

I. The Problem

Complex, high-stake, multi-issue negotiations, both bilateral and multilateral, do not seem to work as well as they might. Agreements, when reached, too often reflect lowest common denominator thinking. Deadlocks are frustrating and can be costly.

II. Some Causes

- A. We measure progress by concessions. In tough negotiations, we tend to focus on positions and define progress by the number of concessions made. In this way, we learn little about what the other side really wants and what most concerns them, and run the risk of missing significant opportunities for joint gain.
- B. Questions focus on positions. When asked 'Will you accept this today?' it is often most logical to say 'no.' Committing to a proposal makes little sense when others are not yet committed and you can still wait. Saying 'no' today can also lead to a better package tomorrow. As a result, people get increasingly locked into their positions, and reveal little about the interests and concerns underlying those positions.
- C. Lack of inventing. Faced with fears like appearing (too) flexible, getting taken, and being misunderstood as committed when we're not, we tend to do little inventing with the other side. Given this, we may stay on the same course not because of its merits, but because we fear the costs of suggesting change will be too great.
- D. Too many cooks cause indigestion. Fifty negotiating parties, let alone one hundred and fifty, cannot constructively discuss fifty different proposals. Nor can they make concessions contingent upon mutual concessions by everyone else.

III. General Approaches

- A. Proceed without making concessions. Use a procedure that facilitates agreements without requiring any concessions, thereby avoiding positional bargaining dynamics that may get in the way of achieving better outcomes.
- B. Ask questions that get at underlying interests and concerns. People love to criticize. If, instead of asking you to accept my draft proposal, I ask you to criticize it, I am more likely to learn about your perceptions of the problem and how we might resolve it.
- C. Reduce the risks of inventing. One approach is to delegate the task of inventing to a facilitator. Third parties can raise options that people directly involved would have significant fears about raising. In this way, ideas can be put on the table with little cost, if any.

D. Use one cook. In multilateral negotiations, appointing one facilitator to be responsible for designing and shaping a proposed agreement helps avoid the chaos of multiple proposals.

IV. Specific Action Idea

The One-Text Procedure is a systematic, third party approach for shifting a negotiation away from concessions, eliciting underlying interests, and simplifying the process both of inventing options and deciding jointly on one.

To use the One-Text Procedure, a third-party facilitator should follow these steps (for more details, see *Getting to Yes*, pp. 112 - 116):

1. Explore underlying interests. Meet with the various parties to explore interests and concerns underlying such positions as they may have.
2. Write a first draft. Equipped with an initial sense of what the different parties want, write a first draft of a possible agreement. The draft should outline the key issues that need to be dealt with, and presents one way of meeting them. Two guidelines will help avoid premature commitment:
 - a. Emphasize the draft's incompleteness by writing 'DRAFT' at the top of each page and leaving blanks in the text.
 - b. The more sensitive the conflict, the more incomplete and non-operational this first draft should be.
3. Discuss with each party.
 - a. Explain the ground-rules: 'No one will be asked to commit to any part of this draft or to the whole draft until the end of this process. During this process, you can neither accept nor reject any part of the draft since it is not being proposed. When I am finally through with my work on it, then I will give you an opportunity to accept it or reject it.'
 - b. Ask for criticism (and listen for underlying interests and concerns): 'What's wrong with this? Which legitimate interests of yours are not reasonably met by this draft? Which are?'
 - c. Avoid asking a party for a specific solution to their problem, since this runs the risk of locking them into that option.
 - d. Make no commitments to anyone regarding how you will re-draft the text.
4. Keep only one copy (your 'one-text') and make no copies for anyone else. Avoid giving copies of the text to the parties. (They will tend to amend them to their complete satisfaction, take a position, and start a process of multiple texts.)
5. Write Draft #2. With this new information, revise your draft in an attempt to better meet the different parties' interests by exploiting potential joint gains.
6. Ask for parties' criticisms again. Remind the parties that no acceptance of any terms is allowed under the ground-rules.

7. Continue repeating this process. This procedure of drafting, asking for criticism, and then re-drafting continues until you either run out of time, or think you have a draft that cannot be significantly improved. (When President Carter used the One-Text Procedure at Camp David, he went through twenty-three iterations.)

8. When you finally present it, change the question. When you present the final text to the parties, don't ask for criticism. Ask for acceptance: 'Having listened to your criticisms and re-drafted in light of them, I have prepared this proposal for you. This is the final text. No changes will be allowed. I now ask you for simply a 'yes' or a 'no.' Will you accept this now?'