

BEST PRACTICE NUMBER 6

THINK IN TERMS OF INTERESTS, NOT POSITIONS⁸⁷

Labor-Management cooperation is all about creating possibilities, unshackling organizations from the constraints of their history and their standard operating procedures. The global economy demands no less: organizations that cannot quickly adapt and adjust to their customers' demands will be undermined by their competition.

In order for an organization to generate the necessary creativity and adaptability required in this environment, it must focus on new ways of problem solving and communication. Phrases like "we've always done it this way," "top management won't go for that," or "you're invading someone else's territory" are phrases that are still extremely common in organizations. These ideas sap workers' energy and creativity and stop their ideas before they even get off the ground. In terms of the process of negotiating a collective labor contract, those ideas impose a rigidity on the parties that inhibits an organization's ability to motivate its workforce to continuously improve and adapt to the global economy.

More innovative organizations in the APEC region have embraced some form or another of a formal process for empowering employees and stimulating their creativity. This process is called *Interest Based Negotiations (IBN)*.⁸⁸ While the term grew out of the literature on the art and science of negotiation, its principles now apply to virtually all forms of

⁸⁷ By David Thaler.

⁸⁸ In this Tool Kit we will use IBN interchangeably with IBPS, or *Interest Based Problem Solving*.

relationship building and work processes – – from nation-to-nation relations, to the workplace, and even to family relationships. For the purpose of explaining the underlying theory, and because of the importance of negotiations to labor-management Relations, we will retain the term *Interest Based Negotiations (IBN)* but will discuss it in several contexts beyond the realm of negotiations.

A. What is Interest Based Negotiations?

Interest Based Negotiations refers to a process by which the parties openly exchange information concerning the *interests* that they need to satisfy (i.e., “We need to keep production costs low enough to compete in the market.”) and then engage in joint problem solving to develop several means of satisfying those interests. Contrast that with traditional negotiations, according to which parties demand inflexible, absolute *positions* (i.e., “We must keep production costs low by cutting wages 30%.”) and then use power-based or rights-based arguments to satisfy those demands. (i.e., “We will cut 30% of the workforce if you do not agree to take a pay cut, and the law permits us to do that after the collective bargaining agreement expires at midnight Tuesday”; or “If you keep pressing your demand we will go out on strike, and the labor law statute protects our right to do so.”)

While traditional negotiations may seem to reflect the reality of workplace negotiations and are still in wide use in workplaces throughout the APEC region, they often hurt organizations because the parties overlook options that can satisfy both parties’ interests and help the organization move forward and improve. This point can be illustrated by the following simple parable. There were two bakers in a bakery who were very competitive

with one another, always trying to outdo one another by making treats that were more delicious than the other's. One day, they were fighting over the only egg that remained in the bakery. Both bakers felt that the egg was rightfully theirs, and they took it for granted that they could not share the egg, as it is seemingly a quite indivisible object. As they continued to fight over the egg, it slipped to the ground and was shattered into many fragments. At that moment one baker exclaimed, "Now I will not be able to use the yoke of the egg to make my delicious yellow cake!" The other baker exclaimed, "Now I will not be able to use the white of the egg to make my delicious white angel cake!"

Instead of two cakes, the bakery now produced zero cakes. Obviously, if they had just been able to communicate they would have discovered that they could both bake their delicious treats with the same egg, one using the yoke and the other using the white. Because of their non-communication, the two bakers couldn't even coordinate well enough to buy more eggs! In fact, they even held back on suggesting the purchase of more eggs because they didn't want to tip off their "competition" as to what they were planning to bake!

Yes, this tale is simple, but it does make a valuable point: unless organizations become better at communicating to articulate common goals, and exchanging information on the interests that workers and managers must satisfy in

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order to accomplish those goals, tremendous inefficiency and loss of productivity will result. This type of communication is simple to explain in

theory but hard to achieve in practice. Many organizations struggle with power-based threats and demands to satisfy positions. Workers and managers do not stop and think about working together to satisfy everybody's interests to the benefit of the organization.

B. The Elements of Interest Based Negotiations

While in this Tool Kit we are interested in the broad applicability of IBN to labor relations as whole – and not just negotiations – it makes sense to pause and explain the five components of IBN, both because of the importance of the negotiation process to labor relations, and also to see the role that the principles can play in developing parties relationships.

1. Component No. 1: Identify Issues

It may seem an obvious point, but the first task in a negotiation is for the parties to get a handle on just what is at issue. This is a step that should not be ignored or even taken for granted. If the parties do not take this step, the negotiations can become unwieldy as the parties change or add to the issues according to the ebb and flow of negotiations. In addition, negotiations that do not have clear issues risk degenerating into acrimonious affairs that focus too much on the difficulties on the past, or on personality differences between the parties. This is the basis for the old IBN adage: “focus on the problem, not the people” and the oft heard exhortations of the IBN facilitator for the parties to be forward-looking as the negotiations proceed.

2. Component No. 2: Exchange Interests

Following the delineation of the issues, in IBN the parties then exchange their interests. In contrast to an issue, which is *what* you care about, an interest is *why* you care about an issue. An interest should be contrasted with a *position*, which is an inflexible demand that represents only one way to satisfy an interest. As we will see, IBN is about the parties working together to develop many ways of satisfying an interest. The following are some examples of interests as opposed to positions:

POSITION	INTEREST
We want ten bonuses of \$1,000 apiece given out at the end of every quarter.	We would like some incentives for doing our jobs particularly well.
We want all employees to document what they are doing at all times throughout the day, in fifteen-minute blocks.	In order to structure our incentive program to meet our mission, our business needs to have accountability from its employees.
We want to have the right to work at home two days a week.	We want flexible work arrangements in order to better balance our work and family responsibilities.
Employees are not permitted to telecommute unless there are special circumstances, such as illness.	Given the current technology that the business can afford, the business cannot properly service its customers by having its employees work from home.

The benefit of focusing on interests instead of positions is that, as was the case with the bakers and the egg, there are often ways to satisfy both parties' interests with one solution. For example, in the first two examples above, the company can develop a results (not time) based accountability system by which it determines a bonus on a sliding scale. In the second

two examples, perhaps the business can use the savings from the reduced need for office space in order to invest in technology to enable workers to telecommute.

The process is not always so cut and dry, and there are not always sufficient resources to implement every option to satisfy both parties' interests. However, the process of engaging in this type of dialogue builds the parties' relationship and gets their creative juices flowing in a positive direction. Those factors make it more likely that the organization will have good enough relations to design a program to adapt and thrive in the global economy.

3. Component No. 3: Brainstorm Options

Brainstorming is the process of a group focusing on an interest and generating options to satisfy that interest, with at least three important ground rules: (1) there is no criticism of the ideas as they are generated; this creates an environment in which people are uninhibited and therefore free to be their most creative; (2) the focus is on broadening the options on the table rather than looking for a single answer; and (3) the parties try to search for options that satisfy both parties' interests. Brainstorming works best when all participants sit next to each other, with the participants on the different "sides" randomly distributed, facing a flipchart, a screen or a blackboard.

The process of brainstorming options is truly one of the most liberating for an organization, but it is also difficult to achieve. It requires professionalism and a maturity that is difficult to achieve in many organizations. The element of non-criticism of ideas implies a breaking-

down of hierarchical barriers that many organizations find difficult to realize. (See [Chapter 5](#).) The suspension of the tendency to find “the” answer to a problem runs counter to the culture of many organizations that are focused on quick and immediate results. The race to “the” correct result that many organizations are used to often precludes creative out-of-the-box solutions that might seem strange at first, but which may actually be modified into something workable with the benefit of the input of others in the group. Finally, the idea of searching for *mutual* gains is counterintuitive to many people, unless the organization has done a lot of work to align workers and managers with a common vision and objectives. (See, e.g., [Chapter 8](#).)

If an organization can incorporate brainstorming into its usual work processes, the benefits can be enormous in terms of obtaining the benefit of the input of each and every worker. In this way ideas can be adopted that otherwise would never be possible in the context of hierarchical, top-down decision-making.

4. Component No. 4: Evaluate Options According to Objective Criteria

Once the options have been “brainstormed,” the group is now ready to evaluate them and adopt them according to objective criteria. This is critically important to the IBN process and to collaborative and efficient workplace processes in general. In the absence of objective criteria, options may be adopted based on power or simple persuasion, both of which are likely not conducive to satisfying the parties’ interests. At a minimum, the group risks adopting an inefficient or unfeasible solution that can do more harm than good.

A group develops objective criteria through the use of the brainstorming technique described above. Common examples of objective criteria are:

- Equity
- Efficiency
- Cost
- Feasibility
- Applicable Law
- Productivity
- Consistency with Organizational Culture
- Politically Sellable

Taking into account objective criteria keeps the IBN process on track when, at the point of actually deciding on a concrete course of action, all of the benefits of the parties' prior good work are at risk of being subverted by power imbalances or other forces that are not geared toward satisfying their interests.

5. Component No. 5: Decide on Plan of Implementation

Finally, in order to move forward in adopting the options, a group should think about how they will be implemented. This is not to say that the group has to engage in a detailed discussion of every step required in implementation. Rather it is to ensure the integrity of the IBN process by making sure that there are individuals or groups empowered to implement the options adopted by a certain milestone dates. If the parties do not take this step, they risk compromising the IBN process and the numerous benefits that they stand to enjoy from it.

C. How Have Winning Organizations Incorporated Interest Based Negotiations and Principles Into Their Work Processes?

While several of the organizations in the case studies formally incorporated IBN training into their LMG initiatives, it is likely that others informally

applied IBN's principles through their encouragement of information sharing and frank, open dialogue among workers and managers. We will consider both cases in turn.

1. Initiatives That Formally Incorporated IBN and IBN Training

[Ottawa Transpo](#) in Canada, faced with years of bitter and damaging labor relations, formally incorporated IBN into its program of joint labor-management initiatives. For Ottawa Transpo, the challenge of negotiating the 1999 collective bargaining agreement using IBN marked the true test of whether the various joint labor-management initiatives that it had implemented during the late 1990s had been successful. The Canadian FMCS conducted a joint IBN Skills Workshop for the parties an hour away from its headquarters, requiring participants to stay there for three days. General staff stayed for two days, and the IBN negotiating committees from labor and management stayed an extra day to complete a comprehensive collective bargaining simulation. According to the trainers:

The training was extremely successful and had a huge impact on the relationship. Senior managers, bus drivers, supervisors, and mechanics all shared the same training, food, and accommodations and socialized together in the evenings. Managers and line employees were able to share and discuss their visions for the future of the company and many were surprised to learn that they were not dissimilar.⁸⁹

Even though the pace of IBN at first seemed slower than in traditional negotiations – mainly because the information-sharing and the joint development of options to satisfy mutual interests takes time – in the end the IBN negotiations took less than half the time that traditional negotiations had taken in the past at Ottawa Transpo.⁹⁰

⁸⁹ [Ottawa Transpo](#), at p. 7.

⁹⁰ [Id.](#)

In the United States, [Miller Dwan Medical Center](#) has made significant improvements upon years of contentious labor relations through the use of IBN. One by one, the facilitator from the U.S. Federal Mediation & Conciliation Service conducted IBN training for union and management bargaining committees for four different collective bargaining agreements with four different unions. In each case the parties, with much hard work and great effort toward attitudinal change, overcame years of acrimonious relations and set the course for the future using IBN. Commenting on the fourth and final contract, the mediator writes:

Finally, it was time for the real test of Interest Based Bargaining. Was it possible to use such a process when the chief spokespersons for MDMC and the United Food & Commercial Workers (UFCW) local union had such a contentious history with each other that involved deep-seeded personality conflict? Since the FMCS mediators who did the [IBN] training were well aware of the history of the relationship between MDMC and UFCW, the training was geared towards listening, understanding and team building. At the outset, ground rules were created based on [IBN], and they prepared a plan for how the parties would move to traditional bargaining if the [IBN] approach did not succeed. In addition, the Federal Mediator who facilitated the bargaining obtained an agreement from the parties to follow the process and not take short cuts. Not only did the parties arrive at an agreement based on consensus, but they dramatically improved their relationship. As they began to resolve issues through the [IBN] process, their trust increased and their relationship with each other greatly improved . . . [The IBN process allowed] two parties who were blindsided by previous history and personality conflict among party members to re-focus their interests back towards their respective goals and the needs of their members, a process that resulted in a successful, voluntary agreement.⁹¹

⁹¹ [Miller Dwan](#), at pp. 8-9.

Also in the United States, labor and management representatives from the [Philadelphia Zoo](#) used the IBN process to articulate common goals and successfully reach a collective agreement despite not only years of difficult labor relations, but also numerous recent changes in the respective negotiating teams.⁹² As was the case with Ottawa Transpo and Miller Dwan Medical Center, the mediator prepared the parties by training them in IBN techniques prior to the negotiations.

Finally, in Canada the Quebec Ministry of Labor has developed a capacity to train parties in IBN as a means of supporting the recent emphasis on long-term collective agreements. With training in IBN from the Quebec Ministry of Labor, [Nortel Networks](#) was able to reach a multi-faceted 10-year labor agreement with its union,⁹³ and [Alcan](#) used the same process to reach an 18-year framework agreement and five-year collective contract with its unions.⁹⁴

2. Initiatives That Informally Incorporated Principles of IBN Into Labor Relations

Aside from the more formal IBN initiatives described above, all of which took place in North America, there are several excellent examples from elsewhere in the APEC region that utilized IBN principles even though they were not conceived of as part of the formal IBN process. For example, the numerous new channels of communication at Singapore's [Matsushita Refrigeration Industries](#)⁹⁵ are entirely consistent with the principle of information sharing that is included in the IBN rubric. Similarly, in Korea's [Hankuk Electric Glass Company](#), the *Open Communication Room*

⁹² [Philadelphia Zoo](#), at pp. 6-7.

⁹³ [Quebec Labor Relations](#), at pp. 23-26.

⁹⁴ *Id.*, at pp. 14-17.

⁹⁵ [Matsushita](#), at pp. 4-5.

instituted by the company went a long way to forging a common vision for the union and the management based on their common interests, as did the institution of joint and quarterly meetings.⁹⁶

Thailand's [Thai Honda Manufacturing, Inc.](#) also has instituted *One Floor Management* to lower the formal barriers between labor and management, and has established several joint Labor-Management Committees to share information and jointly solve problems as they arise.⁹⁷ Finally, the Labor-Management cooperation program of Mexico's [Grupo Resistol](#) emphasizes the exchange of information and joint development of objective criteria with a view to providing for mutual benefits.⁹⁸

While none of the initiatives in this second category embodies the IBN process in its entirety, it is not important that they do so. The value of IBN lies not in the formality of its process, but rather in the general applicability of its underlying principles to foster better relations in a wide variety of contexts. In fact, it is the adaptation of those principles to the different economic, social and cultural contexts that provides the most fertile ground for the innovations that this Tool Kit is attempting to foster.

⁹⁶ [Hankuk Electric Glass](#), at p. 3.

⁹⁷ [Thai Honda](#), at p. 3.