$900. The seller is asking for \$1,000. The seller says: "Your offer is Can't you your offer?"
- (4) The buyer can pay up to \$900. The seller is asking for \$1,000. The seller says: "Your offer isn't Can't you your offer?"
- (5) The buyer requires shipment by August 10th. The seller cannot ship until August 31st. The buyer says: "Your shipment date is Can't you ship sooner than that?"
- (6) The buyer requires shipment by August 10th. The seller cannot ship until August 31st. The buyer says: "Your shipment date isn't Can't you ship sooner than that?"
- (7) The buyer requires a 90-day credit term. The seller is offering only 30 days. The buyer says: "30 days isn't Can't you the credit term?"
- (8) The buyer requires a 90-day credit term. The seller is offering only 30 days. The buyer says: "30 days is Can't you the credit term?"

- (9) The buyer requires a 90-day credit term. The seller is offering only 30 days. The seller says: “90 days is Can’t you accept a shorter credit term?”
- (10) The buyer requires a 90-day credit term. The seller is offering only 30 days. The seller says: “90 days isn’t Can’t you accept a shorter credit term?”

Appendix 4

Pedagogical task: Expressing the opposing interests of Seller and Buyer

Who is speaking, the Buyer or the Seller? In the first box, write *B* or *S*. Is the speaker talking about Price, Quantity, Shipment Date, or Credit Term? In the second box, write *P* or *Q* or *SD* or *CT*. In some cases, you may need to write more than one of these.

- (1) In our business plan, our maximum order is ... units.
- (2) I’m afraid that price is too high.
- (3) The smallest order that we can accept is ... units.
- (4) We can’t sell for less than \$...
- (5) I’m afraid we cannot accept such a late shipment date.
- (6) I’m afraid that is too many.
- (7) I’m afraid we don’t usually accept such a small order.
- (8) Sorry, we can’t give you such a long credit term. We’re having cash flow problems.
- (9) If you order a larger quantity, we can give you a discount. We can reduce the price to only \$...
- (10) Sorry, we don’t deal in such small quantities.
- (11) If we accept a later shipping date, can you give us a discount?
- (12) If we accept a later shipment date, can you give us a longer credit term?
- (13) Our factory is already running around the clock. We can’t produce any faster!
- (14) I’m afraid that order is too small.
- (15) Please be serious! We cannot wait so long. Can’t you ship sooner than that?
- (16) Sorry, we don’t need such a large quantity.
- (17) We cannot agree to such a low price.
- (18) Please reduce the price to \$...
- (19) Sorry, our maximum possible order is ... units.
- (20) Sorry, that’s not enough.
- (21) I’m afraid we cannot agree to ship so soon.
- (22) Please be serious. We cannot do business at such a low price.
- (23) I’m afraid we can’t make such a large order.
- (24) Sorry, we cannot ship so soon. Please accept a later shipment date.
- (25) Sorry, we can’t pay so soon. We need at least 60 days.

- (26) If we order a larger quantity, can you give us a discount?
- (27) Sorry, that order is too small to be attractive for us.
- (28) I'm afraid we don't need such a large quantity.

Appendix 5

Model negotiation, based on the negotiating limits given in Figure 1.

B: Hello. I'm interested in the new GameStation 27. Do you sell it?

S: Yes, we do. How many do you want?

B: It depends a bit on the price. We actually want 1,800.

S: 1,800? That's a very small order. I'm sorry, but for such a small order, we would have to charge \$1,000 per unit.

B: \$1,000? I'm afraid that price is not attractive at all. In our business plan, we are budgeting just \$850 per unit.

S: Well, \$850 is much too low. We simply can't do business at such a low price. Why don't you increase your order? If you order at least 2,250 units, we can give you a bulk discount. Let's see... the unit price will be just \$950.

B: That sounds a bit better. But I can't order more than 2,000, and the price is still too high. How soon can you ship?

S: If we finalize the deal today, we can ship by the end of the month.

B: I'm afraid that's far too late. We absolutely must have the goods shipped by February 20th.

S: February 20th? Maybe, for you, we can make a special effort to ship early. What payment terms were you thinking of? If we ship by February 20th, can you pay in cash?

B: No, we need 60 days credit.

S: I'm sorry, 60 days is too long. Let's make it 30 days. We can ship by February 20th if you agree to pay in 30 days.

B: 30 days is out of the question. It isn't long enough. OK, let's meet each other halfway. How about 45 days?

S: OK, if you insist, we can make it 45 days.

B: How about the quantity. Our maximum is 2,000 units, and our maximum price is \$890 per unit.

S: I see. I'll tell you what. If you order 2,200 units, we can reduce the price to \$940.

B: OK, if necessary, we can order 2,200 units. But the price still isn't low enough. If you can reduce it to \$900 we can make a deal.

S: Please be serious. \$900 is too low. I'll tell you what—let's compromise on \$920. That's our absolute minimum.

B: \$920? OK. We can pay that much if we must. OK, it's a deal!