

Bargaining Effectively and the Art of Collaboration

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A Brief History of ICI Bargaining

- Prior to 1978, strikes were common in the sector. The 1978 changes imposed by the government for central bargaining brought peace in the 1978 and 1980 rounds.
- The recession of 1981-1982 then impacted the sector with significant inflation, resulting three strikes across the province in 1982. Limited strike action also followed in 1986 and 1988.
- In 1990, a significant 8-week strike took place, resulting in legislation requiring 3- year agreements, and the creation of the OCS. Close to 30 years of relative labour peace followed.
- In 2019, two significant strikes took place, focused on working conditions rather than wages.
- In 2022, another dramatic spike in inflation resulted in 5 shorter strikes.

While the economic environment and legislative changes have significant influence on bargaining, one of the primary determinants of successful agreement at the table has always been how each party plans, prepares and approaches the collective bargaining process.

Problem-Solving Approaches

- #1: The Union tables a working condition proposal to give more flexibility on start and finish times. Management looks at the proposal and hands it back, saying, “This isn’t an issue we’ll even look at”. The Union says, “We think this will improve attendance and productivity,” but Management repeats they simply won’t entertain or even discuss the issue.
- #2: Management indicates it needs to adjust a scheduling process, and the Union refuses, saying, “We’ve always done it this way, clearly it’s a past practice, so it stays.” Management reminds the Union that the agreement is silent on this particular process and therefore it’s up to Management to decide. The Union asserts that as a past practice, it will continue status quo.
- #3: Management indicates that maintenance costs are much higher than average. The Union suggests that their members participate in team meetings to review these costs, with an eye to cost containment. Management commits to finding time during the workday for employees to hold meetings to address this issue.

INTERESTS / RIGHTS / POWER

POWER

- ▶ Coercion, Threats
- ▶ Stonewalling
- ▶ Refusing to Negotiate
- ▶ Walking Away
- ▶ Doing Things Unilaterally
- ▶ Violence
- ▶ Strike, Lockout
- ▶ Often *Lose/lose*

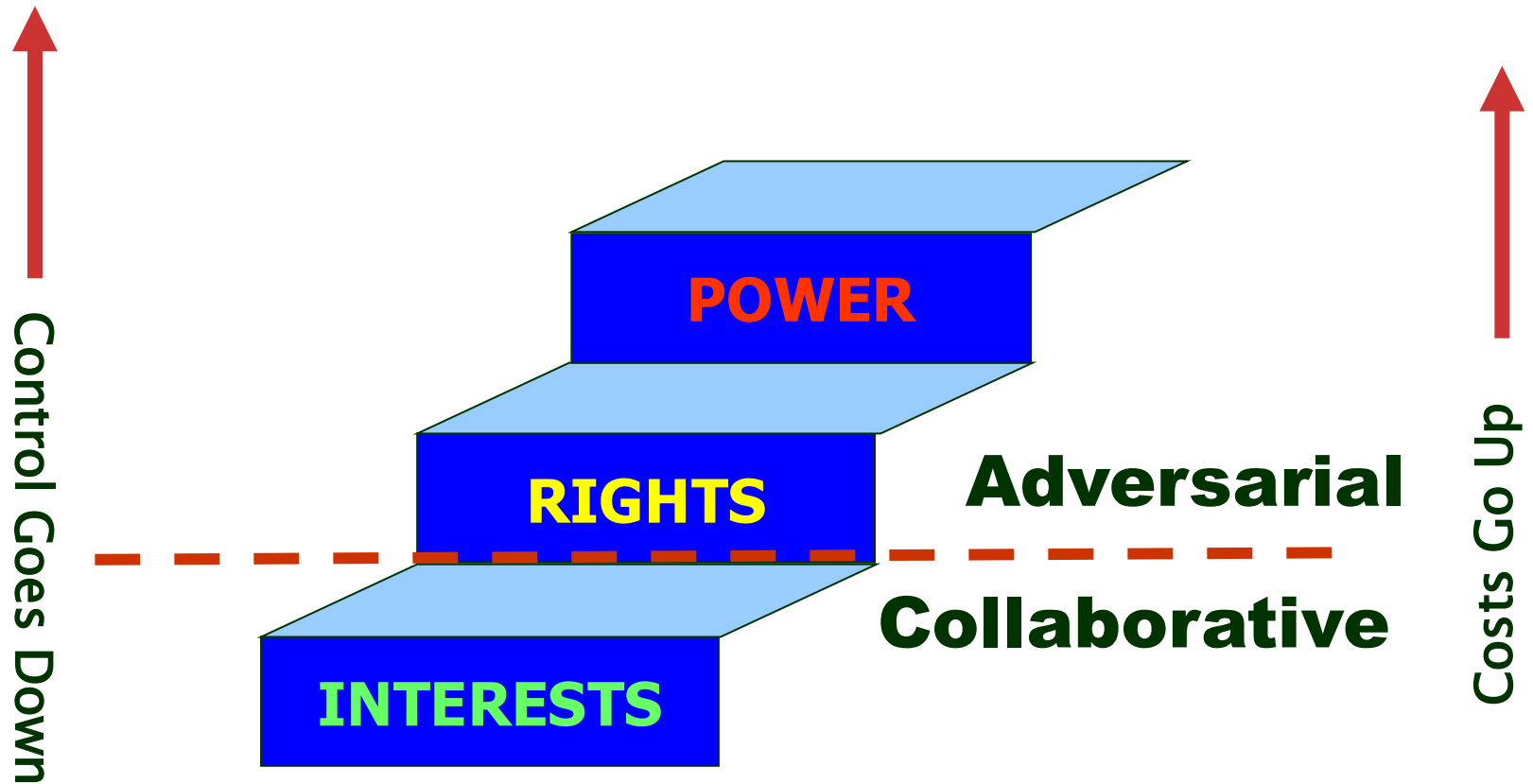
RIGHTS

- ▶ Legal Rulings
- ▶ Human Rights
- ▶ Setting Boundaries
- ▶ Invoking Precedent
- ▶ Binding Contracts
- ▶ Past Practice
- ▶ Third Party Decisions, Arbitration
- ▶ Policy
- ▶ Nominally *Win/Lose*

INTERESTS

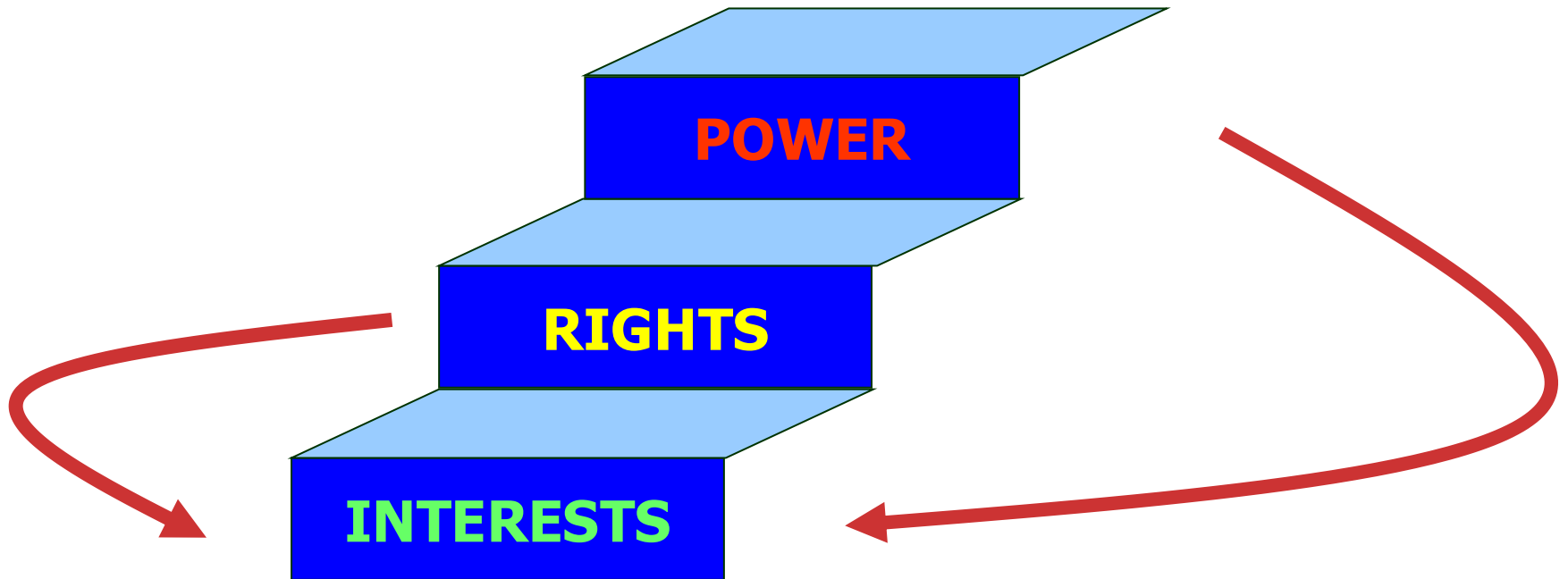
- ▶ Identifying What's Really Important to Each Party
- ▶ Sharing Information
- ▶ Expanding Options
- ▶ Maximizing Outcomes for both
- ▶ Relationship Matters
- ▶ Solutions All Can Live By
- ▶ Possible/Often *Win/Win*

The Stairway

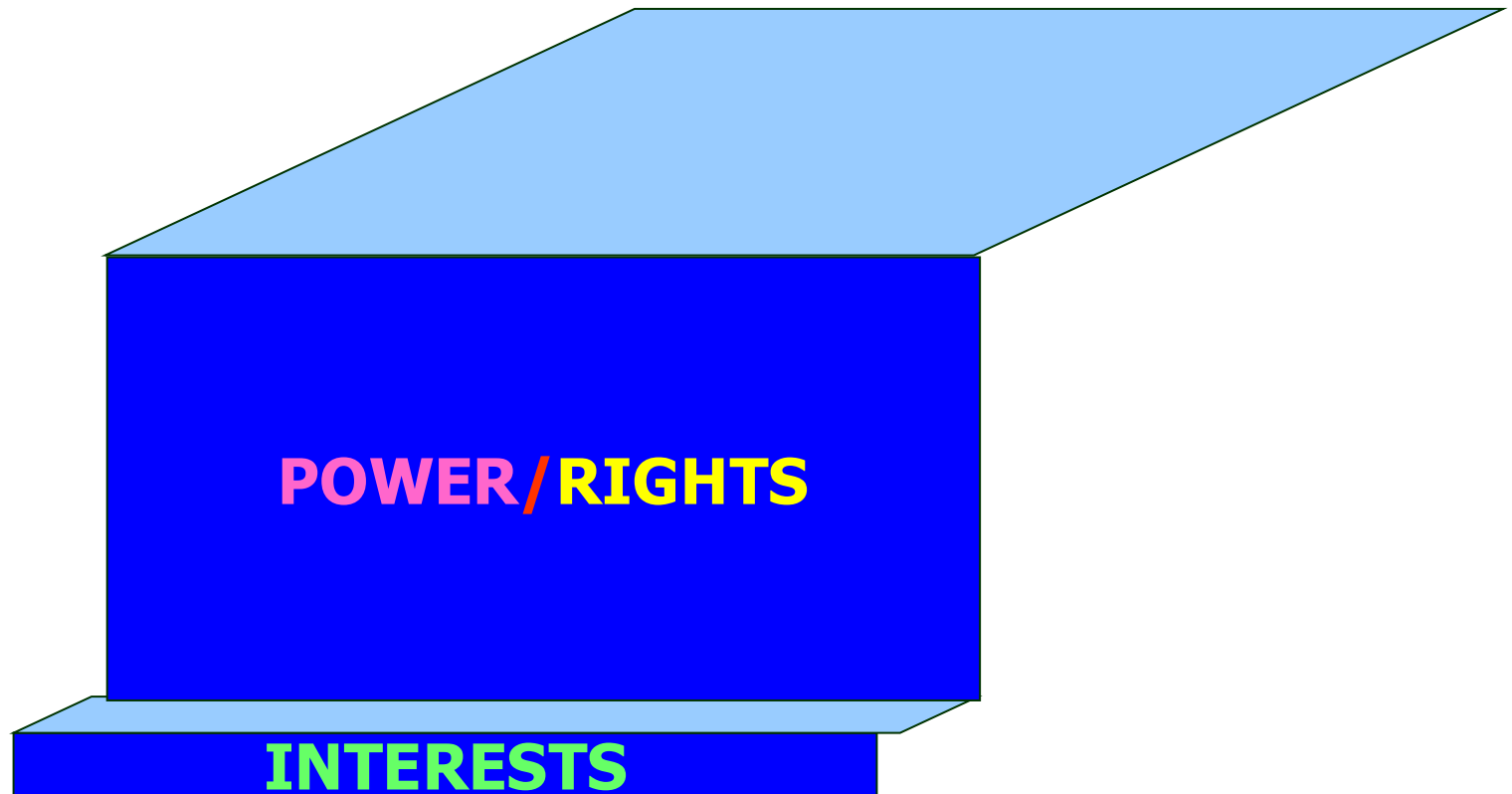


Looping Back

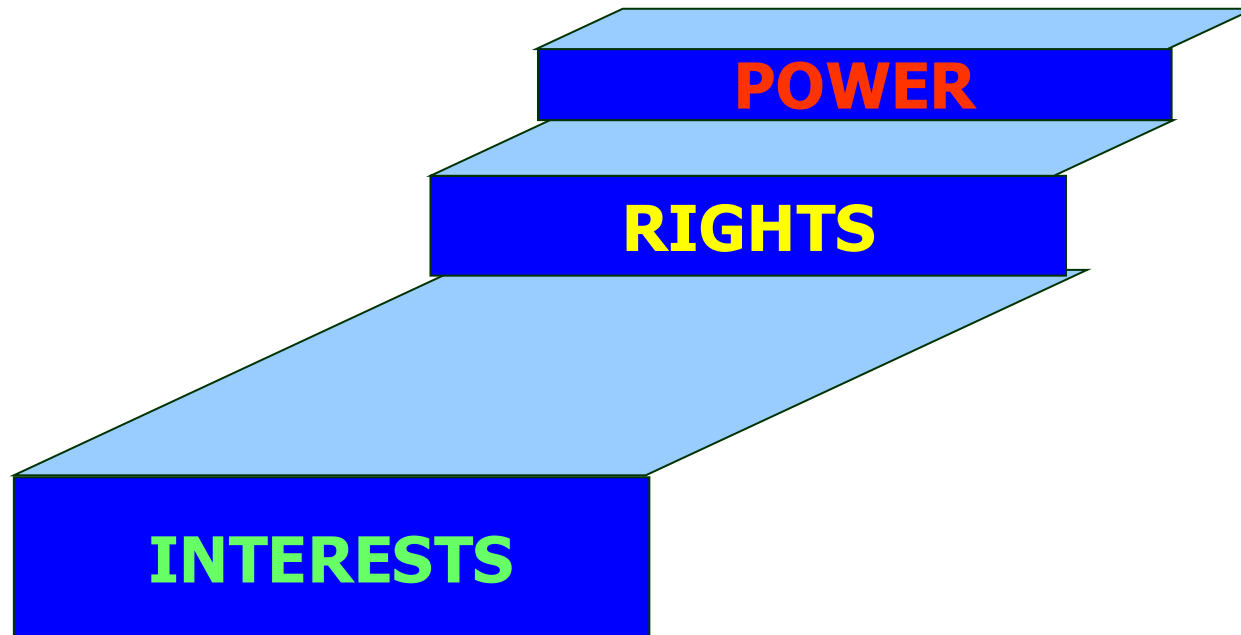
If you need to go up to Rights and/or Power, look for opportunities to **Loop Back** to Interests



The Stairway – Dysfunctional

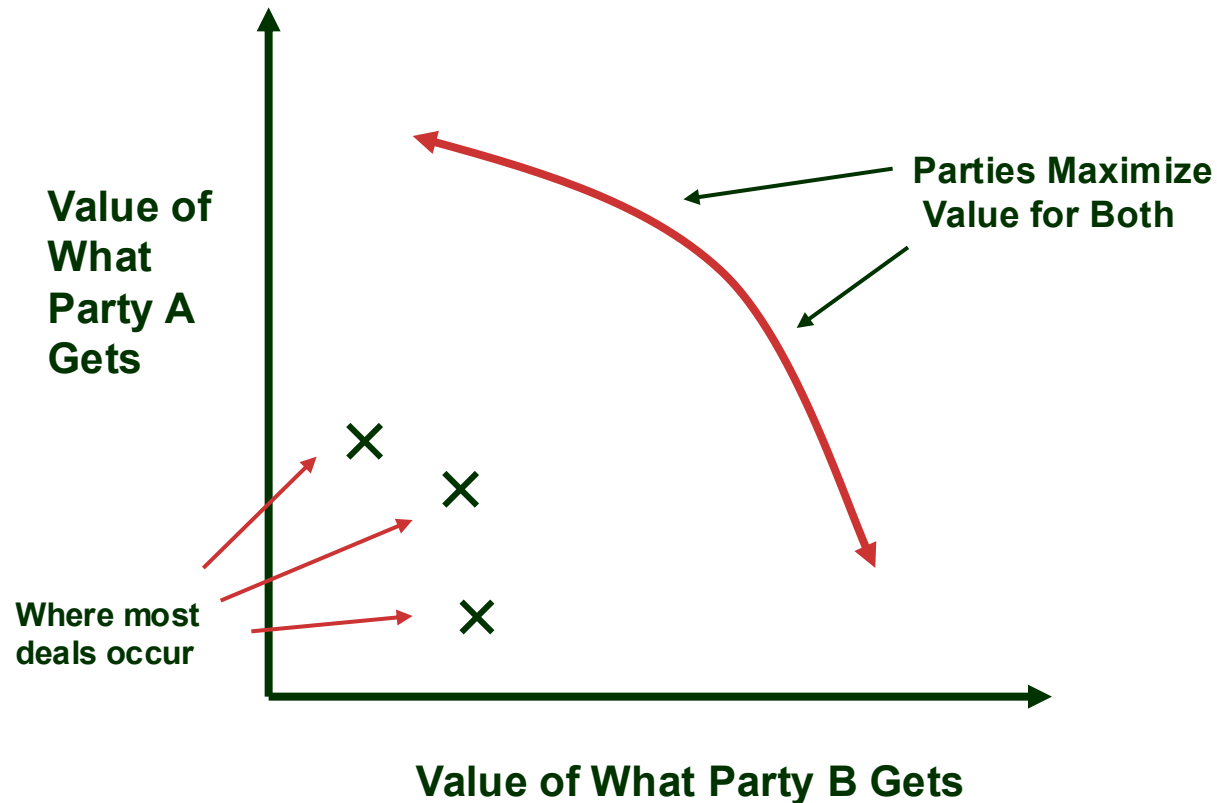


The Stairway – Effective



Bargaining Effectiveness

Pareto Efficiency of Deals





Cooperation

Dictionary Definition:

1. to work together, to work with another person or group to do something
2. to associate with another or others for mutual benefit
3. to be helpful by doing what someone asks or tells you to do – Implies giving in, or “being nice”



Collaboration

Dictionary Definition:

Com laborare – to labour together

- 1. to work jointly with others or together**
- 2. to cooperate with an agency with which one is not immediately connected**

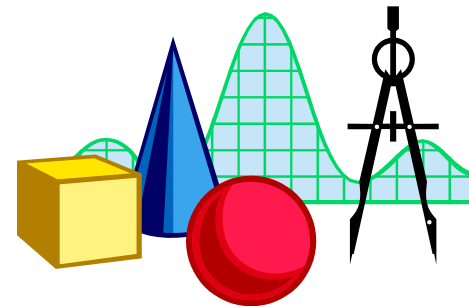


What is Trust?

Trust: The level of positive expectation we have of another person or party when in a situation of risk.

Risk: When we perceive risk when working with others, how does our behaviour change?

Attribution Theory



Two Kinds of Trust





Two Kinds of Trust

Personal Trust

This is a set of feelings that defines how comfortable we are taking a given level of risk with this other **person**.

This has to do with our judgement of their character, answers the question, “How much do I trust this **individual**?”

What are some of the character traits we look for in people we personally trust?

Two Kinds of Trust

Procedural or Professional Trust

This is the trust we place in any given **structure** or **process** we are involved in.

We are placing our trust in the process itself. It answers the question, “How much do I trust this **structure** or **process** being suggested, regardless of the individual involved?”

What are some of the “character traits” or elements we look for in processes that we trust?



Procedural **Fairness** and **Trust**

Elements of Procedural Fairness and Trust:

- Transparency
- Consistency & Reliability
- Respect
- Having Input and Being Heard - Voice
- Recognition of Interests or Contribution
- Knowing “Why” - Understandable reasons
- Ethical



Best Practices – Effective Negotiation

What bargaining processes build trust?



Best Practices

Pre-bargaining Dialogue and Engagement

- Own Team Protocols – role clarity, focus and decision-making on your own team
- Data/Information exchange early – both parties have good, and common, information to rely on
- Exchange of Proposals – Format that allows good preparation and engagement at the table
- Timelines – Plan the bargaining schedule to ensure there is time to engage in problem-solving at the table
- Structure of the Process – sequence the issues effectively
- Ground Rules for the Table – Designed jointly and ahead of time to support problem-solving at the table.
- Approach at the Table – Move away from Traditional Bargaining

Traditional Bargaining

Traditional negotiating is the most common approach, where parties arrive at the table with a series of demands or proposals, and they expect the other party to respond with counter proposals. This typically means:

- Exchange demands, often high or extreme – highly positional
- Little discussion of reasons, focus is on response/counter proposals -very linear
- Little discussion of other options or ideas. Only chief spokesperson speaks
- Most time spent in Caucus, not Plenary – it gets personal fairly quickly
- Agreements based on perceived power, risk and leverage, not on highest value
- Extremely poor outcomes for non-monetary issues
- Very ritualistic form of bargaining, very little engagement



Interest Based Bargaining

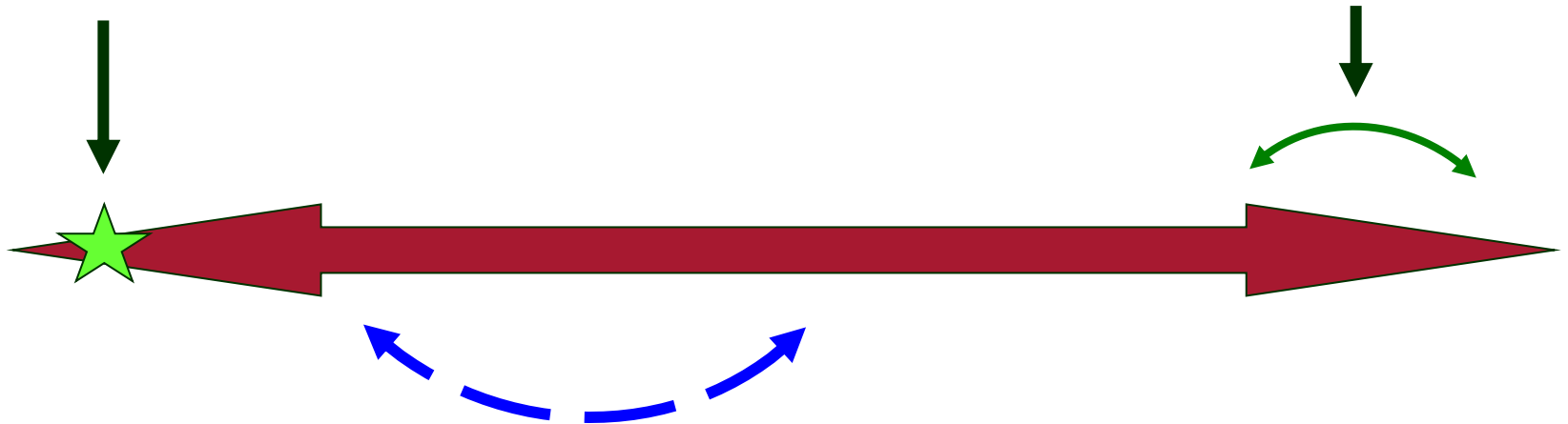
Interest based negotiating, is a form of negotiation that requires parties to put positions and proposals aside and focus exclusively on underlying interests. Some features include:

- No exchange of proposals, Parties bring “issues” to table;
- Parties explore interests and options together, virtually all time is in Plenary;
- Parties build solutions jointly based on Interests – can be hard to ratify;
- Requires significant time at the table, and requires a trusting relationship in place before negotiating;
- Often needs a neutral facilitator to help the parties;
- Can result in significantly better solutions – but often reverts back to traditional negotiation quickly.

Types of Negotiating

Interest Based

Traditional



Interest Focused

Interest Focused Bargaining

Interest focused negotiating uses proposals, but both parties commit to exploring the “why”, the underlying reasons and rationale, for every issue they work on. It then allows dialogue and joint problem-solving to help find solutions. Some features include:

- Parties exchange proposals, along with the “why”;
- Parties commit to jointly explore reasons, data, and options to maximize value;
- Requires commitment from both parties to succeed, but only a commitment to focus on the “Why” from each party;
- Holds each party more accountable for having reasoned and justified proposals; Parties are 60/40 Plenary and Caucus;
- Minimizes “Arguing” and “Debating”, since the focus is on the rationale;
- Allows flexibility to “Dovetail” – exchange low for high value items – Pareto Efficiency
- Runs the risk of going back to Positional Negotiating if not careful.



Going Forward

- In non-bargaining years, parties have the time, and support from OCS and other organizations, to step back and build processes to get better value out of bargaining.
- Consider joint bargaining training.
- Regardless, meet 4 – 6 months before bargaining starts to jointly implement Best Practices.
- This is not rocket science – it is setting each other up for success by building effective processes – Procedural Trust – that allows the parties to find value and reach deals that Traditional Bargaining simply cannot find.



Summary

- Every relationship we have is a complex mix of common interests and competing interests.
- In the ICI sector, there are far more common interests than competing interests – yet we all unconsciously default to the competing interests and adversarial or traditional approaches to negotiations.
- The more the focus is on competing interests, the less value both parties get at the table – Low Pareto Efficiency.





Breakout **Session AM**

- We are going to put everyone to work, to use your expertise and input aimed at the next round of bargaining.
- We are going to reconvene into 4 groups, look on your name badge to identify which group you are in.
- Each group was roughly balanced across union and management to enable informed discussions.
- Each group will have about 45 minutes to focus on one topic, and 2 – 3 key questions within that topic.
- Have someone at the table designated to capture the main points for reporting out in Plenary



Breakout Session AM

Group #1: ICI Sector Competitiveness

[Room: Rosseau 1-3]

- 1) What are the regional impacts of the current terms and conditions of collective agreements on competitiveness?
- 2) What are our market segment strengths? Where do we struggle to get work?
- 3) What suggestions do you have for improving competitiveness in the unionized ICI construction sector?

Group #2: Building a Sustainable Labour Market Supply

[Room: Rosseau 1-3]

- 1) How effective is our current apprenticeship system in maintaining supply of skilled trades? What are the challenges?
- 2) What ideas do you have to help manage labour market imbalances?



Breakout **Session AM**

Group #3: Impacts of New Technology: Focus on Modular Construction

[Room: Bala Salon]

- 1) How is modular construction currently impacting the industry? Is there wide-spread use? If so, where (market segments, specific trades)? Do you see it as a growing trend?
- 2) How do we prepare for this? Fabrication rights? Other labour law concerns?
- 3) What are the challenges of installing modular units not built by certified, union professionals? Identify potential solutions to these challenges.



Breakout **Session AM**

Group #4: Pre-Bargaining Activities: Timelines/Early Engagement, Market/Economic Research, Data Sharing, Bargaining Training, Issue Identification and Discussion, Other

[Room: Windemere Room]

- 1) Collective bargaining is complex and multi-faceted. How to we ensure all bargaining committee members bring the appropriate skills and knowledge to the bargaining table? Discuss opportunities for joint labour-management training programs which help build relationships while building new skills.
- 2) How do we get to the big issues (market share, productivity, use of technology, labour market dynamics)?

Breakout **Session PM**

- We are going to reconvene into 4 groups, identify your group for the afternoon Breakout Session.
- All 4 groups will focus on the same question.
- Have someone at the table designated to capture the main points for reporting out in Plenary.

Group A	Rosseau 1-3
Group B	Rosseau 1-3
Group C	Bala Salon
Group D	Windemere Room

Breakout Session PM

Each group will have 25 minutes to focus on this topic:

- Based on the discussions and information from today and your experience, identify the most important activities/initiatives that labour and management partners should focus on before next round of bargaining:
 - 1) What issues need to be tackled ahead of time?
 - 2) What specific actions/activities/next steps are recommended?
 - 3) What should be done jointly? Separately?
- Identify the top 2 or 3 of the recommendations discussed and be ready to report these out in Plenary.