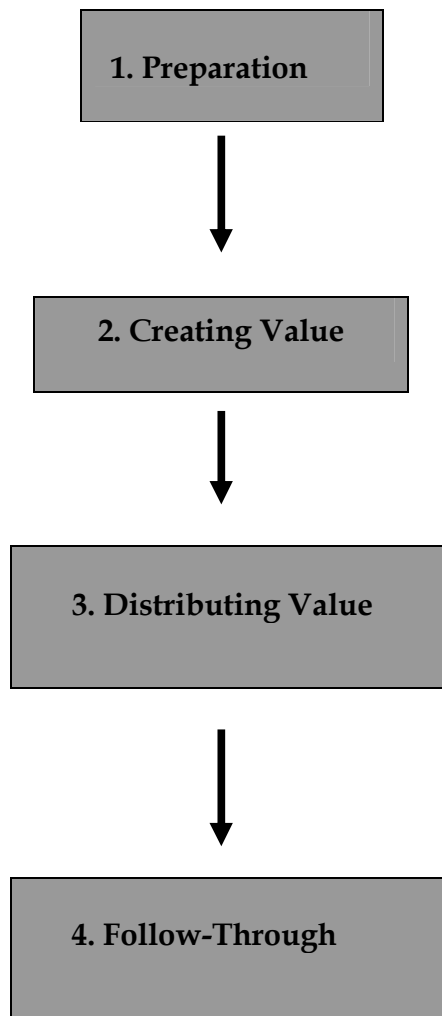


**THE MUTUAL GAINS APPROACH TO NEGOTIATION:
A FOUR-STEP PROCESS**

Introduction

The Mutual Gains Approach to Negotiation is highly valuable in situations where many stakeholders are negotiating a complex set of issues. It is an important tool for preparation and conduct of negotiations.

The 4 phases of the mutual gains process include:



These concepts will be examined below.

Step One: Preparation

Preparation is **the** essential step in negotiations. Careful preparation pays large dividends in the negotiation process. If you are well-prepared, you dramatically increase your ability to get what you want out of a negotiation. During the negotiation process, well-prepared negotiators can keep cool, be creative and be helpful to their negotiating partners--without going to the extremes of "giving in" or "playing hardball."

1. A central feature of the Mutual Gains Approach is **a focus on interests, not positions**. A position is the stance you take on an issue-"We must have at least 50% government cost-share in order to do this project." An interest is a core need or want that underlies a position - "We want government investment in this project." It is helpful to focus on interests rather than positions because your interests are the things you seek to achieve in a negotiation. Focusing on interests also provides more flexibility for reaching agreements. For most interests, there is more than one way to meet them.
2. To prepare for a negotiation, you should begin by **clarifying your interests**. This may require a discussion with key decision-makers in your organization including a preliminary discussion of common interests and any possible differences prior to meeting with external negotiating partners. You should be prepared to explain your interests to your negotiating partner, and anticipate their questions about why you want what you want.
3. Given your interests, you should think about the range of acceptable outcomes, from your *aspirations* --the best possible outcome to satisfy your interests -- to your *minimum requirements* -- the least you would be willing to accept. For example, if you are negotiating to implement a new project, consider both the ideal arrangement and also what conditions must be met in order to make the project worth doing.

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4. To determine your minimum requirements, examine your **BATNA** -- your "best alternative to a negotiated agreement." Your BATNA describes your best option if you don't reach agreement with your negotiating partner. BATNAs are an important source of power in a negotiation. If you have a good BATNA, you have real options that you can fall back on in the event that the negotiation does not produce a package that meets your most important interests.

Your BATNA is therefore the basis for calculating your bottom line. If you are negotiating over the design of a potential project, and that project has lower importance to your organization, or you have a similarly valuable project you can do instead, you have a good BATNA if the negotiations are not successful. On the other hand, if the project is very important to the organization and there is no clear alternative available, then your BATNA is not very good, and you need to work especially hard in the negotiation process to generate a mutually acceptable outcome.

5. As you consider your own interests, aspirations and BATNA, you should also consider those of your negotiating partner. Put yourself in their shoes, and imagine what your interests would be if you were they. It may help to do some research on the organizations with whom you are negotiating, by reviewing documents or speaking with people who know their views. Think of the outcome that would best satisfy their interests, and what they would do if they did not reach an agreement with you. You should also think of questions you may need to ask your negotiating partner to learn more about their interests, aspirations and BATNA.

It is particularly helpful to know the reasons underlying the demands or positions of your negotiating partner. For example, if your negotiating partner demands full control for his organization in a collaborative project to which they are contributing 60% cost-share, you should ask what full control means to him, and why those things are important to him. Based on his answer, you may be able to discover the interests that underlie that demand.

6. Finally, you should also spend time thinking about proposals you could make that would meet your own interests (as close to your aspirations as possible) and also meet the interests of your negotiating partner (as you understand them). The first proposals you make will be critical in setting

the tone and pace for the negotiation. Consider that your proposal may also impact their perception of your credibility and professionalism.

7. If you prepare thoughtfully and thoroughly, you will **never** accept a deal that doesn't beat your BATNA. You will also have a much better chance of making agreements that come as close as possible to meeting your aspirations while still being acceptable to your negotiating partner.

Good preparation is the foundation of successful negotiation.

Step Two: Creating Value

The Mutual Gains Approach challenges you to create as much value as possible for all parties to the negotiation before you worry about how to distribute it. Creating value means inventing solutions that are advantageous to both sides so as to expand the scope of mutually beneficial options available to the negotiating parties.

To create value, you have to first find the things that you and your negotiating partners value differently, and then to explore multiple options for resolution or collaboration. If, for instance, I want to hire a project technical consultant who can begin right away, and you are willing to start working tomorrow if you get a small bonus, we have a good chance of making an agreement. Time is more important to me than to you; money is more important to you than to me.

1. The Mutual Gains Approach is fundamentally different from the conventional wisdom on negotiation. Conventional wisdom tells you to take an extreme position and hold it, withhold information about your interests, make the other party uncomfortable, and make as few concessions as you can, even if they offer you a lot in return. By avoiding collaboration, the conventional wisdom eliminates the potential for expanding the gains that either party may get.
2. To find out where the areas for mutual gain are, it's essential that we explore each other's interests, rather than simply restate our positions. Instead of telling you ten reasons why your proposal will not work for

me, I should find out from you why you want what you want, and then use that information to construct "what if" scenarios with you: "what if we tried a different option that could work for me and if I'm understanding your interests could work for you?"

For example, in my employment negotiation with a staff person, his position might be that his responsibilities should include management of a project that is currently assigned to someone else. Rather than explaining to him why he cannot manage that project, I should ask him why he wants that responsibility. I might discover that his main interest is greater management responsibility, and that management of that specific project was of interest due to prior experience in that substantive area. I could then propose an option that would give him management responsibility for a new project on a similar topic, or suggest an opportunity to draw on his knowledge for management of another project.

3. In international negotiations, it is important to note the cultural sensitivities of our negotiating partner that may cause him to use or prefer certain negotiating styles, and can affect negotiation outcomes.

For instance, the direct way of asking may be acceptable to Western people but there are people from other cultures who find this style obtrusive, although they may be amenable to more subtle forms of inquiry after some level of trust is established. Understanding as much as you can about the norms and customs of the other party's country, as well as being aware about your own biases and predispositions, will help you adapt your strategies to cultural differences. This consideration should also apply to other differences, like gender and age, that come into play in negotiation.

4. I should also be trying to get you to understand the reasons behind the things I want, rather than restating my position. I should realize that you can only help me meet my interests if you are informed about those interests. Together, we can "make the pie larger"--create options that are closer to both of our aspirations.
5. In order to find options that potentially meet both of our needs, it is necessary to suspend judgment about the ideas we raise, and to invent options without committing. The more options I can come up with, the more likely I am to find something that will work for you. However, I

don't want to be locked in to an idea that I have raised before we have explored all the potential options; for this reason, the use of "what if" can be very helpful.

6. Even if your negotiating partner is using the conventional wisdom, you are still better off using the Mutual Gains Approach.

For instance, in an instance where your organization is seeking to work with a governmental agency on a project, if you tell your governmental counterpart that your organization would be interested in working on that particular project only if it forwards your mission *and* helps you recover costs, you are not giving him information he can use against you. If you ask him why he thinks the project will be helpful for the government, you are not agreeing that it should be done. If you ask him, what is the possibility of using a government cost-sharing modality for a project that meets current priorities of your organization and the governmental agency, you are not committing to any arrangement. Rather, all of these steps are offering opportunity to create options with greater potential value to both of you.

7. Nevertheless, there are situations in which two negotiators are having such a hard time talking to each other--because of a bad history, poor negotiating strategy or both--that it makes sense for us to ask a neutral party to help us communicate. If there are personal conflicts between a staff member in your organization and a governmental or civil society counterpart with whom they are working, it might be helpful to find a neutral party who can help improve communication.

The mutual gains approach to creating value maximizes the chances that all parties reach an agreement that meets all of their interests, and even meets their aspirations.

Step Three : Distributing Value

No matter how well we've done at creating a range of options that satisfy us both, there are likely to be some hard choices to make between options that are better for you and options that are better for me. We now need to find ways to agree upon which options to choose.

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1. Distributing value is the process of choosing between the options that we created in the previous stage. This is easier to do when there is trust between the parties. The more trustworthy I've shown myself to be in the negotiations so far, the more likely you'll be to hear my reasons and arguments about how we should divide the pie. In negotiations with colleagues and counterparts with whom you have a long-term collaborative relationship, the trust you have developed over time can increase the potential for a workable agreement. This is particularly necessary when preserving the relationship is as important as meeting your needs in a particular negotiation.
 2. If the only reason I have for my preferred options is "these are better for me," I've got a problem. You can say the same thing about the options that are better for you, and if we're not careful, we can end up taking options off the table and destroying much of the value we've created. That is, if I say, "I want these" and you say "I want those," I may respond by saying, "I have to have these," to which you may respond, "I have to have those." This process does not lead us toward an agreement.

Instead, we need to work hard to find some **"objective" principles**, standards or criteria that let us choose among the options. In this context, "objective" doesn't necessarily mean "right," but rather, acceptable to us both as a reasonable way to make a decision, and not just a cover justifying my preferences or yours. Some examples include: precedents from our past negotiations, maximizing progress toward the organization's development goals, norms in international development work, equity in dividing gains or sharing losses.

3. If we cannot agree on a principle or standard, we might do better to bring our preferred outcomes to someone (or some institution) we both trust and ask for their input, or let them decide. For an internal organizational conflict, this may be a supervisor or neutral colleague. For negotiations with country counterparts, it may mean someone from the private sector or civil society sector who has experience with the issue at hand.
4. Finally, sometimes we find ourselves in situations where one of us can get even more by violating the terms of the agreement as long as the other keeps honoring the agreement. We thus need to create a "nearly self-enforcing agreement" or an instrument that promotes fulfillment of our promises whether it's a contract, an arbitration provision, a promise to pay

for violation of the agreement, or a very public ceremony that enjoins others in our community to help us keep our commitments.

Step Four : Implementation & Follow Up

The same logic that drives us to create nearly self-enforcing agreements should drive the implementation of the agreement. First and foremost, one should do one's best to reach an agreement that meets one's interests, even aspirations, so that there is no anxiety regarding violations of the agreement by the other(s).

1. If your organization represents constituencies, then you should be sure that your agreement works for all of your constituencies, and you should be willing to change your organizational procedures and incentives to reflect and support your commitments. If implementation of your agreement involves multiple divisions or levels within the country or local government, all of these groups should agree to the plan that you come up with.
2. If the agreement is supposed to produce tangible changes in the world (e.g. gains in market share, improvements in child health, weapons reductions), you should be able to agree on ways to monitor the world to see whether those changes are happening. The agreement should include the indicators that will be used to determine the success of the project, and the processes that will be used to measure these indicators. If there is either mistrust between the parties or a lack of internal capacity to undertake the monitoring of the project, you may want a neutral party to do that monitoring with you, or you may agree to look together at the situation at regular intervals.
3. In any case, you should have a procedure in place that allows you to make changes in the agreement if necessary to achieve your joint goals. You should think now about what you will do if your benchmarks are not being met. For example, you might agree that you will conduct an evaluation of the project implementation to determine what might be going wrong and why, and then meet together to review results and plan reforms.
4. Finally, you should use the process of implementing the agreement and reviewing your progress to continue improving your relationship with the other party. If the agreement is working well, you will probably be happy with each other, but identifying and solving problems together may build

even stronger ties. This is particularly important in relationships with governmental counterparts with whom you can expect to have a long-term relationship. In the event that you hit a problem you cannot solve, and which threatens the relationship, you may want to turn to a neutral to help you work through it.