

Indigenous Business Toolkit Project

Interest-Based Negotiations

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Summary

Negotiations – whether they are formal or informal – are part of business. They take place internally between groups and/or individuals and they take place externally with other businesses and organizations. The need for negotiations can arise because of conflicts between two or more parties – the classic case is the determination of the sale price of an asset (e.g., a machine or a company) that is being bought/sold. In other cases, negotiations are required to obtain agreement on how collaborations will take place. Examples of negotiations in Indigenous businesses include:

- Discussions with shareholders regarding expectations for the payment of dividends versus the retention of profits for wealth creation,
- Negotiations with a prospective business partner on the terms of legal partnership agreements,
- Negotiations with a major customer on the terms of a contract,
- Board decision making with a diverse set of opinions and skillsets,
- Management decisions based on multiple points of view,
- Team decision making regarding how best to carry out a task.

Interest-based negotiations are a way for the parties involved to reach an outcome that is mutually acceptable – i.e., that meets the interests of both parties. Figure 1 presents the steps in the interest-based negotiation process.

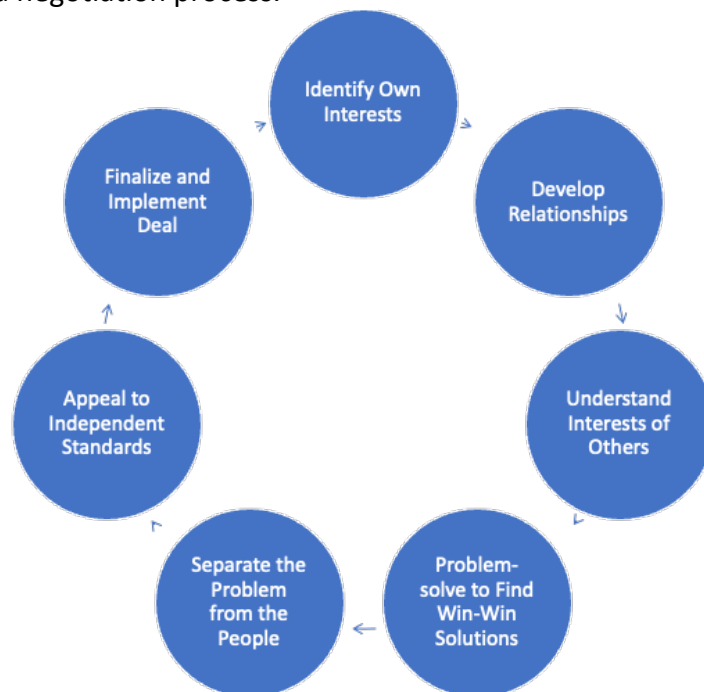


Figure 1. Steps in the Interest-Based Negotiation Process

Negotiation

Negotiation is a process where two or more parties agree to the exchange of things. For instance, employers and employees negotiate over wages paid and time spent on the job, buyers and sellers negotiate over the price paid for a good/service and the quality of the good/service, and co-workers negotiate over who does what tasks. Negotiations can range from minor discussions to significant deals.

For Indigenous businesses, negotiations often take place with outside organizations such as governments, potential customers, or other businesses. The need for negotiation can arise from disputes with organizations seen as adversaries or from collaborations where terms need to be agreed upon.

Negotiations can also occur internally. While these internal negotiations are usually less formal, they are just as important. Examples of negotiations include discussions between Chief and Council and the directors of an Economic Development Corporation (EDC) regarding the business charter, or among the board of directors when making a business decision. Negotiations also take place between management and employees, and among co-workers and team members when they are planning tasks.

The aim of this module is to provide an overview of a particular approach to negotiation, namely interest-based negotiation.

Negotiation Approaches

There are two main approaches to negotiations: position-based and interest-based.

In the position-based approach, the focus of the negotiation is the particular thing at issue – e.g., the price of an asset or the wage that will be paid. In the negotiation, each party sees the other parties as adversaries that have to be bettered – i.e., each party focuses on making sure the deal is better for them than for the other parties. Negotiations are commonly perceived as battles of power where the loudest and longest speaker comes out on top. Since the negotiations are typically framed as win-lose or zero sum, reaching agreement often creates resentment, since one of the parties will often feel as if they have lost. This resentment can infect future negotiations, as the angry party will try and get back what they have lost. Table 1 provides a listing of the pros and cons of position-based negotiations.

The alternative to position-based negotiation is interest-based negotiation. In the interest-based approach, the parties view negotiations as a way of achieving a win-win outcome – i.e., one that benefits everyone.

The starting point for the interest-based approach is the understanding that negotiations are rarely one-offs. Instead, negotiations are part of an ongoing relationships between the parties involved. While securing a favourable outcome is vital in negotiations, it's equally important to ensure that the other parties also benefit. Doing so has numerous benefits, since win-win

Table 1. Pros and Cons of Position-Based Negotiations

Pros	Cons
Simplicity: <ul style="list-style-type: none"> • Straightforward, each party presents position 	Stark Outcomes: <ul style="list-style-type: none"> • One party gains, other loses • Can damage relationships
Quick Decision-Making: <ul style="list-style-type: none"> • Focus on positions can lead to quicker decisions 	Stifled Creativity: <ul style="list-style-type: none"> • Limits exploration of alternatives • May not meet underlying interests
Clarity: <ul style="list-style-type: none"> • Clear, explicit positions facilitates understanding 	Risk of Impasse: <ul style="list-style-type: none"> • Parties can become entrenched in positions, leading to deadlock
Power Dynamics: <ul style="list-style-type: none"> • Advantageous for strong parties 	Strained Relationships: <ul style="list-style-type: none"> • Adversarial tactics drain future negotiations

outcomes reduce resentment, create trust, foster collaboration and co-operation, and ensure long-term viability.

In the business world, there's a belief that interest-based negotiations can be a sign of weakness. Win-lose scenarios, however, seldom endure in business relationships and are typically marked by ongoing confrontation. While it may seem important to "win" the negotiations, the ultimate goal isn't just about triumphing over others. It's crucial to acknowledge that continued collaboration is anticipated and that helping other parties achieve their goals puts them in a position to help you achieve your goals. Table 2 provides a list of the pros and cons of interest-based negotiations.

Table 2. Pros and Cons of Interest-Based Negotiations

Pros	Cons
Focus on Interests: <ul style="list-style-type: none"> • Prioritize underlying needs, concerns, motivations 	Time-Consuming: <ul style="list-style-type: none"> • Requires thorough exploration • More time-consuming
Preserves Relationships: <ul style="list-style-type: none"> • Emphasize collaboration, problem-solving, and positive relationships 	Complexity: <ul style="list-style-type: none"> • Addressing conflicting interests • Understanding hidden motivations
Flexible Solutions: <ul style="list-style-type: none"> • Focus on interests, not rigid positions • Room for innovation and creativity 	Requires Co-operation: <ul style="list-style-type: none"> • Depends on collaboration • Open communication necessary
Potential for Win-Win Outcomes: <ul style="list-style-type: none"> • Satisfy interests of all parties • Result in mutual gains 	Potential for Exploitation: <ul style="list-style-type: none"> • Risk of one party gaining advantage • Co-operative nature may be exploited

In summary, interest-based negotiations offer the potential for mutually beneficial outcomes and relationship-building, but they require time, co-operation, and skillful communication. Positional bargaining, on the other hand, may lead to quicker decisions but can result in win-lose outcomes and strained relationships if not managed carefully. The choice between these approaches depends on the nature of the negotiation, the relationship between the parties, and the desired outcomes.

Interest-Based Negotiations

The problem-solving aspect of the interest-based approach can be seen in the following scenario. Suppose two people are having a fight over who gets an orange. One solution is to cut the orange and give each person half. However, this solution may result in each person getting only some of what they want as well as some of what they don't want. For instance, if one person wants the peel to make an orange cake while the other wants the orange for the juice, then cutting the orange in two would not create the best outcome.

By better understanding what each person wants, a different solution emerges – i.e., the orange could be first juiced and then grated – one that allows each person to achieve their goal. While the above example is simplistic, it shows the importance of understanding what the goals are of each party and of being open to creative solutions.¹

Table 3 presents an example of how labour negotiations might be carried out under a position-based versus interest-based approach. Notice in particular the different objective that is being expressed in each of the approaches.

Steps in the Interest-Based Negotiation Process

The interest-based negotiation approach relies on a series of steps to produce a collaborative approach with mutually beneficial outcomes. Specifically, the process involves seven key steps designed to foster communication, build trust, and explore creative solutions. These steps, illustrated in Figure 1, are discussed below.

Table 3. Example of a Position-based Versus Interest-based Approach in Labour Negotiations

Negotiation	Approach
Position-Based	Insist on a fixed schedule without considering individual needs or productivity patterns. E.g., "We demand a strict 9-to-5 work schedule for all employees."
Interest-Based	Explore flexible scheduling options, such as remote work or flexible hours, to accommodate varying preferences and maximize efficiency while maintaining employee satisfaction. E.g., "We aim to optimize productivity and work-life balance for our employees."



Figure 1. Steps in the Interest-Based Negotiation Process

1. **Identify Your Own Interests** – Interest-based negotiation requires that you understand your own interests. Thus, it is essential for negotiators to understand what their organization wants and the reasons why. To obtain this understanding, it is necessary to survey key groups and individuals in the organization to determine goals and priorities. In some cases, internal negotiations may be necessary to clearly establish goals and objectives. Obtaining an in-depth understanding of what your organization wants and the trade-offs it is willing to make is often difficult, since the required conversations may expose problems and areas of disagreement. However, obtaining this understanding is critical when it comes time to look for innovative solutions.
2. Part of the internal negotiations and preparation for external negotiations is to understand your Plan B, or, in interest-based negotiations language, your Best Alternative to a Negotiated Agreement (BATNA). It is important to understand before you enter external negotiations what your alternatives are if the negotiations fail to achieve results. If your Plan B is strong, it gives you significant leverage in negotiations. Understanding your Plan B also helps you evaluate whether you have negotiated a good deal or not. Similarly, it is important to understand as best you can the other party's Plan B.

3. **Develop a Relationship with the Other Parties** – Before initiating negotiations, familiarize yourself with the other parties involved. Establishing a relationship beforehand can facilitate the negotiation process significantly.
4. **Understand the Interests of the Other Parties** – It is important to understand the desires and motivations of other parties involved in the negotiation, even if they differ from your own. While it may appear counterintuitive, understanding their interests and concerns is critical when it comes to finding mutually beneficial solutions that address the concerns of all parties involved.
5. **Treat the Negotiations as a Problem-Solving Exercise** – Successful negotiations require that the interests of all the parties are met. To achieve this goal, frame the negotiations as a problem-solving endeavor requiring innovative solutions rather than as a competition or power struggle. By assisting the other parties to achieve their objectives, an incentive is created for them to reciprocate and to help find solutions to your problems. Remember that one-sided agreements rarely endure, since fairness is critical for sustainable deals. Win-win agreements, where both parties benefit, yield the highest satisfaction levels for all involved.
6. **Separate the Problem from the People** – Maintain a firm stance on the issues while treating the people involved with respect. Don't attack the other parties personally; focus instead on addressing the matters at hand. Preserving the relationship is crucial during the negotiation process.
7. **Find Independent Standards** – Instead of relying solely on persuasion, seek out independent standards or criteria. By appealing to impartial benchmarks, negotiators can approach negotiations from a problem-solving perspective. Standards should not be used to coerce others. However, it is okay to advocate for fairness, as long as it is remembered that fairness has to be present for all parties.
8. **Shake Hands and Implement the Deal** – The purpose of the negotiations is to solve a problem and to be able to live with the deal. Thus, it is important to take the time to shake hands and celebrate, as well as execute and implement the deal.

The first step – identifying the interests of your organization – is crucial. It is also challenging, since figuring out goals can be difficult in complex organizations with many interests. The internal negotiations necessary to determine your organization's interest can be equally, if not more, intricate than the negotiations with external parties.

Successful internal negotiations can be carried out by following the steps outlined in Figure 1. Taking a rigid stance or being inflexible can hinder collaboration and alienate key stakeholders. Instead, it is vital to approach internal negotiations with flexibility, openness to different viewpoints, and a willingness to find common ground that aligns with the organization's overall goals and values.

Curiosity is a key attribute for successful negotiators. Asking insightful questions helps uncover not just surface-level positions, but also the underlying interests and motivations behind them. Understanding the reasons behind the requests being made provides valuable insight into the priorities and concerns of the other parties. This deeper understanding allows negotiators to move past win-lose scenarios and explore solutions that address everyone's underlying interests. By reframing negotiations as opportunities for mutual benefit and problem-solving, negotiators can create a collaborative atmosphere and increase the chances of reaching a satisfactory agreement for all parties.

Understanding the perspective of the other party is particularly important in negotiations. Negotiations are collaborative endeavors where both sides attempt to fulfill their interests while assisting the other party to achieve theirs. Acknowledging that each party possesses something the other desires enables negotiators to concentrate on discovering mutually beneficial solutions. Active listening, thoughtful inquiry, and a willingness to accommodate the needs of the other party fosters more effective and successful negotiations.

Listening is one of the most critical negotiation skills.

Listening involves more than just hearing the arguments presented by the other parties; instead, it involves the genuine comprehension of their needs and concerns. A critical component of this comprehension involves the skill to restate the interests of the other party back to them in a way that they understand. The ability to restate their interests showcases your understanding and indicates genuine consideration of their viewpoint and its legitimacy. Uncovering shared interests and potential areas of mutual benefit requires active listening, insightful questions, open communication, and flexibility and creativity.

While compromise is valuable in negotiations, it may not always be the best approach, especially in complex situations. Compromise often involves meeting halfway between two positions, but, as the example of the orange illustrated, this may not fully address everyone's needs and concerns.

Effective negotiations require a deeper understanding of each party's motivations and priorities. This means exploring creative solutions that go beyond simple compromises. By finding alternative options or trade-offs that better align with everyone's interests, negotiations can achieve more satisfactory outcomes.

Conclusion

Negotiations are an important part of virtually every business relationship – everything from the purchase of another business to the setting of contract terms for a service that is being

purchased or a product that is being sold to the determination of dividends to the agreement of employment terms. While many people approach negotiations using a position-based approach because of its intuitive appeal to the need to win, the use of an interest-based approach provides a tried-and-true way to reach an outcome that is mutually acceptable for all the parties. These win-win outcomes reduce resentment, create trust, foster collaboration and co-operation, and ensure long-term viability.

Resources

- Comms Lab. 2022. Negotiation: Positions vs Interests (funny explainer). YouTube Video. Retrieved from <https://www.youtube.com/watch?v=NMIjohU9jhg&t=159s>.
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Notes

- ¹ For more details on this example and on the distinction between interests and positions, see Comms Lab (2022).

Indigenous Business Toolkit Project

The Indigenous Business Toolkit Project is designed to provide Indigenous communities and individuals with the practical tools they and their advisors can use to undertake successful economic development. Indigenous economic development is more successful when everyone – community members, community leaders, consultants, business professionals, employees, and/or potential partners – understands its many aspects.

The Toolkit provides step-by-step instructions on selected aspects of economic development based on the best practices of leaders in the field. The modules in the Toolkit cover everything from the role of economic development in nation building, to the importance of business charters, to the various legal forms that can be used to pursue economic development, to the steps needed to identify and negotiate beneficial partnerships, to the governance challenges that economic development must address.

The modules are available for free and for use by anyone. The full set of Toolkit modules can be found at: <https://www.schoolofpublicpolicy.sk.ca/research-ideas/projects-and-labs/indigenous-leadership-governance-and-development-project.php>.

The Indigenous Business Toolkit Project is part of the larger Indigenous Leadership: Governance and Development project designed to support long-term Indigenous economic development. In addition to the toolkit, the larger project involves capturing the economic development experience of Saskatchewan Indigenous communities through a series of case studies. The case studies, along with a description of the larger project, can be found at the website listed above.

Disclaimer

The information contained in this document is designed to provide an overview of a particular topic and should not replace legal and other expert advice. Groups wishing to use the concepts discussed should receive the appropriate professional advice necessary to ensure their specific goals and circumstances are considered and recognized.

The Authors

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