MULTI-PARTY INTEREST-BASED NEGOTIATION REFERENCE MATERIALS
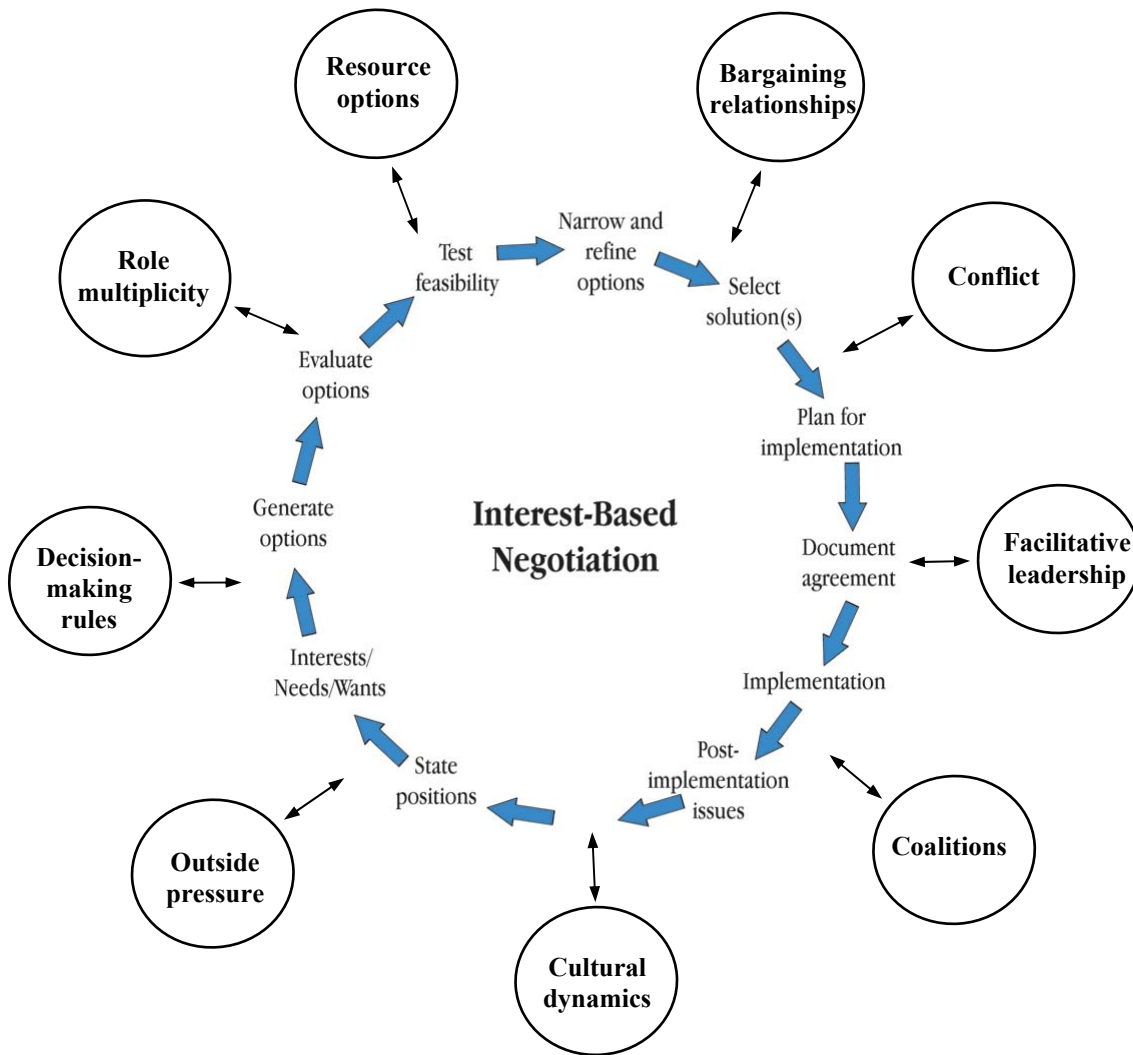
MULTI-PARTY INTEREST-BASED (IBN) NEGOTIATION

"The benefits of group decision-making have been widely publicized: better thinking, better "buy-in," better decisions all around... There is no substitute for the wisdom that results from a successful integration of divergent points of view. Successful group decision-making requires a group to take advantage of the full range of experience and skills that reside in its membership."

Sam Kaner,1996

Traditional bargaining is often about relative power and willingness to use it against each other, often at the expense of a better agreement or relationship; however interest-based negotiation (IBN) has proven its effectiveness in multi-party settings.

I. IBN BASICS

IBN is based on a simple premise: negotiation takes place between people. It uses a cooperative approach and postulates the idea that all parties must come away having gained something. The process of interest-based negotiation:

- Enables negotiators and leaders to become joint problem-solvers by offering an opportunity to address the collision of conflicting interests in a proactive manner that can lead to better outcomes for all parties involved.

- Provides a way to address the challenge of multiple interests and the need to develop broader, more creative options to address a multiplicity of needs and mandates within the same negotiation context.

- Assumes that mutual gains are possible, that costs or sacrifices can be minimized or shared, that solutions that satisfy mutual interests are more durable, and that parties can help each other achieve better outcomes for all than are currently available.

- Assumes that value is added and efficiencies can be realized through this analytic process.

- Assumes that solutions designed together will endure.

Core Principles of Interest-Based Negotiation

- Prepare carefully to negotiate and understand your BATNA (Best Alternative to a Negotiated Agreement).

- Seek to separate the people from the problem and focus on future outcomes and not the past.

- Create value by making the "pie" larger by:

  - Focusing the negotiation on interests and not positions (which are generally more rigid and do not offer the opportunity for creative thinking).

  - Jointly generating options creatively, waiting to analyze each until after the option development process is complete.

  - Establishing joint criteria together and using them to evaluate the options generated.

  - Creating jointly agreed standards for how to divide the "pie."

  - Jointly establishing the necessary post-agreement activities, building in flexibility for changing circumstances and how to deal with disputes that may arise during implementation.

II. MULTI-PARTY NEGOTIATION

Multi-party negotiation is a complex, iterative process involving the exchange of views, ideas and perspectives among a number of parties that might include organizations, groups, regions, countries or individuals within larger entities. Complexity may appear chaotic, especially in the absence of structure and leadership.

Note: Agency parties may be concerned they are abrogating their legal responsibility in negotiation. Agencies cannot legally give up their jurisdiction. Collaboratively developed policy agreements are typically recommendations to the governing bodies. However, our experience since the mid-1970's in the environmental arena has shown that the consensual approach can fit within the constraints imposed by the laws and regulations which are explicit "sideboards" of negotiation as long as the negotiation process is conducted openly and all interested parties are invited to participate, are committed to participate, and can engage effectively. If the product of the negotiation is an informal written document that must be adopted formally, all due process and equal protection requirements can be met.

A. Key Similarities To Two-Party Negotiation

- Parties are generally trying to reach an agreement that leaves them better off.

- Basic Principles of Interest-based Negotiation still apply:

  - Uncovering values.
  - Identifying and clarifying interests.
  - Seeking to create as much value as possible.
  - Encouraging joint problem solving.

B. Key Distinguishing Features From Two-Party Negotiation

- Parties may attempt to form coalitions for advantageous deals and block other coalitions in order to protect interests or gains that may be threatened.

- Group interactions and communication patterns become more complex.

- Decision rules take on increasing importance as multiple decision rules come into play (agreements, disagreements, side agreements).

- More is done "away from the table."

- More external factors come into play, including political influences/interactions.

- Possibility for role confusion (am I the leader?, agent?, facilitator?, etc.).

- The more parties at the table, with more to trade, the greater the possibility for trade-offs.

- A larger group may bring more expertise and creativity.

- Negotiating with one's constituencies often runs parallel to inter-party negotiations.

III. COMPLEXITY

Multi-party negotiation is not merely two-party negotiation with "more people." Multi-party dynamics generate complexity across all of the dimensions of the Frames of Reference triangle: group dynamics increase exponentially because of the multiplicity of people, interests, and differing Best Alternatives to a Negotiated Agreement (BATNAs); relational dynamics become more complex, such as role definition and issues of unequal power and control; and substantive issues also increase in complexity, such as increased potential for misinformation, differing viewpoints and interpretation of data and different views on the mission and mandates of the group.

A. Complex Communication

Communication is an overarching skill that applies to negotiation in general; however, multi-party negotiation and complex conflict management require the application of the same communication skills with an added level of attention and awareness of the increased dynamic complexity of a multi-party setting. In multi-party situations, the skills of listening, attending and questioning are required in multiple dimensions, analogous to an imaginary shift from a game of chess between two people to a game of chess in three-dimensions against multiple opponents.

B. Relational Complexity

The presence of additional parties to the negotiation or conflict management situation also generates an increase in relational complexity across the following areas:

- Individual and organizational values

- Issues of trust and credibility (of individuals and organizations)

- Issues of face at the table and within represented organizations/constituencies

- Issues of identity and roles at the table and within represented organizations/constituencies

1. Multiple Bargaining Relationships

Multiple bargaining relationships are part of the complex and shifting dynamics in multi-party negotiation and conflict management settings and exist in several forms:

Coalitions. In multi-party negotiation, the opportunity exists for coalition-forming behavior, whereby parties will seek to create coalitions and alliances with other parties.

Horizontal (within-group). Negotiations necessary to achieve a smoothly functioning group. This type of negotiation allows members to:

- Bargain on items of personal concern
- Arrive at a group definition of the problems to be handled in joint session
- Develop settlement options that have broad group acceptance
- Develop individual and group strategies
- Assign roles and responsibilities

Vertical. Where parties do not have absolute authority to make a final decision on an issue in question. There are two forms:

- Bureaucratic – where approval must be gained from or delegated by parties higher in an organization.
- Constituent bargaining – when broader groups must approve the agreement.

Bi-lateral/Multi-lateral. Formal discussions between teams or spokespersons across the table, often used to educate each other about the issues, put forth proposals, and ratify final decisions.

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Strategies for Managing Relational Complexity

- Focus on relationship-building.

- Find common interests that will motivate the group to work together more effectively.

- Focus on building and maintaining trust.

- Acknowledge and respect diversity of styles without letting the differences derail the agreement process.

- Be aware of and understand coalition forming behavior: which coalitions will likely form; winning and blocking coalitions; what are the decision-making rules.

- Understand how facilitative leadership can enhance good relationships with parties.

- Understand commitments and changing contexts that affect negotiating parties.

- Use caucusing, both formal and informal, as a way to improve group dynamics, reduce disagreements on substantive items, educate each other about the issues, and move the negotiation forward.

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C. Unproductive Group Dynamics

1. Group-think

When a set of individuals acts and thinks as one and often to the detriment of individual members' experience, knowledge, and wisdom.

2. Under the Table

Where parties negotiate with other parties "under the table" outside of the larger group to the disadvantage of the greater group process, where information is not shared with the larger group and can create mistrust and second guessing of colleagues. This situation goes against the basic principles of agency engagement discussed in the Appendix.

Strategies For Managing Unproductive Group Dynamics

- Determine that everyone still understands, agrees on, and buys into the mandate and the mission.

- Reaffirm or establish a plan for formal arrangement/ cooperation/coordination (interagency, military, civilians, etc.).

- Establish clear lines of communication.

- Establish clear lines of responsibility.

- Establish jointly agreed-upon decision-making rules.

- Jointly establish clear roles and organizational structures.

- Generate flexible contingency planning together.

- Develop agreed-upon plan for implementation and follow-up.

- Understand that stress can lead to less efficient information processing, less ability to deal with subtleties and more reliance on ingrained habits and biases.

In addition to IBN Questions
Additional Key Questions To Ask When Assessing the Dynamics*

Preparation

- What pre-assessment has been done before getting together?
- What are the existing relationships between the parties?
- What is the history of the issues?
- What is the collaboration history and style of the parties and the organizations they represent.
- What are the represented organizations' approaches to negotiation.
- What issues are likely to be raised within the process?

Representation

- Who are the parties, the representatives (advocates), and the decision-makers?
- Can the right people be brought to the table?
- What is the best way to convene the parties?

Mandates and Influences

- What are the institutional constraints of each party?
- Do the parties have the authority to negotiate and make decisions?
- What are the political constraints of each party?
- What are the general and specific mandates of participating agencies and others and how might they conflict?

Resources

- How will the negotiation be financed?
- Who is the lead on financing, developing the budget?
- What time and personnel investments are required?

Management

- Who will manage the process?
- How will communication be managed?
- How will the group make decisions?
- How will coalition dynamics be managed?

* These questions should also be revisited when the group comes together.

Key Structural Strategies for Managing Complexity

Phase I: Preparation/Planning

- Identify the problem/situation.
- Establish group operating rules.
- Clarify legal basis for activities.
- Identify potential obstacles and determine how they can be avoided or prevented.
- Set timelines agreed to by all the parties.
- Determine funding sources, constraints and other resource availability.
- Avoid designing overly prescriptive rules and group policies.
- Determine decision-making process where final and shared authorities are clarified.

Phase II: Negotiation Process

- Establish group goals and objectives.
- Agree on a joint definition of the problem/situation.
- Jointly agree on data to be used and what resources need to be brought to the table.
- Establish the objective criteria to be used for evaluating options.
- Jointly design the process road map.
- Establish implementation responsibilities.

Phase III: Developing Agreements

- Evaluate options in light of criteria and resource availability.
- Develop a framework outlining in general terms how the problem should be resolved (agreements in principle).
- Negotiate and reach closure on each issue separately ("building blocks" approach).
- Blend comprehensive proposals developed by the parties into a final agreement (blending proposals).
- Acknowledge disagreements, agree to disagree civilly, yet focus on solutions designed together.

Phase IV: Post-Agreement

- Determine implementation responsibilities.
- Acknowledge collaboration of multi-party negotiation team and the mutual benefits designed together.
- Implement agreed upon actions/decisions.
- Develop procedures for monitoring and evaluating implementation of actions/decisions.
- Clarify circumstances that would warrant revisiting the agreement.
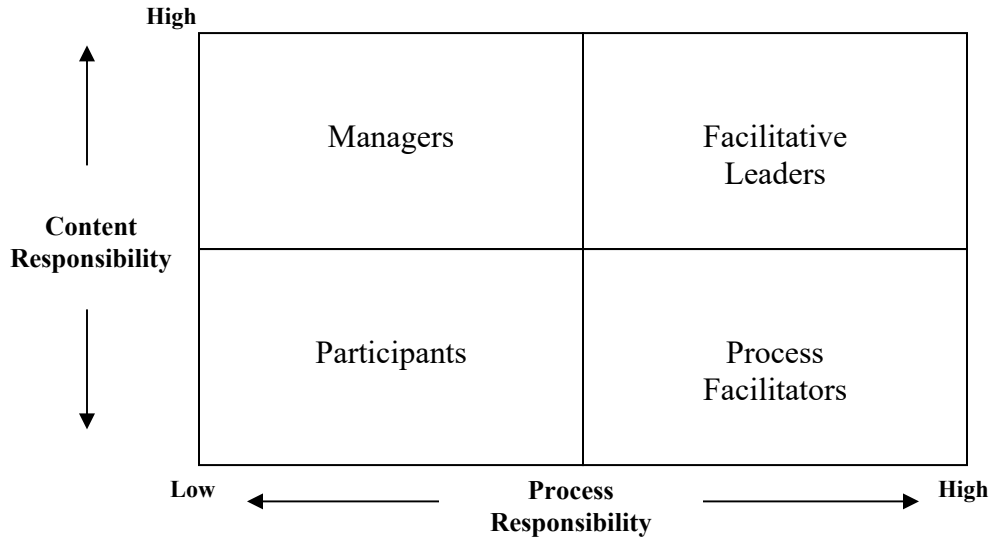
FACILITATIVE LEADERSHIP

"Effective leaders present the world with images that grab our attention and interest. They use language in ways that allow us to see leadership not only as big decisions but as a series of moments in which images build upon each other to help us construct a reality to which we must then respond."

Fairhurst & Sarr, 1996

Facilitative Leadership Competencies

- **Organizational Skill** – ability to organize steps, people and information, including planning.

- **Responsiveness** – appreciation for parties' needs, opinions, and directions, and real-time responsiveness.

- **Content Insight** – ability to understand the content and follow the meaning of discussions.

- **Communication Skill** – adept at both speaking and listening effectively.

- **Flexibility** – ability to change as the situation changes and to deviate from one's plans as the group dynamic evolves. Ability to respond to unexpected circumstances.

- **Adaptability** – ability to adapt language, technique and style to the parties' needs.

- **Human Insight** – ability to read others, understand their needs, concerns, attitudes and fears.

- **Nonverbal Sensitivity** – ability to read nonverbal cues and understand how parties are responding and feeling about a topic just by reading their face, gestures and postures.

- **Depth of Technique** – ability to respond to any situation with processes, interventions and techniques to facilitate the group's work and development progress.

- **Inventiveness** – ability to invent new processes or alternatives in real time to fit the situation.

- **Timing** – ability to know when to and when not to intervene in a process, when to transition to another issue, and when to bring a process to closure.

A. FACILITATIVE LEADERSHIP ASPECTS

High

Managers	Facilitative Leaders
Participants	Process Facilitators

Content Responsibility

Low ← **Process Responsibility** → **High**

From Terry R. Bacon, 1996

Facilitation of group interaction requires skillful interaction and an understanding of the dynamics of group interaction, communication and development. An effective facilitative leader is able to observe and participate in a group process, to contribute to the negotiation process while simultaneously influencing the way in which the group members work together. Important roles for an effective facilitative leader include:

- Modeling principles and practices of respectful engagement and communication
- Initiating discussion
- Encouraging and balancing participation
- Managing conflicts
- Pacing the work of the group
- Suggesting process strategies
- Helping parties communicate and collaborate
- Establishing the benefits of collaboration

B. MINDSET

One's mindset is one of the most critical factors determining the success of a relationship and underlies how you communicate and how others respond to you. One's mindset also determines the positions you hold, which in turn influence the way you conceptualize a problem and how to approach its resolution. Parties can gain a better understanding of a conflict situation by understanding not only their own mindset but also the variety of specialized perspectives at the table. Fisher et al (1994) describe an Atlas of Approaches of points of view to better understand a conflict. He describes a case of fragmentation in Russia through several perspectives:

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Atlas of Approaches
Case: Fragmentation in Russia, 1993

As a military officer might see it:
What's the problem?
Military leadership at odds with political leadership
Other republics represent potential threats and drains on resources
Changes in geopolitical situation diminish need for military
What might be done?
More effective liaison between political factions and military
Create mutual nonaggression pacts
Retrain military personnel for internal security measures, such as attacking organized crime

As a political analyst might see it:
What's the problem?
Fragmented leadership
Rising regionalism
Communist party decline created power vacuum
What might be done?
Integrated, unified leadership
Establish confederation supporting explicit mutual assistance
Democratically elected government

As a communication expert might see it:
What's the problem?
Local media coverage of events is ineffective; people don't know what's happening
News is inaccurate and disseminated slowly
Country lacks widespread modern communication technology
What might be done?
Import some BBC experts
Reuters or AP expands offices in area, hires locals, trains them
Full privatization of media
Joint business ventures between Russian media consortium and Western technology groups

(From Fisher et al, 1994)

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CONFLICT MANAGEMENT

*"Managed well, "conflict" can power great change and
creativity. Poorly managed conflict can generate disputes that
consume massive quantities of time and money, destroy
valuable relationships and sabotage important projects..."*
   *McNaughton, 2002*
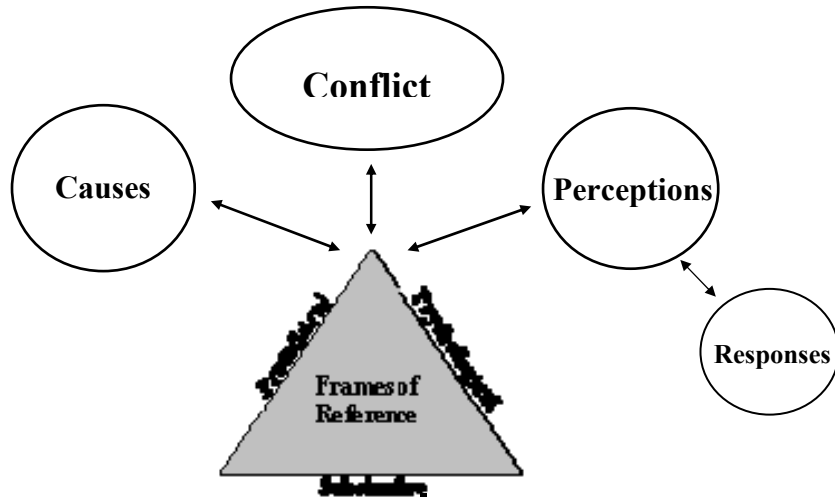
Conflict is the expression of the interaction of different interests. It is dynamic. It can be the spark which sets the negotiation process in motion, or it can arise as negotiation takes place. It is useful as a catalyst to action when appropriately addressed. When conflict involves multiple participants, beyond one-on-one disputes, the complexity and multidimensional nature of the problem is increased dramatically. Unmanaged conflict can escalate in intensity over time: sides form, positions harden, and communication stops; perceptions become distorted and a sense of crisis emerges whose outcomes may range from avoidance to annihilation.

RESPONSES TO CONFLICT

Basic perceptions of conflict affect choices for negotiation and managing complex settings. People respond differently when confronted with conflict; for example, consider the behaviors that result from different perceptions of conflict:

Perception of Conflict as Negative can lead to:	Perception of Conflict as Positive can lead to:
• Competing	• Cooperating
• Compelling through authority	• Leading by example or through facilitation
• Denying/Capitulating	• Problem solving
• Power bargaining	• Engaging constructively
• Engaging prematurely	• Building consensus
• Neglecting long term or unintended consequences	• Committing to long term resolution
• Destroying relationships and networks necessary for functioning effectively	• Engaging in relationships for the long term

The Thomas-Kilman Conflict Instrument describes five styles of response to conflict: Avoiding, Accommodating, Competing, Compromising and Collaborating. This baseline for self-understanding is an essential and critical first step toward understanding the variety of styles and approaches in any multi-party negotiation. High concern for the outcome and the importance of the relationship increases the desire for or likelihood of collaboration; whereas low concern for the outcome and low importance placed on the relationship results in a greater tendency to avoid conflict. Becoming skillful at managing conflict starts with understanding one's own tendencies when faced with conflict and then examining the advantages and disadvantages of each style.
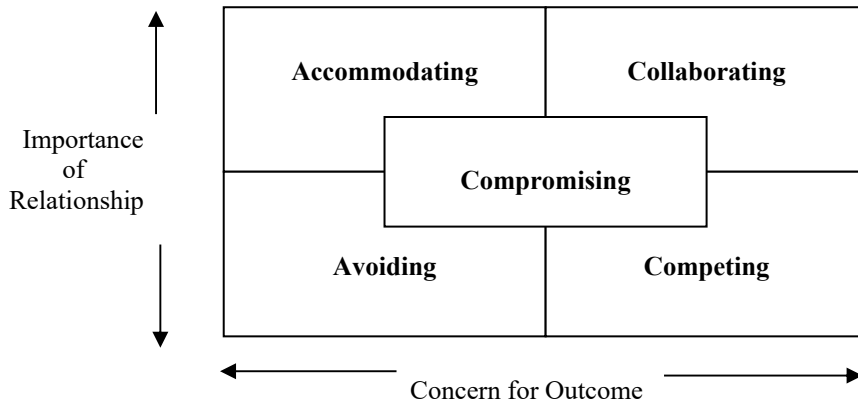
From Thomas-Kilman

Key Points for Managing Conflict

How conflict is managed can lead to the creation (or not) and maintenance of relationships that provide for better coordination and responsiveness. Effective conflict management involves the following steps:

1. **Describe** what you see through factual observation (avoid making assumptions).

2. **Explore and consider** the universe of interpretations to the event/behavior (what don't I know).

3. **Assess the dimensions** of the conflict, participants and process.

4. **Analyze** the causes of the conflict in light of the Frames of Reference:

   - Psychological Issues
   - Substantive Issues
   - Procedural Issues

5. **Evaluate** your analysis and identify the positive and negative reactions to the event/behavior.

6. **Allow** each party to voice their perspective and experience, which validates each party's worth and right to be part of the discussion.

7. **Reframe** a fuller definition of the problem based on an understanding of multiple perspectives.

8. **Develop** a constructive strategy for dealing with the conflict by:

   - Building constructive working relationships
   - Developing a collaborative planning process

9. **Develop** a range of alternative approaches or solutions and collectively test them for viability.

10. **Achieve** lasting solutions that take into account interests, not positions, and address all dimensions of the Frames of Reference triangle.

BUILDING RELATIONSHIPS

*" A critical element in any negotiation – and one that
frequently causes the most anxiety – is the quality of the
working relationship we have with the other side…The quality
of a relationship is not just something that happens. It is the
product of how we deal with each other."*
                        Roger Fisher and Danny Ertel, 1995
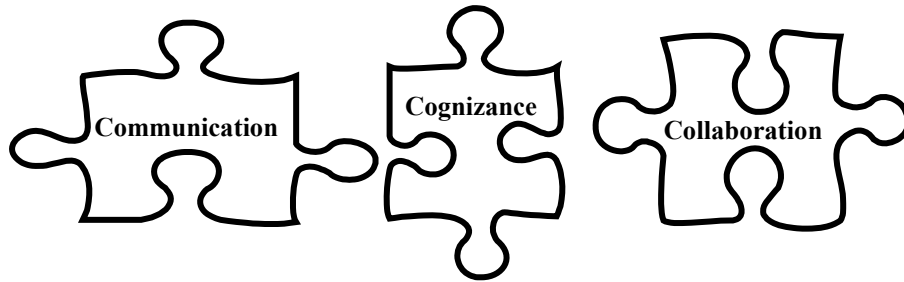
Multi-party negotiation and conflict management requires the ability to enter into, build, and
foster relationships among the parties in the negotiation or dispute, a process which takes time to
cultivate and maintain. Building relationships is essential to building trust. Trust is essential to
successful group efforts and underlies effective joint implementation of agreements.

Core relationship-building skills include:

- Communication
- Cognizance
- Collaboration

I. COMMUNICATION

Key Check-In Questions

In order to communicate effectively, ask the following questions throughout the
process:

- Is my communication getting me where I want to be?

- Am I communicating appropriately for the situation?

- Are my expectations and behaviors flexible enough to adapt to
  changing circumstances/situations?

Communication is inherently subjective, and should be conducted with the understanding that:

1. On the "speaking" side, people vary in the strategic and tactical choices they make about what to communicate, the degree of clarity they wish to create, their body language, and their capacity to communicate in ways that can be understood.

2. On the "listening" side, people vary in their willingness to listen, their capacity to be attentive, their expectations and biases, their ability to understand the other's meaning, their emotional response to that meaning, their own internal needs to rebut/give advice/appraise/impress the other, and their susceptibility to physical barriers.

   Multi-party negotiations can be managed effectively and constructively when there is a disciplined focus of all parties on fundamental communication principles.

A. Fundamentals Of Basic Communication

In order to communicate so that others "hear" you, remember the following:

- By nature, all human beings are self-absorbed. Their attention is selective, and they hear best about what affects them most.

- Human beings process information through such filters as emotions, values, needs, interests, and biases (cultural and otherwise).

- Words and their meanings are a small part of any message. Much of the message in a face-to-face conversation is conveyed nonverbally. When communication occurs over the phone, the nonverbal nuances are missing. Miscommunications can occur. Trust is sometimes harder to build.

B. Active Skills For Effective Communication

1. Listening Reflectively

Listening reflectively involves creating strategies for helping yourself listen more effectively, testing whether you are hearing what the other is trying to communicate, and drawing the other out to speak at more depth and with more meaning, so that you can understand their concerns and interests more clearly.

2. Questioning

Effective questioning enhances your ability to learn, listen, and facilitate better communication. Open-ended, follow-up and closed questions can be used to focus a discussion, to clarify or probe, to encourage participation, to facilitate discussion, to build a relationship, and to stimulate creativity.

3. Handling and Understanding Responses to Questions

Handling how you respond to questions is important when trying to create effective communication. Some simple rules include: listen carefully; summarize or reframe the response if it is long or complex, or just to assure that you got it right; and use follow-up questions as appropriate.

4. Framing

Framing or reframing can be used to define or re-define a specific issue or group of issues in a conflict or the conceptualization of a situation or conflict to:

- Assure that the statement made by the speaker is clearly understood.

- Capture the underlying interests and concerns of the speaker.

- Help take apart complex issues in order to analyze them together more effectively.

- Help discern and build upon partial agreements and shared logic between parties.

- Help shift the discussion from rigid positions to a focus on interests and needs.

Framing a negotiation issue properly (using all parties to develop it) can make the difference in whether or not people successfully negotiate in any negotiation setting.

C. Balancing Listening and Asserting

Asserting appropriately is a critical component of being a good negotiator. Asserting, balanced with listening, produces more effective negotiation communication. Asserting consists of five basic skills listed below.

BALANCING COMMUNICATION
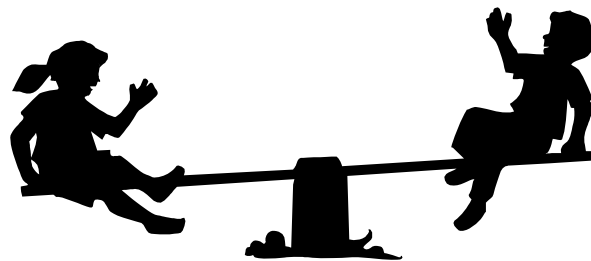
ASSERTING   **LISTENING**

Clarifying intentions

- Be clear about goals and needs

Remaining Centered

- Be poised – neither defensive nor aggressive
- Remain emotionally balanced

Expressing

- State your position clearly
- Avoid vague words or qualifiers
- Use a confident tone of voice

Supporting

- Use strong, definitive gestures
- Use appropriate eye contact
- Maintain steady, assured posture

Persisting

- Have the courage to persevere
- Be resolved but open to collaboration

Degrees of Assertiveness

Do it or else.

Do it now.

Do it.

Please do it.

I want/would like you to do it.

I need you to do it.

I would appreciate it if you would do it.

If I'm not imposing, I'd like you to do it.

Would you do it?

Would you please do it?

Would you like to do it?

Would you mind doing it?

Do you have time to do it?

Could I ask you to do it?

Shall I do it myself?

Okay, I'll do it.

D. Challenging Behavior

Conflicts that originate from differences in personal or organizational operating style are best handled through exploring differences, listening, and then acknowledging. However, difficulty may arise where parties exhibit more challenging types of behavior. Building on successful interventions that address difficult behaviors will encourage multi-party negotiation.

1. Anger

Anger is a legitimate human emotion. Anger within the negotiation context most often arises over violations of trust, differences in value, expressions of stubbornness, a sense that one is not being heard, and a sense that one is not being dealt with openly and honestly.

Strategies for Dealing With Anger In <u>Western</u> Culture

- Acknowledge the concern and emotion of the other side.
- Seek understanding by identifying common principles or themes.
- Encourage joint fact-finding.
- Accept responsibility, admit mistakes and share power as appropriate.
- Act in a trustworthy fashion at all times.
- Focus on building long-term relationships.
- Recognize that basic values are unlikely to change but individual priorities may change over time.

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2. Aggressive Behavior

Some individuals respond to conflict aggressively and may initiate or even perpetuate it. Aggression is the most extreme form of interpersonal conflict and is unproductive in developing shared decisions or solutions.

**Strategies for Dealing with Aggressive Behavior
in <u>Western</u> Culture**

- Start with an attempt to deflect aggression and extreme emotional content by remaining centered, ignoring insults, avoiding competition.
- Discover commonalities and focus on issues.
- Remain calm.

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3. *Passive-Aggressive Behavior*

Individuals handle conflict in a covert manner with a passive response. For example, they may actually seem willing to work cooperatively, perhaps because they dislike confrontation, and then change their minds later when no longer threatened by a potential confrontation.

Strategies for Dealing with Passive-Aggressive Behavior in <u>Western</u> Culture

- Recognize the person's need for control
- Avoid power struggles
- Appeal to self-interest
- Convey the frustrations
- Use confrontation as a last resort
- Establish agreements witnessed by others
- Enforce agreements with follow-through

II. COGNIZANCE

Cognizance is conscious knowledge or recognition; the ability to imagine oneself in another's place and understand the other's feelings, desires, ideas, and actions. Cognizance allows you to acknowledge shared goals and shared concerns/threats. It is an essential component of trust-building and effective communication and an important key to joint implementation of agreements and to successful negotiation.

Key Cognizance Skills

- Recognize that it is in your own interest (a) to understand the other and (b) to work toward an acceptable solution.

- Suspend judgment.

- Be willing to test your assumptions and judgments and be open-minded.

- Respect others' experience, emotions and needs.

- Treat others as colleagues or allies working together to gain insight and solve problems.

III. COLLABORATION

One builds relationships by working together, which generates goodwill, creates trust, builds group cohesiveness and helps span intergovernmental, interagency and intercultural differences. Other benefits of collaboration include:

- Better outcomes that are forged from a clear understanding of the needs of all parties.

- Parties themselves maintain control of the process and the decisions that result from the process.

- Opportunities to develop creative options and enduring solutions because all parties have "bought into" the process.

- Greater knowledge and expertise can be brought to bear on a problem, resulting in broader education of all parties.

- Closer relationships and better coordination occurs in the planning process, which translates into better teamwork in the future.

CONTEXT

"Any group needs to know who it is, what its purpose
is, and how it is going to get where it intends."
W. Brendan Reddy, 1994

The nature of a group context may affect the way in which the negotiation takes place, the structure, complexity and the dynamics of the negotiation, and the decision about whether a negotiated process will be effective. Conflict may be the impetus which initiates multi-party negotiation, or it can develop *within* the process of negotiation itself. One of the key steps in entering into multi-party negotiation is an understanding of the context within which the negotiation will take place. Key questions to ask when undertaking negotiation include:

➡ **Question: Within what context will the negotiation take place?**

For example:

- Team negotiation with agency – Parties with joint "mission" but not necessarily in agreement.

- Interagency task force: no formal organization, but parties working together on a common process/mission.

- SWAT, on the ground Disaster Response Team: highly organized structure, members usually have worked together as a team before.

- Highly conflictual setting with many challenging, highly complex, possibly political implications.

> *Determine whether a collaborative approach is appropriate in your*
> *context.*

➡ **Question: What decision-making structure does or will the negotiation employ?**

For example:

- One Decision-Maker: Parties participate in and inform the negotiation process but the final decision-making authority remains with one entity.

- Shared Decision-Making: Parties participate in and inform the negotiation process and decision-making authority is shared between entities, often over different issues.

> *If decision-making roles are clarified early, group expectations about individual roles and responsibilities can be better delineated and thus avoid potential conflict and confusion over roles and authority.*

➡ **Question: What issue/event has convened the negotiation?**

For example:

- A natural disaster, which the negotiation must address.
- A conflict-driven situation which the negotiation must address or solve.
- An agreement or rule that the negotiation must develop.
- Conflict prevention

> *The timing and design of the negotiation process may be driven by the challenge of immediacy, conflict, or other special requirements or considerations.*

➡ **Question: What purpose and/or mission is the negotiation designed to serve?**

- Mission-driven: For example - Allocation of resources between military, in-country NGOs and civilian contractors during a peacekeeping mission; base cleanup actions.

- Dynamics-driven: For example – Development of agreements; negotiation of overflight issues with local communities.

> *Different negotiation challenges, conflict potential or levels of commitment may exist where parties have either mutually compatible or mutually incompatible interests.*

DYNAMICS ASSESSMENT

*"The truth is that you can't afford not to prepare…Negotiations would be
a lot more effective if people spent more of their limited time preparing
and less in actual meetings."*

William Ury, 1993

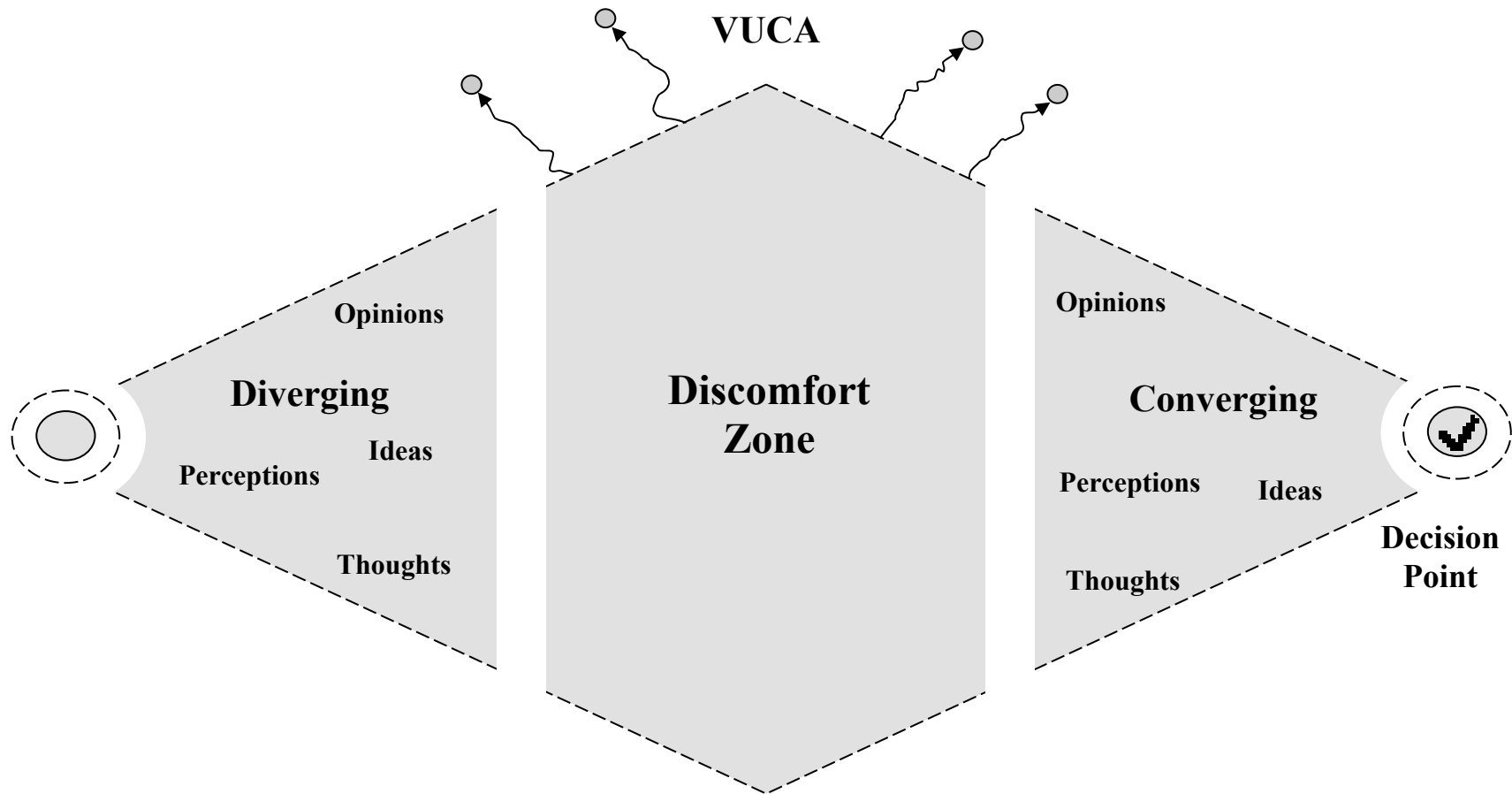**Personal**   **Organizational**
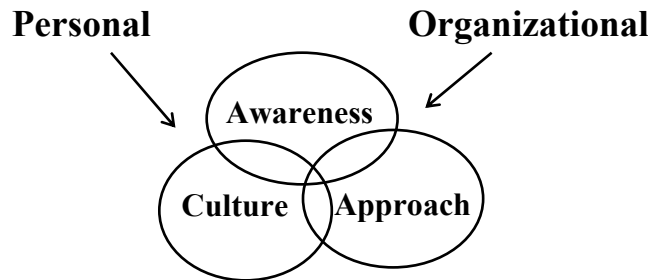
The first element in the process of negotiation is an assessment of the situation. Effective participation in negotiation, whether two-party or multi-party, requires an integrated process of both personal and organizational assessment:

- Assessment of self (skills, personal awareness, preparedness)
- Assessment of the organization (one's own and that of stakeholders), including understanding the organizational culture context of the negotiation

I. PERSONAL AWARENESS

- Understanding stages of decision-making processes (the Discomfort Zone, VUCA).

- Receptivity to others' ideas.

- Ability to:
    - Capitalize on group diversity and the skills each party brings to the group.
    - Respond to situations flexibly.
    - Make sense out of ambiguous or contradictory messages.
    - Synthesize new concepts by taking old concepts and putting them together in new ways.

- Flexibility to shift roles as a task requires (e.g., team facilitator vs. participant)

Stages of Decision-Making

VUCA

Opinions

Diverging

Ideas

Perceptions

Thoughts

Discomfort Zone

Opinions

Converging

Perceptions

Ideas

Thoughts

Decision Point

Volatile Uncertain Complex Ambiguous

"Z-MODEL" for DECISION MAKING

The most elegant decisions are made by systematically using all points of the "Z-Model"

DATA	IMPLICATIONS

- gather data, details, facts
- stay focused on present
- create order
- apply order

- foresee consequences & implications
- consider possibilities
- apply ingenuity
- brainstorming

LOGIC	EFFECT

- place data in logical order
- use step-by-step process
- be consistent/fair
- weigh practicality of choices

- determine effect on people
- arouse enthusiasm
- apply empathy & understanding
- recognize values

II. ORGANIZATIONAL AWARENESS

A. Organizational Culture

The term culture, in the context of this training, is used to represent the organizational culture which parties bring to the negotiation table. Ethnic, national, and racial cultural issues will be addressed in a separate training module. Awareness of parties' organizational culture can inform the multi-party negotiation process in a variety of ways.

Parties to any negotiation have varying levels of political and organizational power, mandates (laws, regulations, or guidance), history, and organizational culture that shape their attitudes about negotiation and their ability to negotiate collaboratively. Parties may represent:

- A wide range of federal/military, state and local government agencies
- American Indian Nations
- Foreign nations and interests
- Non-governmental organizations
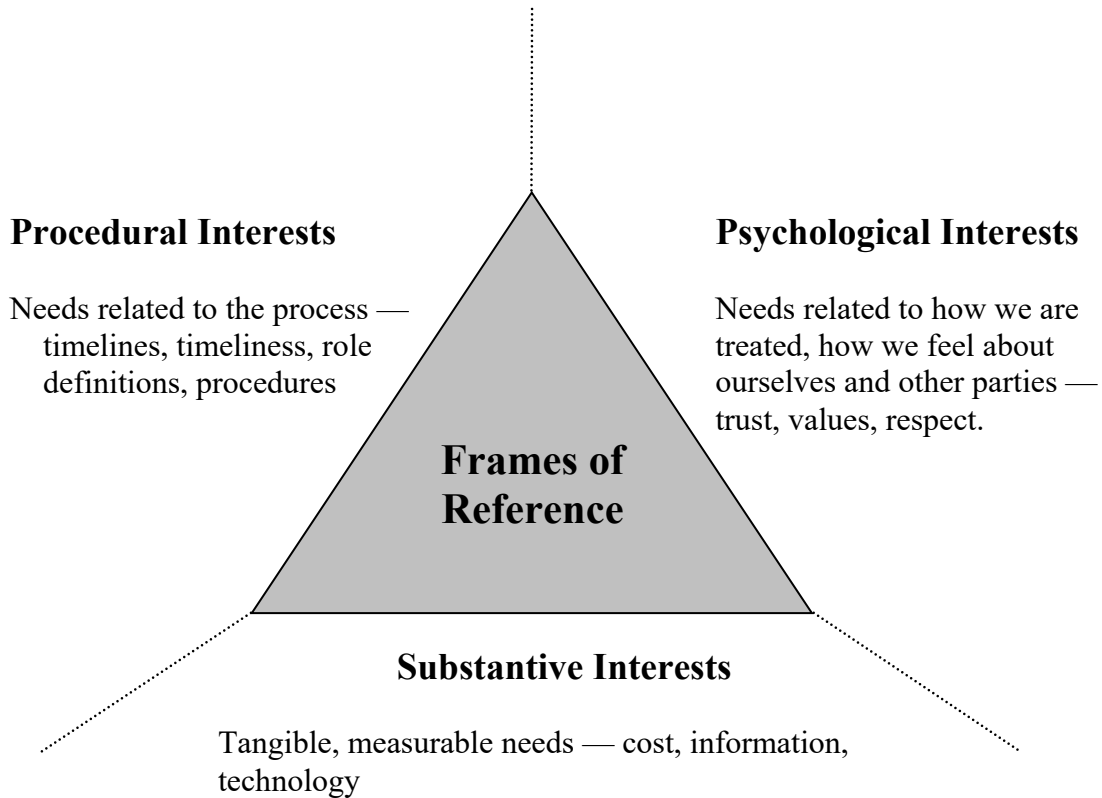- Private sector/civilian representatives

B. Approach

The preferred or most commonly used approach of an organization also affects the structure, complexity, dynamics and effectiveness of the negotiation. The following represent three common organizational approaches:

1. *Power-based Approach.* Negotiates by determining who is most powerful: who has the most influence, largest number of representatives or the ability to force the other parties to a decision (e.g., strikes, nonviolent direct action). The communication style of this approach includes: speaking-at (versus speaking with), threats or ultimatums demanding change, or coalition building.

2. *Rights-based Approach.* Negotiates by determining who is right. This approach is typified by litigation, grievance proceedings and administrative hearings, and may involve a third party (court of law) to issue a decision. The communication style of this approach includes: appealing to established policies or to a higher legal or moral authority.

3. *Interest-based Approach.* Negotiates based on the parties reaching an agreement that will mutually satisfy all interests. This approach is typified by engaging in collaborative problem solving. The communication style of this approach involves communicating directly with all other parties.

The degree to which these approaches, or a combination of them, is found in any organization can be indicative of the organization's willingness and effectiveness to engage in collaborative negotiation.

FRAMES OF REFERENCE

Procedural Interests

Needs related to the process —
timelines, timeliness, role
definitions, procedures

Psychological Interests

Needs related to how we are
treated, how we feel about
ourselves and other parties —
trust, values, respect.

**Frames of
Reference**

Substantive Interests

Tangible, measurable needs — cost, information,
technology

From CDR Associates

The Frames of Reference triangle represents the dimensions (often hidden) of the interests people bring to the table. People seek to satisfy these interests and needs (procedural, substantive, and psychological) when they negotiate. Conflicts can arise when these needs and interests in one or more of these dimensions are not met. When conducting negotiations or decision-making processes, consider all three interdependent dimensions (both internally and for other parties) in order to manage conflict, make good decisions, and achieve agreements that will last.

Frames of reference influence the way one perceives a particular problem or conflict and how to approach its resolution. These frames of reference are based on: personal perspective, professional perspective, organizational perspective, cultural perspective and societal perspective. Perceptions and values may play out in the many areas, such as: time, formality, decision-making, process versus outcome, level of trust. Perceptions develop over a lifetime and are influenced by such things as ethnicity, age, gender, culture, education and experience. Considering different frames of reference ("perspective taking") both in oneself and others can inform one's view of the situation and can improve mutual understanding of the problem at hand.

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