

# Interest-Based Negotiation

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## Introduction

Negotiation is a communication process where you attempt to influence someone to give you what you need or want in exchange for something you have that they need or want. Negotiations are usually about situations or things that are tangible:

1. How people will get work done.
2. How people will be rewarded for their work.
3. The ground rules and norms people will establish in order to be able to work together.
4. The use of scarce resources like time, space, money, or equipment.

## Paradigms of Negotiation

There are two essential paradigms of negotiations; position-based and interest-based. In position-based negotiations, substance is important. Both parties focus in on the actual item being negotiated about. In position-based negotiations, the other party is seen as an enemy to overcome. Each party tends to be self-serving in an attempt to see victory over the other. They push for their own predetermined solutions and, if they concede, they concede grudgingly. The problem in position-based negotiations is that it often breeds resentment. If you win in a negotiation and the other party feels as if they lost, they'll walk away resentful and they're probably going to attempt to get back what they lost one way or the other. If you're going to work with the other party, for a long period of time, on a long term project for example, a win-lose outcome in negotiations may plant the seeds for resentment and continuous conflict.

In interest-based negotiations, substance is still important. However, interest-based negotiation also emphasizes the importance of relationships, especially if both parties work interdependently, they depend on each other to achieve a common goal or objective. In interest-based negotiations, the intent is to reach a mutually acceptable outcome, something that is mutually beneficial to both parties. The interest of both parties are being met. If a problem does emerge, the parties are hard on the problem and not on the person. And if they do yield, people yield to objective criteria, something that both parties can agree to as being legitimate and fair. The outcome of an interest-based negotiation is one where credibility is built between both parties as they develop a relationship of trust.

## **Power and Influence**

In interest-based negotiations, power and influence are still important. Three factors which tend to heavily influence the course of negotiation include the control of time, personal power, and the control of information.

### Time

The person who is under the most time pressure tends to do worse in negotiations. In fact, eighty percent of concessions are typically made in the last twenty percent of the available time. People become far more flexible in the last twenty percent of the available time. A negotiator is well advised to think ahead about the time available for negotiations and their own use of time as a valuable, though limited resource.

### Personal Power

#### **Title Power**

Every manager has title power. They also have reward and punishment power and the ability to determine whether a person will be promoted or whether they will be given a reward, or even a raise.

#### **Congruent or Referent Power**

People who consistently say what they mean and after making a statement, actually follow through on it.

#### **Charismatic Power**

Charismatic power is the unspoken dynamic influence that someone has over another party as a result of their personality. Two travelers were waiting in a JFK Airport lounge for an international flight when in walked Dizzy Gillespie. Following him was an entourage of people who seemed to wait on him with every move he made. When the two travelers were leaving the lounge to catch their flight there before them stood Dizzy Gillespie, he had lost his entourage of people. He shrugged his shoulders and said to them with a big smile, "I've lost my group and I don't know where I need to go for my flight." He had such a strong charismatic power, that both travelers admitted they would have given up their own flight to help him.

#### **Expertise Power**

Many technical professions have expertise power, doctors, attorneys, and engineers. Some of the power of these professions come from them having their own technical language that is difficult for the lay person to understand. For example, a doctor exercises their expertise power when they state their diagnosis to a patient with low back pain as, "You have a severe case of lumbago." The doctor could just have easily have said, "You have low back pain." The term lumbago is a Latin word that literally means pain in the low back. When the other party doesn't understand your language you put them at a disadvantage.

## **Situation Power**

When someone can directly control the outcome of what you need or want, they have situation power. A secretary, for example, can influence whether a report of project is completed on time. They have situation power.

## **Information Power**

The old adage, knowledge is power, still holds true in negotiations. The side that has more information will usually do better and also tends to control the process. That's why preparation is absolutely essential to a successful negotiation. It's important to know what the other party may propose before you sit down.

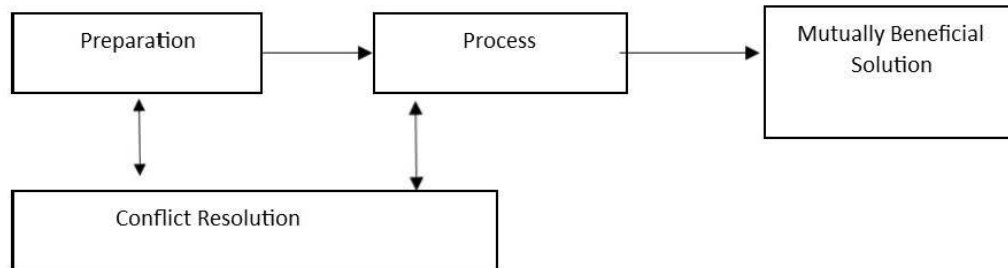
## **Principles of Interest-Based Negotiation**

The primary principle of interest-based negotiations is to emerge or get a good understanding of your and the other party's interests and to develop or invent creative options that will meet those interests. This approach increases the chance of establishing a good relationship with the other party and achieving outcomes that are mutually beneficial. Persuasive principles or criteria of fairness and legitimacy are used to establish standards both parties can agree to. Having a good alternative to walk away from is equally important. Finally, effective communication is absolutely critical.

Not every negotiation is successful. However, if you know that you have livable alternatives in the event the negotiation breaks down, you will have some "breathing room" to enhance your confidence and competence in attempting to influence the other party. Remember, that in interest-based negotiations power is used to influence and work with people, not used against people. Our intention is to bring people their senses rather than to their knees.

The interest-based negotiation model (Figure 1) begins with preparation, then leads to a very specific process to reach a mutually beneficial solution. At any time conflict can emerge either in the negotiation or in the preparation process as well. During preparation, strong differences can lead to conflict within your negotiation team. Obviously, it is important to work out these internal differences before engaging in inter-team negotiations. One of the most difficult and embarrassing situations a negotiator can experience is sitting at the table with colleagues who disagree openly before the other party.

**Figure 1: Interest-Based Negotiation Model**



## Negotiation Preparation

Negotiation preparation consists of seven steps.

1. Identifying the positions.
2. Emerging interests.
3. Developing a problem statement.
4. Brainstorming options.
5. Evaluating and selecting the best options.
6. Defining objective criteria.
7. Identifying the best alternative to a negotiated agreement (BATNA).

During preparation, each of the seven steps are completed using the Preparation Worksheet (page 5). When completed, the preparation worksheet serves as a valuable resource to engage the negotiation team in the discussion, identify barriers, surface options that are mutually beneficial, and form agreements, before they sit down at the table.

## PREPARATION WHORKSHEET

YOURS	THEIRS
1. POSITION What you want or need:	1. What do you believe the other party wants or needs:
2. INTERESTS Chunk up from Positions:	2. Chunk up their position to identify interests:
3. DEFINE PROBLEM STATEMENT Using the interests you defined in step 2 for a problem statement How to:	
4. PROPOSAL OPTIONS “Brainstorm” and evaluate your options. Test the validity of your options against the problem statement- will your options meet your interests and the interests of the other party? Select your best option.	
5. OBJECTIVE CRITERIA Standards that support your proposal that both parties can agree is fair:	
6. BATNA What is your best alternative if you have to walk away from the table:	
7. What do you believe their best alternative is if they walk away from the table:	

### Positions and Interests

A position is what you decide you want in a particular situation. It's a predetermined and a specific solution to a problem you want to solve or a need that must be met. It may be the amount of money that you want. It may be the way that you want work to be done. It may be about the type of equipment that you need and so forth. Behind every position is an interest. An interest represents the need or want that motivated you to select the item you want of arrive at your solution. Interests are often rooted in human needs. When you tell the other party what you must have, you are taking a position. When a person or group becomes overly focused on their position they can become entrapped. Entrapment is a process in which an individual becomes overly committed to a course of action as the result of having invested time, energy, self-esteem, pride, and can lead a negotiation to a stalemate.

### Psychological Entrapment

Psychological Entrapment is the over-commitment to a specific course of action. The entrapped party continues to invest valuable resources in an attempt to achieve a specific outcome, and to recover their investment of time, energy, money, or other resources, even then the cost of recovery cannot be justified by objective criteria. For example, the person who continues to sink money into a car that is well beyond its useful life.

Several factors drive psychological traps: the goal itself, the outcome that a person is working towards, the sense that one is getting ever near or closer to the goals that are being questioned, or

the cost of having to give up one's investment. There are four kinds of psychological traps: money, relationships, work, and procrastination.

One way to stay out of traps is to set limits in advance of your involvement. Once the limit has been set, try to stick with it. Try to break down your involvement in a series of lesser commitments. Remind yourself of the costs involved. Beware of looking to other people to see what you should do or for your need to impress others. A person can become so engrossed in their need to achieve as a person that they limit the possibilities that can directly help them to achieve. Romantic simplicity and the belief in a just world have prevented people from seeing other points of view for hundreds of years. To prevent entrapment remain vigilant and attempt to transform costs into opportunities. Make sure that you have a clear vision and stick to it.

## **Interest-Based Questions**

To extend ourselves beyond the limitation of position-based bargaining, the skilled negotiator emerges the interests and concerns that are underlying the positions of both sides. This can be accomplished by using reflective listening, or by asking interest-based or "Chunking" questions. These are questions that tend to shift the conceptual or logical levels of the way someone is thinking about something. For example, when someone states their position, instead of arguing or defending, the experienced negotiator will ask questions that emerge interests: "If you had what it is that you want, what would that do for you?" "What would that be good for?" "How is that useful?"

People often make statements of offer solutions that are too general to understand. Here the experienced negotiator would respond with questions that will reveal more detailed information by asking: "What's a good way of doing that?" "How could that need be satisfied?" For example, the statement, "We need to improve communications" is too general to understand. Does that mean written communications, interpersonal communications, inter-office, intra-office, the media, etc.? A clearer understanding is received when you ask the question, "What do you mean by improving communications, specifically?" To communicate effectively required a clear understanding of intent and meaning.

## **Define the Problem Statement**

Once we've defined the interests of the other party then we can create an interest-based problems statement. The Camp David Accords provides a good example of using interest-based questioning to lead to the resolution of what appeared to be an intractable conflict. In 1967, Egypt and Israel were engaged in the Six Days War which resulted in Israel taking possession of the Egyptian Sinai peninsula. In 1978, Jimmy Carter helped mediate the negotiation between Prime Minister Begin (Israel) and President Sadat (Egypt). Both men had opposing positions about the peninsula. President Sadat demanded the peninsula be returned to Egypt, while Prime Minister Begin held to the position that it should remain in the possession of Israel. They were in what appeared to be an intractable conflict.

President Carter's approach was to get to the underlying concerns of interest that motivated both men to take their positions. President Carter might have accomplished this by asking interest-based questions. He might have said to President Sadat, "If you were to get the peninsula back, what would that do for you?" President Sadat might have said, "We would receive land that is rightfully ours, it's been in our possession for two thousand years." Egypt's interest then was one of sovereignty. If Carter asked Begin, "If you were to keep the land, what would it do for you?" Begin might have said, "Well if we kept the land it means Egypt cannot line our border with tanks." Israel's interest was one of security. Once Carter knew that information he could then form the following problem statement:

How to deal with the Sinai Peninsula in a way that would honor Egypt's sovereignty and maintain Israel's need for security.

When the problem statement was expressed in this way, both parties could see the problem representing the interests of both parties. Instead of the problem standing between them, they were now on the same side of the problem.

## **Brainstorm and Evaluate Options**

Once the problem statement is defined, the next step is to actually generate options using brainstorming. Though most people believe they do brainstorming, most of us in fact offer long justifications for our ideas or mix inventing with evaluating and deciding. In brainstorming our intent is to come up with as many ideas as possible no matter how ridiculous they may sound. When brainstorming has been exhausted, then we can evaluate and take a closer look at each option. During the evaluation, each option is tested against the interest-based problem statement. Does the option under discussion meet the interest of both parties? If it doesn't, then it should be removed from the list. Our objective here is to decide on the best options, those that clearly meet the objectives or interests of both parties.

## **Identify Objective Criteria**

When a list of viable options has been defined, the next step is to identify objective criteria. Objective criteria is a standard of measurement that both parties can agree is fair and legitimate. Objective criteria tends to not only legitimize options but also provides leverage. For example, when you want to buy a used car you are using objective criteria when you establish a price based on the Blue Book, or the NADA Price Guide, that you and the seller can both agree is legitimate and fair. Examples of objective criteria include:

1. The market value of a product.
2. A precedence that's been established in the workplace.
3. Reciprocity, scientific judgement, or engineering judgements.
4. Professional judgement.
5. The efficiency of a product or service.
6. A tradition that's been established
7. What your competition would do.

8. What the replacement costs of a product or service would be.
9. What a court would decide.
10. Moral standards or equal treatment.

## **Best Alternative To A Negotiated Agreement (BATNA)**

When objective criteria has been defined and you have legitimized your proposal, the next step is to find out your Best Alternative To A Negotiated Agreement (BATNA) and the BATNA of the other party. A BATNA is not to be confused with a “bottom line.” A BATNA is an alternative you can independently turn to if you have to walk away from negotiations altogether. A BATNA is standard to measure agreements which protect you from accepting terms that are unfavorable, or to reject terms that are not in your best interests to accept. There are three types of BATNA: the Walk-Away BATNA, the Interactive BATNA, and the Third Party BATNA.

### Walk-Away BATNA

For Example, if the supplier or client I am dealing with is not willing to cooperate or negotiate fairly, I may have to get another supplier or find another client. Or, in more dire circumstances I might find another job.

### Interactive BATNA

Interactive BATNA’s include economic, political, and social non-cooperation. An example of economic cooperation would be the boycotting of advertisers to influence the change of television programs. An example of political non-cooperation would be a filibuster or voting in a new Congress. Employees who chose to run a process or machine at specification when they know they can achieve higher quality or better performance is an example of social non-cooperation.

### Third-Party BATNA

A third party BATNA is using a neutral third party or higher authority to resolve a situation. For example, an employee might go to their one-over-one manager, or to a human resource representative, if their immediate supervisor is unwilling to resolve a problem fairly.

Mediation and arbitration are both examples of a third party BATNA. Litigation is also a third party BATNA as well. Position-based bargaining tends to push parties to jump to their BATNA. The increase in the number of Equal Employment Opportunity (EEO) cases may be the result of people dealing with a position-based mindset. One must remember that the use of these kinds of BATNA often exacts considerable costs from each of the parties. A more sophisticated use of interest-based negotiations might alleviate the necessity of accessing our BATNAs on such a regular basis.



## Negotiation Process

The negotiation process consists of four major components or stages: the establishment of ground rules, the selection and clarification of issues, problem solving to surface and select viable options, and establishing a mutually beneficial agreement with the steps needed to follow-up.

### Establish ground rules

Establishing ground rules and norms is a process of managing agreement. It is comprised of three elements and sets the stage for the behavior and process that will follow:

1. Make introductions; gain rapport.
2. Clarify expectations on purpose, length, and process of the meeting.
3. Reach agreement on the agenda.

Taking the time to establish ground rules and norms is often overlooked or seen as a waste of time. We have observed hundreds of experienced positional-based negotiators who attempt to jump into discussion without taking the time to establish rapport with the other party.

Negotiation is a communication process where relationship is as important as substance. To develop a relationship time is needed to build trust. Establishing ground rules is a preventive measure that provides a foundation and expectation that all parties can work from. It establishes a direction, helps parties to stay on track, and provides the means to prevent the escalation of conflict when it arises. When a ground rule is violated, any member of the negotiating group can use the stages of assertion skills (see *Managing Agreement: Assertion Skills*) to remind or confront the party in error. Ground rules and norms should address how people will communicate (you earn the right to respond with your point of view after you have listened to the satisfaction of the speaker, reflective listening), how conflict will be resolved, how issues will be discussed, etc.

Having an agenda provides a plan for conducting the meeting. It is the primary means by which the participants learn and commit to the content, objectives, and process of the negotiation meeting. It is also the primary tool that helps the facilitator to keep the participants on track.

The agenda should contain details about:

1. Prime objective of the meeting.
2. What is going to happen, the meeting flow.
3. Who is going to be assigned the role of facilitator, recorder, time keeper, minute taking.
4. When the meeting will start and end.

### Select and clarify issues

During this phase the participants identify and agree to the issues they will work on. This discussion is comprised of three elements.

1. Nominate substantive issues to be dealt with.
2. Select issue to resolve.

3. Establish mutual understanding of issue.

### **Problem solve issues**

When an issue is selected, participants can frame it in a way that will lead them to arrive at an interest-based solution. To accomplish this, participants will be engaged in the following process which is very similar to the negotiation preparation process. During this phase the preparation worksheet will help you present information. A blank sheet can be used to record progress.

1. Clarify interests on the issue.
2. Establish agreement on interests.
3. Create interest-based problem statement.
4. Generate options.
5. Evaluate options against interests.
6. Discuss objective criteria and principles of fairness.
7. Turn promising options into “yesable” propositions.

Clarifying interests is intended to emerge the underlying interests of each party around the issue being discussed. In preparation each party attempted to identify their own and the other party’s position and interest. This is the point for each party to express their understanding. The facilitator may have to remind people to avoid judging or defending behavior. Information should be written down on newsprint or an easel pad in full view of the participants. This act symbolically gets everyone on the same side of the problem. When everyone is satisfied that all interests have been expressed and all are in agreement, an interest-based problem statement can be formed in the same way it was done during preparation.

Once the problem statement has been formed participants can begin to generate options using brainstorming. The facilitator may have to remind people to avoid justifying their option and that criticizing others is not appropriate. The objective at this stage is to generate as many creative options as possible.

When the participants have exhausted the bank of ideas the facilitator can move the group to evaluation. During the evaluation the facilitator will use interest-based questions to get clarification on the meaning of each option. “What specifically do you mean by this?” “How does this option meet the interests of both parties?” “How would this be implemented?” With each response the facilitator used reflective listening. If a participant wishes to respond they should reflectively listen first and then offer their point of view. The final test of an option is whether or not it meets the interests defined in the problem statement. If it does not, then it should be removed from the list, unless both parties agree that it should remain.

The remaining list of options provides a group of alternatives for the participants to select from or to combine in order to create other options. The list, when prioritized, can also form the basis of an action plan. At this point the participants are in the process of crafting an agreement. The objective criteria defined during preparation can be discussed at this time to analyze and finalize the agreement in a way that is legitimate and fair to everyone.

At this point participants should have enough information for the facilitator to focus the group on promising options and to test whether they and their constituents would be willing to say “yes” and to commit to implementation. The skillful interest-based negotiator can influence the creations of a “yesable” proposition by making conciliatory gestures. For example, openly acknowledging the needs of the other party and how an option might be mutually beneficial would be a helpful offering during this stage of the negotiation.

### **Establish agreement and follow-up**

When the framework of an agreement has been formed, the facilitator can move the participants to close the negotiation process by accomplishing the following:

1. Generate a tentative agreement.
2. Test your outcome for:
  - Agreement among group members
  - Acceptance by constituents
  - Reality of implementation
3. Resolve remaining differences
4. Clarify next steps to be taken.

### **Dealing With Problem Behavior**

Problem behavior often occurs or arises during negotiations. Years ago people were actually taught ways to obstruct negotiations by using stonewalling techniques or going on the offensive by attacking the other party, or using deceptive tricks. A standard reaction to this type of behavior is to respond in kind, to attack back, give in, or to just break off the negotiations altogether. When this behavior surfaces it is time to use the conflict resolution skills identified in the Conflict Resolution handout.

The following is a list of strategies to use when you experience problem behavior:

1. Avoid reacting to contentious behavior. Disassociate your feelings, if you are triggered you will only lose power and credibility by responding “in kind” to the other party. If your energy is high, that’s a good time to caucus.
2. Attempt to disarm them by using reflective listening and matching body position and voice tone.
3. Use reframing. If the other party extends an unfair offer or objection, that appears to be an attack, reframe their statement or objections. Car salesmen use this technique when a customer objects to the high sticker price of a new car. When the customer says, “That’s ridiculous, it’s too high.” The car salesmen responds by reframing the objections. “You’re right. It is very high. But isn’t it nice to know that for this price you get...”
4. Attempt to break an impasse by using interest-based questions. If the other party takes a strong position, use an interest-based question such as “If you had that, what would that do for you?” Emerge the interest and then attempt to go back and facilitate problem solving.

5. Use power constructively to resolve conflicts. If you know that other party's BATNA, create an option that is better than their BATNA. If you can, delicately show your negotiators how walking away might not be in their best interest, you may just bring them back to the table.
6. Use assertion skills to manage agreements. Early on in the negotiations, you will want to form agreements about the agenda, the negotiation process, and reason for conducting the negotiation. Once an agreement has been reached, it is important to monitor compliance. If the other party deviates from the terms of the agreement, a reminder conversation is necessary. Most people, when reminded of their agreement, will adjust their behavior accordingly. If not, move to a confrontation assertion of decision/consequences meeting (see Managing Agreement: Assertion Skills handout).
7. Be aware and accountable for your own behavior. Let your "yes" mean "yes" and your "no" mean "no." If you violated an agreement or have been out of line, take the initiative to reconcile with the other party as soon as possible.

### **When to Caucus**

When negotiations are in a difficult stage, or do not seem to be going well, you might want to call for a caucus, an opportunity for your team to meet privately. There are several instances in which a caucus might be beneficial:

1. To review new information that surfaces in the negotiation that you did not prepare for.
2. To explore possible alternatives.
3. To consult experts in order to verify that what you're hearing is fair and legitimate.
4. To be able to illicit the approval of your constituents or superiors.
5. To analyze or validate objective criteria.
6. To review strategies and tactics that you might need in order to be able to move on.
7. To address something unforeseen. Or to be able to reduce the high emotion that has come up during the negotiation.
8. To overcome stalemates
9. To give yourself time to think.

### **Characteristics of a Good Negotiator**

From our standpoint, a good negotiator is a very skillful communicator. A person who has developed their interpersonal skills to the point where reflective listening, assertion, interest-based questioning, and facilitation are second nature. They have the ability to recognize that both sides are under pressure, and have the desire to negotiate solutions that are mutually beneficial. They are willing to take the time to prepare. They are flexible and are dedicated to using and developing new skills and new behavior. As with all behavior change, they realize that a necessary ingredient to acquire more sophisticated negotiation behavior is the willingness to be open to learning and commitment to practice