

Checklist: Mutual Gains Negotiation

1. PRE-NEGOTIATION MEETING

- Agree on how to negotiate e.g. 'The parties shall negotiate in good faith with a serious intention to reach mutually beneficial agreements';
- Seek to understand the needs, interests, fears, concerns and expectations of the other party and share this with the other parties;
- Seek to clarify the issues to be negotiated;
- Seek to settle any issues capable of quick and easy settlement;
- Share information and request any relevant information needed for the negotiations;
- Settle the ground rules and process for the negotiation;
- Seek to agree on dates, times and places for the negotiation;
- Seek to agree on inclusive negotiation teams.

2. PREPARATION FOR NEGOTIATIONS

- Determine the composition of the negotiating team with due regard to inclusivity;
- Agree on ground rules for the conduct of the negotiating team;
- Explore the needs, interests, fears and concerns of all interest groups with due regard to diversity;
- Share any relevant information received from the other party with the organization(s)/employees you represent;
- Share with the organization(s)/employees you represent the needs, interests, fears, concerns and expectations of the other party;
- Endeavor to moderate the organization(s)/employees you represent expectations;
- Seek to generate creative options for meeting the needs, interests, fears, concerns and expectations of the other party and for finding mutual gain outcomes;
- Seek to obtain flexible mandates from the organization(s)/employees you represent;
- Obtain as much relevant information as possible to substantiate the needs and proposals;
- Explore and seek to understand what the possible alternatives are to a negotiated agreement.

3. AT THE COMMENCEMENT OF THE NEGOTIATION PROCESS

- Introduce the teams to each other;
- Settle housekeeping matters which may include: start and finish times, tea and lunch arrangements, smoking regulations and limits to interruptions
- Seek to agree on ground rules for the negotiation which may include; agreeing to listen carefully and agreeing to speak in turn and not to interrupt one another
- Seek to agree on caucus ground rules which may include that; parties may request caucuses at any time and the party requesting the caucus will leave the room
- Reaffirm the commitment to the agreed goal of the negotiation
- Agree that all that is said in the negotiation will be off the record unless it is expressly placed on the record.
- Confirm that summary notes be kept which will only reflect the attendance, matters which a party has requested to be placed on record and any agreements reached.

4. CLARIFYING AND DEVELOPING AN UNDERSTANDING OF THE ISSUES

- Present the proposals and explain the needs, interests, fears, concerns and expectations
- Frame issues in a collaborative and solvable way
- Explore and seek to understand the proposals, needs, interests, fears, concerns and expectations of the other parties
- Exchange relevant information
- List and agree on the issues for negotiation
- Agree on order of issues to be dealt with (consider starting with easier issues, urgent issues or issues that will help clarify others)
- Continue to clarify issues with particular regard to needs, interests, fears, concerns and expectations
- Track and focus the discussions
- Identify areas of common concern and competing interests

5. DEVELOPING AND SELECTING OPTIONS FOR AGREEMENT

- Take each issue at a time, generate as many possible ways of meeting the needs of each party and "making the pie bigger"
- Set out all the possible options
- Use objective criteria and standards as a basis for evaluating and choosing options
- Analyze options to see which ones both parties can accept
- Seek to influence and be open to being influenced
- Separate and integrate/group issues as necessary
- Consider linking and trading issues
- Try hypotheticals i.e. 'what if..?'
- Consider creating sub-groups/task teams/commissions to develop proposals
- Consider using a single text document to reach consensus
- Keep options tentative and conditional until all issues have been agreed
- Identify areas of agreement
- Package acceptable options into an overall agreement
- Minimize formality and record keeping until a final agreement is reached

6. REACHING AGREEMENT

- Draft an agreement
- Ensure mutual understanding of the terms of the agreement
- Specify who, what, where, when and how an agreement will be implemented
- Set out evaluation, implementation and follow-up details
- Consider report back procedures including the idea of a joint statement to constituencies
- Include procedures in the event of a deadlock
- If a final agreement is difficult to arrive at consider agreements in principle, tentative agreements, interim agreements, partial agreements, agreement on goals, agreement on a process
- If a final agreement is not possible then reality test, compromise, take a break, discuss alternative ways of reaching an agreement such as the involvement of a third party, capture what has been agreed and narrow what is in dispute

Source: Joint union/ Management negotiation skills: Training for social partners on negotiation skills, 4-day workshop. Turin: International Training Center of the ILO, 2003.