



Negotiation



Summary

Negotiation refers to the discussion process involving two or more actors in trying to solve a conflict. Managing water in a way that maximises social and economic benefits without jeopardising the environment inherently involves some degree of negotiation, thus underlying the importance of negotiation in IWRM processes. This Tool defines negotiation and the criteria for successful negotiation, details the benefits from adopting an interest-based negotiation approach, discusses pre-negotiation preparations and introduces the mutual gains approach.

Defining Negotiation

Negotiation is defined as a discussion happening between two or more disputants who are trying to solve a common problem (Maiese, 2003). In legal terms, it is “communication for the purpose of persuasion and the preeminent mode of dispute resolution as well as deal making” (Goldberg et al., 2012, 63). Negotiation is one of the building blocks of alternative dispute resolution procedures, which pertain to settling disputes outside of the courtroom (Legal Information Institute, 2022). As opposed to “dispute resolution” for conflictual situations, another type of negotiation, where there is willingness to cooperate despite diverse and complex interests, will be called referred to as “consensus building” (Fairman and Smith, 2019). The type of views and strategies that people adopt during negotiation processes can be categorised into three main buckets:

- **Cooperative strategy:** “Soft bargaining” approach based on compromise and expectations from other people to do the same. However, it may not work when the “soft” approach is perceived as a weakness.
- **Competitive strategy:** “Hard bargaining” approach based on applying pressure. This style

may not be effective when there is a long-term relationship to maintain.

- **Analytical strategy:** An approach which sees negotiation as a problem-solving exercise, creating as opposed to claiming value. It is one of the best ways to reach “win-win” solutions.

Conditions and Criteria for Successful Negotiations

Here are some principles and conditions to follow as a good basis for successful negotiations ([Priscoli, 2003](#)):

- **Interdependence of the parties:** If one side can get the needs met without participation of the other, there will be no incentive to negotiate. Stakeholder analysis ([Tool C1.03](#)) can help identify potential interdependencies between parties.
- **Readiness to negotiate:** For the dialogue to begin, both parties must demonstrate willingness to start it, e.g., by providing adequate information ([Tool B4.01](#)) and preparing a negotiation strategy.
- **Resources to negotiate:** Negotiation can not be done without parties agreeing to pledge to at least some resources, e.g. in terms of people, time, or money.

In turn, the criteria used to evaluate the extent to which a negotiation can be deemed successful include: ([Fisher et al., 1991](#); [Warner, 2009](#)):

- An outcome that satisfies both parties or at least one that both sides can live with.
- Negotiations should be efficient and sustainable, respecting the resources and time that parties have agreed to allocate.
- The relationship between participants should be improved or at least not damaged.

Position- vs Interest-Based Negotiation

There are two main negotiation paradigms or approaches:

- **Position-based approach:** Focuses on “what” in the negotiation and sees the “other” as an obstacle to overcome to reach the desired benefits by putting emphasis on claiming value ([Katz, 2006](#)).
- **Interest-based approach:** Also known as “principled” and “integrative” negotiation, which focuses on “why” in the process emphasising cooperation, mutual needs, and benefits to all ([Priscoli, 2003](#)). The approach separates people from the problem, focuses on interests, generates possibilities before making a decision and proclaims that the result is based on the objective standard ([CapNet UNDP, 2014](#)).

Interest-based negotiation can lead to “win-win” situation, while position-based negotiation typically lead to “win-loose” or “loose-loose” scenarios. Here is a simple example that explains the difference between the two negotiation approaches. Consider a situation where two people are fighting over a fixed amount of water. Using a position-based approach, parties would probably end up agreeing that splitting the water in half would be the fairest scenario. Now, consider under that scenario that one person wants to use the water to clean dishes and the other for irrigating their plants. An interest-based negotiation process would help set the focus away from “what” they want, i.e., water, to “why” they want it, i.e., for washing and irrigating. Having understood each others needs, they are likely to decide for one person to wash their dishes and recuperate the grey water which could then be used for irrigation, thus creating a “win-win” outcome where both needs were satisfied.

Steps to Prepare for Interest-Based Negotiation

Pre-negotiation preparations are fundamental for a productive negotiation process. Here are the five commonly cited steps in the pre-negotiation stage ([Successful Negotiators Club, 2017](#)):

- **Assess your BATNA:** Assess your Best Alternative to Negotiated Agreements (BATNA), or the course of action you will pursue in case of impasse. This requires the identification of all your plausible alternatives, the value associated with each alternative and the selection of the best option.
- **Calculate your reservation value:** The reservation value is the lowest value that you are willing to accept at the end of the dialogue. This is established over a realistic assessment of your alternatives.
- **Assess the other party's BATNA:** Understand the other party's intentions and preparation strategies.
- **Calculate the other party's reservation value:** Understand which offers you would be able to obtain given the other party's BATNA.
- **Evaluate the Zone of Possible Agreements (ZOPA):** The zone of agreements is the set of all agreeable deals that would be acceptable to both parties.

The Mutual Gains Approach

The mutual gain approach to negotiation aims for a “win-win” outcome and embeds itself in the principles of interest-based negotiations. The mutual gains approach includes four key steps, the first step being the pre-negotiation preparation that was described in the previous section ([CBI, 2014](#)):

- **Preparation:** Understanding your own interest and alternatives (BATNA), as well as those of others.
- **Value creation:** Generate value by discovering different options and additional interests for joint gain.
- **Value distribution:** Finding criteria to justify mutually beneficial gains from the value created.
- **Follow through:** Hypothesising about future challenges in order to strengthen the agreement.

1 PREPARATION

Prepare by Understanding Interests and Alternatives

- Clarify your mandate and define your team
- Estimate Best Alternative to Negotiated Agreements (BATNA) - yours and theirs
- Know your own interests and think about their interests
- improve your BATNA (if possible)
- Prepare to suggest mutually beneficial options

2 CREATE VALUE

Create Value by Inventing Without Committing

- Suspend criticism
- Invent without committing
- Generate options that exploit differences
- Bundle options into multiple packages

3 DISTRIBUTE VALUE

Find Objective Criteria that all Parties Can Use to Justify their "Fair Share" of the Value Created

- Behave in ways that build trust
- Identify standards/criteria for dividing value that all sides can support
- Keep at least two packages in play
- Use neutrals to suggest possible distributions

4 FOLLOW THROUGH

Follow through by Imagining Future Challenges and their Solutions

- Design nearly self-enforcing agreements
- Specify mechanisms to deal with "predictable surprises"
- Agree on monitoring arrangements, including metrics
- Keep working to improve relationship

Figure 2. CBI's Mutual Gains Approach model (Adapted from [CBI, 2014](#))

Thematic Tagging

Transboundary

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