Shifting from Traditional to Mutual Gains Bargaining: Implementing Change in Canada

Michel Grant
Université du Québec à Montréal

**Queen's University
Industrial Relations Centre
(IRC)**

School of Policy Studies
Queen's University
Kingston, ON K7L 3N6
Tel: 613-533-6628

Email: irc@queensu.ca

Visit us at: irc.queensu.ca

Introduction

The significant transformation of the Canadian economy and system of production in the past decade has not left the industrial relations system untouched. Managers and union leaders have become more and more aware of their interdependence and vulnerability, through their experience of plant closings, layoffs, loss of market share and technological obsolescence. Does the lower level of labour strife mean that parties are biding their time and expecting the good old days to return? Or are we witnessing deeper, more lasting changes in how we determine working conditions and manage human resources? The great majority of researchers and practitioners seem to agree that current economic and labour market transformations are structural rather than merely cyclical in nature.

Despite significant changes in how labour contracts are reached, the adversarial process which characterizes traditional collective bargaining remains predominant. Collective bargaining is still the cornerstone of our system of union-management relations. It has a profound impact on the climate in the workplace, which in turn significantly influences a firm's productivity and competitiveness (Grant and Harvey 1993). Many participatory devices have been introduced in the workplace, but the pace of innovation is much slower at the bargaining table, where distributive tactics still prevail, as manifested in win-lose and we-us approaches on the part of negotiators. However, the idea of mutual-gains bargaining (MGB) is being examined by an increasing number of people who are preoccupied with the survival and adaptation of collective bargaining.

An increasing number of people who are preoccupied with the survival and adaptation of collective bargaining are examining MGB.

Before looking at the conditions favouring the shift from adversarial to more cooperative bargaining tactics, we must examine why traditional bargaining is being called into question. We will begin at the analytical and theoretical level, to provide a conceptual tool for policymaking and strategy formulation by those who seek innovative union-management relations. Our discussion will then move on to describe how some negotiators have tried to make the transition from traditional bargaining to MGB. This description is based on interviews and round-table discussions with practitioners, and on the experience that members of our group in Quebec have had as trainers and facilitators since 1993.

MGB is based on the parties' awareness of their interdependence and on their willingness to probe core and common interests in order to reach win-win agreements as they search for solutions to common problems. MGB requires more cooperative attitudes from bargainers, and it calls for integrative tactics. However, there are major obstacles on the road to MGB, rooted in the long-standing, built-in assumptions and role definitions of the experts and activists involved in collective bargaining. We must look at MGB from the moment it is planned and designed, and we must ask what are the best conditions for implementing and sustaining it.

Collective Bargaining: A Conflictual and Cooperative Process

John T. Dunlop was the first author to present a specific, systematic conceptual framework for industrial relations theory (Dunlop 1958). The structure of the industrial relations system is made up of actors, mainly unions and employers, who interact within the technological, market and power contexts. These contexts play a somewhat deterministic role. The inputs from the different contexts are transformed into outputs through the collective bargaining process. These outputs are the rules on the substantive

content of working conditions and on the procedural aspects of labour-management relations. Dunlop underscores collective bargaining as the main structural feature of the industrial relations system. The collective bargaining process and its results are a reflection of the contexts. Thus, a relatively high degree of protection from foreign competition in the decades following World War II allowed employers to negotiate relatively generous wages and benefits packages and created conditions favourable to the exercise of union power.

Even though collective bargaining may reflect the adversarial nature of labour-management relationships, Dunlop suggests that unions and employers share an ideology which is manifested in common beliefs and in the mutual acceptance of their respective roles—for example, unions recognize management rights stemming from ownership, and management recognizes the union as the sole representative of employees on basic issues regarding working conditions. Beliefs and core assumptions can change under environmental pressures, but this does not nullify the functional need for shared basic values, whatever their content may be. Walton, Cutcher-Gershenfeld and McKersie refer to the social contract between labour and management as typically unwritten and as including 'shared (or at least acknowledged) understandings about the broad quid pro quos and rules of the game' (1994, 3). However, we would argue that the main linkages forging this ideology are the awareness of a certain degree of interdependence and mutual interest between company and union. The structure of this interdependence between the negotiating parties affects the range of types of bargaining available to them, any particular structure being more conducive to one type of bargaining than to another. Thus, interdependence in a win-win situation will foster more cooperative tactics than interdependence in a win-lose situation (Lewicki, Litterer, Minton and Saunders 1994, 2425). As Dunlop points out, even when collective bargaining becomes confrontational, industrial relations should remain stable; one has to distinguish disputes over the organization of the industrial relations system *per se* 'from disputes within an agreed or accepted framework' (1958, 17). Collective bargaining is thus seen as a technique for maintaining equilibrium. This reflects a view of conflict as normal and necessary but in need of containment. Collective bargaining is certainly about conflict and about power, but it must also be about cooperation. Otherwise, there would be no agreement, no industrial peace and no functional stability. Peach and Kuechle summarize the prevalent view of the respective roles of conflict and common interest in collective bargaining:

> *Collective bargaining is certainly about conflict and about power, but it must also be about cooperation.*

Without common interest there is nothing to negotiate for; without conflict there is nothing to negotiate about. (1975, 94)

Analysis of the Collective Bargaining Process

Dunlop's approach conceptualizes collective bargaining as a mechanism converting inputs originating from the external environment into outputs. It looks at collective bargaining from the outside, and does not focus on the internal workings of the negotiating process. Dunlop offers a deterministic interpretation of the influences which the market, technology and other contextual factors have on the behaviour of the parties and on the overall results of their exchanges.

Walton and McKersie (1965) have offered the most systematic and comprehensive analysis of the bargaining process. Instead of looking at the phenomenon from the outside, they open the 'black box' and offer a theory of the parties' behaviour in the selection and implementation of tactics at and around the bargaining table. They take for granted the

goals and institutional structures of the parties, and look instead at the actions taken to achieve those goals. They also acknowledge at the outset that collective bargaining contains a mixture of conflictual and collaborative items affecting the attitudes of negotiators, the tone of the relationship, the nature of the issues and the way they are dealt with. Negotiation involves complex social units; right from the time when goals are being set until the point when the agreement is ratified by the company's senior executives and by union members, the bargainers' role consists both of representing constituents' interests and trying to shape their expectations and secure their approval.

Walton and McKersie (1965, 3-5) conceptualize collective bargaining as consisting of four types of activity, which they identify as four sub-processes: distributive bargaining, integrative bargaining, attitudinal structuring, and intraorganizational bargaining. These sub-processes are present in *all* negotiation, conflictual or cooperative. The first, distributive bargaining, refers to activities instrumental to the attainment by one party of those of its goals which are in basic conflict with the goals of the other party. Such bargaining becomes a zero-sum game, where one party's gain is the other's loss; the sum to be distributed through the process is perceived and accepted as fixed. Consequently, distributive bargaining is characterized as a win-lose situation. Preferred tactics consist of manipulating the opponent's preferences and its perceptions of one's own preferences. As Lewicki et al. say,

Distributive bargaining is basically a conflict situation, wherein parties seek their own advantage—in part through concealing information, attempting to mislead, or using manipulative actions. All these tactics can easily escalate interaction from calm discussion to bitter hostility. (1994, 79)

The second sub-process, integrative bargaining, refers to the activity instrumental to the attainment of the objectives of each party which are not in fundamental conflict with those of the other party. Because the parties are addressing common problems and common interests, their respective goals can achieve some level of integration. This situation is thus more conducive to solutions beneficial to both parties. Through integrative bargaining, both parties modify the object of negotiation by transforming the fixed sum usually distributed in a zero-sum game into a positive one. Parties learn to modify their perceptions through a greater awareness of their interdependence and the complementary nature of their goals and interests (Dupont 1982, 142). Both parties can 'win' the negotiation, but not necessarily on the same dimension; for example, the employer may win greater flexibility in the organization of work and consequently gain a better competitive position, while the union wins some job security. This win-win approach fosters tactics based on greater cooperation, trust and openness. Bacharach and Lawler identify the conditions favourable to the emergence of integrative bargaining:

Integrative bargaining is most likely to occur when the positive-sum elements are salient to parties—specifically, when parties recognize a mutually troublesome issue that does not involve a precise division or allocation of finite resources. (1981, 110)

Attitudinal structuring is the third sub-process identified by Walton and McKersie. While acknowledging that parties can be influenced by more powerful forces such as changes in technology and in the economy, those authors suggest that negotiators do resort to tactics that take advantage of the interaction between themselves and their respective bargaining teams. Attitudinal structuring refers to the activities instrumental in shaping relationship

The bargainers' role consists both of representing constituents' interests and trying to shape their expectations and secure their approval.

patterns suitable to one's needs and purposes. At this sub-process level, analysis of bargaining exchanges concentrates on personal and interpersonal socio-psychological processes. One must not downplay the importance of attitudinal patterns that develop during negotiation; they certainly have an impact on the degree of trust, openness and commitment that negotiators will feel and display. Integrative bargaining and distributive bargaining do not involve the same attitudinal patterns. Distributive tactics are more conducive to antagonism between bargaining teams. They may divert discussion from substantive issues, and focus on personality conflicts.

Intraorganizational bargaining is the last of the four sub-processes. The teams involved in collective bargaining are often complex social units representing divergent, heterogeneous and conflicting interests. Intraorganizational bargaining covers the activities which seek to bring the expectations of constituents (for example, shop stewards, senior executives and even other members of the bargaining team) into alignment with the expectations of the chief negotiator. It very often exacts more time and energy than interorganizational bargaining. Intraorganizational bargaining is at work from the moment each party starts planning and preparing for bargaining until the moment the deal struck at the bargaining table receives approval from the stakeholders who have final authority on the matter.

These sub-processes are analytical tools. They depict a situation from a conceptual and ideal perspective. They are part of every round of bargaining, although their structure and form differ from one case to another. For example, it would be wrong to infer that there is no integrative dimension in adversarial bargaining, or that there are no distributive activities in mutual gains bargaining. Failing to acknowledge the existence of these sub-processes can only impair the successful implementation of MGB.

The Missing Ingredient: Power to Control the Process

The main contribution of Walton and McKersie is to provide a thorough and systematic analysis of the internal workings of collective bargaining. A complete review of the process must also consider the forces that motivate negotiators and that determine their goals and the level of power available to achieve their objectives. To overlook the role of power in union-management relations is to forget the purpose of unionization, which is to increase workers' bargaining strength. However, the use of such power may have different results in different circumstances—for example, it may bring about improved working conditions, or it may lead to plant closures. Though we must acknowledge that negotiators enjoy a certain degree of discretion in formulating and implementing their bargaining strategy, we must also recognize that power gives some advantage or added leverage to negotiators.

Fundamentally, power does not stem from the actors' attributes but from the relationship between them (Crozier and Friedberg 1977, 56). As Lindbloom puts it, power cannot be described as strategic strength or potential which exists in isolation from the motive or desire to use it in a relationship where one seeks to gain an advantage (Lindbloom 1948, 417). Of course, one's power depends on how unpredictable one's behaviour is in the eyes of the opponent. This creates an area of uncertainty which allows manipulation to take place.

The bargaining game evolves within a context of power and other constraints which circumscribe each party's ability to attain its goals and to vary its responses (Crozier and Friedberg 1977, 59). Increased bargaining power usually heightens constituents' expectations, fosters tougher bargaining stances, and renders negotiators less prone to make concessions. Decreased bargaining power usually renders one more dependent and

It would be wrong to infer that there is no integrative dimension in adversarial bargaining, or that there are no distributive activities in MGB.

more vulnerable to an opponent's manipulative actions. Any negotiator wants to have some power, and seeks it. In distributive bargaining, one seeks and uses power to control the process and to 'win' the negotiations. Power tactics are thus prominent in distributive bargaining because parties conceive of their exchanges as a zero-sum game, and believe that the only way to make gains is by coercing the other party. In integrative bargaining, a negotiator seeks power to prevent the other from gaining a competitive advantage and from achieving its goals at the expense of the first negotiator.

Traditional Bargaining

The American and Canadian labour-management relations systems are built around the institution of collective bargaining, and the legal and institutional foundations of adversarial labour relations are consolidated in those systems. Negotiating tactics and public policy reflect core assumptions about the interests of labour and management and about the rules of the game, with the climax being reached at the moment of contract talks. Labour legislation draws a clear distinction between employer and employee, defining the former as someone who manages and decides, and the latter as someone who obeys and who grieves or strikes when in disagreement (Chaykowski and Grant 1995). This embodies a hierarchical approach to decision making, and a tayloristic perspective on work organization (Morin 1993). Negotiating parties thus operate in a context in which they are expected to act and react in accordance with their predetermined social roles (Dunlop 1993). The dispute resolution mechanisms emphasize a conflict of interest processed through collective bargaining. Even though parties come to an agreement at one time or another, the tactics they use are predominantly distributive (Riddell 1986).

Stevens (1963) classifies bargaining tactics into four types according to their purpose: information, persuasion, coercion and cooperation. The use of these tactics varies, depending on whether the bargaining is more distributive or more integrative. In traditional bargaining, coercive tactics will occur more frequently, and cooperation will occur in the final stages of negotiation when, for instance, the negotiators work on a package deal. Traditional bargaining does not foster trust and cooperation at the outset of the process, when negotiators present demands and assume entrenched positions, as in a war game. This kind of posturing at the bargaining table does not allow for expression or creativity. Resort to private meetings away from the table is an outlet which allows the chief negotiators to explore alternatives more candidly.

An important tactical objective in traditional bargaining is keeping the opponent from getting accurate knowledge about one's real position on contentious issues. Only enough information is conveyed to let the other side know what one wants; the negative implications which one's demands may have on the other side's interests are usually hidden or understated. Parties may discuss core interests and move away from positional bargaining in the final stages of negotiation, at the bargaining table or during 'sidebar' meetings, because of deadlines or other pressures. Cutcher-Gershenfeld suggests that traditional bargaining is designed for people who are not even at the bargaining table:

Increased bargaining power usually heightens constituents' expectations, fosters tougher bargaining stances, and renders negotiators less prone to make concessions.

> Clear target and resistance points, extreme opening positions, measured back-¬and-forth movements on issues, and rapid eleventh hour bargaining are all tactics that help negotiators assess constituents' expectations and then persuade constituents that the final agreement is the best agreement under the circumstances. (Cutcher-Gershenfeld 1994, 330)

In this traditional setting, intraorganizational bargaining on the company side follows a top-down hierarchical model, in which senior management has the final word on goals and priorities for the next collective agreement. On the union side, the decision-making process is relatively more decentralized and primarily political, because members of the bargaining teams are elected by the rank and file. This tends to make union negotiators take a tough stance in order to maintain their leadership and mobilize support from constituents; the union's leverage is greatest if it keeps its members mobilized throughout the negotiations. Union members need to trust their bargainers, and too much cooperation with management can be interpreted as collusion. Workers not only expect results; they must also have the impression that those results have been hard fought for. These are the usual understandings of principals operating in the traditional institutional setting of labour-management negotiations.

In traditional bargaining, there is a significant division between leaders' roles and followers' roles. Leaders see themselves as being in control of information, people and the negotiating process, particularly when (as is most often the case) the leaders are professionals whose careers and self-identity are based on an appearance of control and competence (Friedman 1994, 268). It is important for parties to present a united front and display firmness and solidarity in forwarding their bargaining team's positions. This need to posture does not encourage open discussion on the merits of issues, and it reduces the role which persuasion based on objective arguments and facts could have in solving problems. Once negotiators have taken positions and committed themselves vis-à-vis their principals and their opponents, they will set about to change their opponents' minds while shunning the possibility of changing their own. Arguments based on reason and logic do not necessarily carry a lot of weight in traditional bargaining. Power is more persuasive than reason!

Arguments based on reason and logic do not necessarily carry a lot of weight in traditional bargaining. Power is more persuasive than reason!

Discussion at the bargaining table begins in a formal and usually charged atmosphere, in which the rules of the game are

> as well established and predictable as a minuet: present a set of demands far in excess of what you actually want, then bargain down item by item; never share information with the other side; threaten job actions, walkouts, and strikes; 'poor mouth' the other side and threaten layoffs; etc. (Susskind and Landry 1991, 5)

As negotiations move on beyond the midpoint, real bargaining begins. Each party tries to find ways to settle issues, even if they only have symbolic value. The lead bargainer tightens control over the bargaining team, and more intraorganizational bargaining takes place in order to find room for a settlement. Traditional bargaining also proceeds incrementally while discussions provide the opportunity to reformulate and change positions.

Finally, one must look at the outcomes of traditional bargaining in terms of issues. The collective agreement is shaped as a legal contract in which both parties try to use detailed and precise language and to address specific issues one by one. This gives it an air of

rigidity and entrenchment. As the product of an adversarial process, a collective agreement is often perceived as a truce. Parties live with it, look for an opportunity to test its language, and bide their time until the next round of bargaining. In this context, confrontational attitudes and tactics displayed during negotiations span the life of the agreement.

Mutual Gains Bargaining (MGB)

Getting to MGB implies a change in the expectations of bargainers and constituents, and in their attitudes and behaviour. In more analytical terms, MGB seeks to make integrative bargaining salient. Before looking at the implications of MGB and the conditions for its successful implementation, an overview of the concept is in order.

The Idea of MGB

To Fisher, Ury and Patton (1991), traditional bargaining based on positioning resembles a war game that does not lead to the best deal for both parties; it is inefficient in light of the time, energy and resources invested in it, and it compromises relationships after the signing of the contract. In their classic *Getting to Yes,* Fisher *et al.* adopt an approach based on the internal dynamics of the bargaining process, and do not stress the environmental and power constraints to which bargainers (particularly in labour-management relations) are generally subject. Although this approach has its limits, it challenges traditional dispute resolution methods, the efficiency and appropriateness of which are being increasingly called into question. Discussion of MGB is extremely timely because changes in collective bargaining are intertwined with changes occurring in the industrial relations system.

The new approach underscores the importance of tactics based on information, persuasion and cooperation, and sees coercion as dysfunctional and counterproductive. Fisher *et al.* argue, first of all, that negotiations must focus on the merits of the problems to be resolved. The more the parties can bring principles and standards of fairness, efficiency and scientific merit to bear on the issues at hand, the more likely it is that the exchanges will produce a fair and reasonable package (1991, 83). Second, merits-based or principled negotiation allows the parties to achieve mutual benefits when they focus on interests rather than on specific and entrenched positions. Third, bargainers have to separate the problems to be solved from the individuals who are discussing them; people who are quarrelling and who are committed to their positions 'are more likely to respond to what the other side has said or done than to act in pursuit of their own long-term interests' (1991, 52). Fourth, refraining from positional bargaining means not committing oneself to fixed and detailed demands; thus, each negotiator can freely discuss and examine a variety of options before deciding what to do. Finally, principled negotiation requires that the parties use objective criteria in assessing solutions; this method shuns ideological and emotional arguments and calls instead for reliance on raw data, information sharing, precedents, and the like. Resorting to objective criteria should reduce the number of commitments made and then unmade during the traditional bargaining process. Negotiation based on persuasion assumes the ability and the will to listen, to put oneself in the other's place, to communicate and to be reliable and trustworthy. Fisher *et a/.* summarize the main idea of MGB in these terms:

> A principled negotiator is open to reasoned persuasion on the merits; a positional bargainer is not. It is the combination of openness to reason with insistence on a

The new collective bargaining approach underscores the importance of tactics based on information, persuasion and cooperation.

solution based on objective criteria that makes principled negotiation so persuasive and so effective at getting the other side to play. (1991, 90)

What happens when one party is more powerful than the other? Fisher *et al.* acknowledge that MGB cannot guarantee success when the leverage is all on one side. They state that the reason why anyone negotiates is to obtain a better result than would be achieved by not negotiating. The proposed criterion against which they would measure any agreement is the 'BATNA'—the 'Best Alternative to a Negotiated Agreement.' This notion may be more readily applicable in certain cases than in others (1991, 97-106). A potential car buyer's BATNA is to look for other dealers or another model, and ultimately not to buy. In an industrial relations context, the less powerful party has fewer options because the other party knows that there has to be an agreement at some point. Defection is impossible, unless there is a shutdown, and the cost of disagreeing will eventually become unbearable to the other party. The question of power remains a permanent threat to the existence and the continuation of MGB. Coercive tactics focus on the power available to one party; MGB, in contrast, will only be successful if the parties are willing to focus on their common interests and to use tactics based on principles and objective arguments rather than on the manipulation of the other party's constraints.

Most of the debate around MGB has not been on the merits of the approach as such, but on the conditions which make it feasible in a traditional bargaining context, where managers and trade unionists have for decades followed a complex but predictable script with a set of predefined roles, norms and expectations. Researchers and practitioners have tried, first, to identify the conditions favourable to the introduction of MGB in contract talks, and second, to identify the obstacles to its introduction and sustainability.

Although each party may have a long track record in traditional and even confrontational bargaining, they experience one or more catalysts for change. Once the decision is made to resort to MGB, the parties confront a range of issues associated with the change process itself. We group these issues into three broad categories—catalysts for behavioural change, functional process conditions, and challenges posed by the shift away from established patterns of collective bargaining. For those unions and firms that ultimately use MGB, four broad elements are involved in the new approach—the role of power, changes in the time horizon, changes in the scope of the process, and outcomes (Chaykowski and Grant 1995).

The rest of this paper will focus on the issues and elements relevant to the implementation of MGB.

Catalysts for Change

Catalysts for change may be grouped into two broad categories: pressures from a changing environment, and the presence of costly or otherwise unsatisfactory outcomes under the traditional bargaining process. Over the three decades that followed the end of World War II, distributive tactics were able to generate a pattern of continuous gains for unions at the bargaining table. It was explicitly or implicitly assumed that unions would make demands and employers would make offers. Employers would try to satisfy union demands after assessing the parties' respective bargaining power. Traditional bargaining dealt with issues related to wages and benefits, and reflected union concern with job control and with counterbalancing management authority in the workplace. Unions recognized that the organization of production was a managerial prerogative, and accepted the idea that they had no say in strategic business decisions on such matters as investments and programs for improving quality and productivity, or on intrinsic job satisfaction.

General economic conditions and relatively sheltered markets allowed employers to pass costs on to the customer without irreparably hurting their competitiveness. More recently, globalization of markets and technological breakthroughs have challenged traditional bargaining, as firms have become less profitable and plant closings have spread across the country. Unions, particularly in the private sector, have become more preoccupied with saving jobs than with wage issues.

The first response of traditional bargaining to environmental pressures during the late 1970s and early 1980s took the form of concessions. Employers became more aggressive and started making demands, even showing readiness to resort to lockouts or raising the spectre of plant closings. Unions in many sectors experienced rollbacks of gains made during previous contracts. Such concessions revealed a cost-based approach, and usually involved wages, benefits and work rules (Verma and Weiler 1994, 30). Many managers and even more union leaders thought the difficulties were cyclical, and did not recognize that the economy was undergoing a deep, permanent structural transformation. Consequently, they could not foresee that major adjustments in policy and strategy were necessary to restore competitiveness and save jobs. Concessions were most often sought and obtained through the traditional adversarial system of labour relations and through distributive tactics. Although employers were now on the winning side of the win-lose game, they discovered some 'unintended negative consequences of concessions bargaining, which diminish the advantage of a reduction in labour costs' (Verma and Weiler, 1994, 30). Declining morale, increasing turnover, and a worsening industrial relations climate suggest that there was no fundamental change in the traditional adversarial system.

More and more stakeholders started to question the efficiency of traditional negotiating tactics, and sought to improve the employment relationship in ways that would achieve better productivity and better job security. As more and more unions and employers, at least in industries exposed to competition, become aware of the permanent and irreversible character of economic restructuring, of the globalization of markets and of exponential technological development, the integrative dimension of concessions bargaining becomes more salient. Concessions bargaining can be seen as a transition to a new type of bargaining, in which reciprocity is more prominent.

Bitter work stoppages can impose major costs on labour and management—costs which have increased in the more competitive environment of the 1990s—and can bring both parties to question the efficacy of traditional bargaining in achieving their objectives. This has created an awareness of the potential benefits of alternatives which might reduce the likelihood of such stoppages.

As for third-party settlements, they can often be viewed as being of limited benefit. Strictly speaking, they impose a solution which ends a conflict, but that solution may not match either party's preferred outcomes. Here again, the discrepancy between desired and actual outcomes is conducive to an alternative approach.

Finally, in some cases we find that the shift to MGB is motivated by conditions associated with benefits stemming from a major investment or the receipt of financial support from government.

Globalization of markets and technological breakthroughs have challenged traditional bargaining.

Changing Behaviour

In formulating a strategy for implementing and sustaining MGB, the parties must not confine their attention to the content of the collective agreement which they will be negotiating. They must also consider obstacles and constraints which arise on two other dimensions: first, the dimension of the relationship among the bargainers and constituents on the same side of the table, and the relationship with the people on the other side of the table; and second, the dimension of the process itself. None of these three dimensions can be neglected by employers and unions seeking to experience MGB.

At the outset, influential leaders on both sides must have a genuine desire for change. New attitudes are a prerequisite to altering behaviour fundamentally and to moving away from confrontational tactics. This is central to the successful implementation of MGB.

From the beginning, as the parties prepare their respective agendas, there has to be a feeling of mutual trust, openness and honesty. One of the purposes of joint training is to create a favourable environment, but it is only a beginning and not a guarantee of success. Beyond such training, it is strongly recommended that both parties create and make use of opportunities to interact, to express and share their concerns and to ease anxieties. Simply presenting constituents' positions hides core interests. It is essential at the outset, when setting their agendas, that the parties have free, joint discussion in a non-antagonistic setting, that they identify common goals, and that they commit themselves to avoid actions most feared by the other side, to discuss the reasons for mistrust if it arises, and to share information (Friedman 1994, 266). The commitment to MGB is reinforced if, early in the process, managers and union leaders engage in collective brainstorming exercises in an effort to identify problems and explore procedures to solve them. 'Preliminary meetings to plan upcoming negotiations or to share information provide an opportunity to know each other' (Ancona, Friedman and Kolb 1991, 168-69).

These activities are not designed merely to encourage gregariousness; their purpose looms larger. Fisher (1989, 35-36) suggests that committing oneself to positions should be postponed until after the negotiators

- have established a good personal working relationship;

- have developed an easy and effective relationship;

- have come to understand the interests of the other party;

- have explored precedents or other possible criteria of fairness that might be persuasive. . .

At every stage of negotiation, the MGB process provides periods when people can explore without commitment, with neither party being allowed or able to 'use' what the other has said or hinted at. 'The threshold problem is to create sufficient consensus and trust within the two sides to enable the bargainers effectively to explore new options' (Heckscher and Hall 1994, 239). Bargainers have much less latitude to look for imaginative solutions to common problems when they are caught with closed-end initial mandates which tie their hands from beginning to end, and which often require them to resort to informal encounters and face-saving tactics in the final stages in order to reach an agreement or, even worse, when they feel that the other party is not committed to genuine bargaining.

New attitudes are a prerequisite to altering behaviour fundamentally and to moving away from confrontational tactics.

Members of bargaining teams who experience MGB for the first time may find brainstorming and exploratory discussions to be time-consuming and even frustrating because, influenced by the norms of conduct of traditional bargaining, they may easily get the impression that the other party has no mandate. Threats to abandon MGB may occur at that moment. Having a closed-end mandate in MGB is a contradiction in terms, because the essence of the process requires that bargainers attempt, first, to identify jointly core interests and freely look for mutually beneficial solutions, and second, to gather support for negotiated solutions from their principals.

The importance of tactics based on persuasion is the main feature of integrative bargaining. Persuasion thrives on facts and information; it is even more successfully done when the information has been collected jointly and shared by both parties. Information sharing is one of the key activities favouring openness and trust between union and employer. Information is a source of power and is perceived as such, particularly by the union, which stands at a disadvantage in that respect. Information sharing and joint collection of data allow both parties to control this source of power. Senior managers typically resist the idea that their labour relations staff should share with the union or with employees confidential, strategic information on profits or on the firm's competitive position.

Persuasion thrives on facts and information. Information sharing is one of the key activities favouring openness and trust between union and employer.

Some observers express reservations about the capacity of union representatives to make use of financial and other non-routine information, because of the level of expertise required to handle and interpret the data (Owen and Lloyd 1985, 340). Improved technical skills in analyzing financial data increase the union's capacity to assess innovative solutions (Heckscher and Hall 1994, 237). However, this may not be to much avail if the employer enjoys greater overall bargaining power and resorts principally to distributive tactics; 'disclosure of information can do little to help groups of workers with little effective industrial strength to back up their negotiating demands, or groups with few resources' (Owen and Lloyd 1985, 341).

Process Conditions

We will now discuss the following process conditions affecting the likelihood of successful MGB implementation: the role of intraorganizational bargaining, the role of training, consultancy and facilitation, and the nature of issues addressed through MGB.

Intraorganizational bargaining begins even before parties start setting their agenda. Bargainers for each side must convince their principals of the timeliness and appropriateness of the new approach. This can be done by assessing the outcomes of previous negotiations and their impact on the industrial relations climate, on working conditions and on the firm's competitiveness. There must be an understanding of MGB, and significant support for it, on the part of senior managers and the most influential union leaders. MGB proponents have to be aware that their own team members bring familiar scripts from past experiences—scripts which can be fallen back on if unfamiliar circumstances arise, as they very likely will. People will be continually struggling with the implications of MGB as the negotiations unfold.

MGB transforms the role of bargainers right from the time of planning for negotiations and setting the agenda. Those who see themselves mainly as representatives conveying their party's positions have some unlearning to do in order to view themselves as people hired to work out an optimal solution (Fisher 1989, 33).

Bargainers on both sides must make sure that they obtain commitment from their key constituents, by which we mean influential union members and the highest levels of the firm's hierarchy. This is particularly so when objectives and problems are more loosely defined, as bargainers must then have the authority and mandate they need to make progress in contract talks. Organizational leaders must cultivate ongoing support for the process by informing and educating their respective constituents; some of these support activities can be performed jointly.

Joint training is viewed by many observers as part of a process of instilling lasting changes in bargainers' roles and in the labour-management relations system. Heckscher and Hall (1994, 236) distinguish two levels of intervention in joint train- ing, one being to acquire and hone new bargaining skills and the other to transform the internal relationships between bargainers and their constituents. Cutcher- Gershenfeld et al. (1996) suggest that there are different approaches to MGB, which vary according to their degree of intensity: limited, moderate, and extensive. A lim- ited approach would focus on a single issue, and training provided by an outside consultant would limit itself to key MGB principles. A moderate approach would include selected issues, and training would extend to pre-negotiation coaching. The approach becomes extensive when the implementation process starts long before the opening of negotiations, when all issues are addressed through the process and when a third party provides training and direct facilitation during negotiations. Susskind and Landry (1991, 9) suggest specific steps to increase the probability that such training will contribute to lasting changes in dispute resolution mechanisms: a pre- training private meeting with each side, and an initial joint training session for a broad cross-section of managers and employees.

> *Joint training is viewed by many observers as part of a process of instilling lasting changes in bargainers' roles and in the labour management relations system.*

The approach we have used since 1993 has been limited to a two-day joint training session involving a five-step process for each of the two issues presented to participants on each bargaining team.

1. First, participants start with written demands expressed in the traditional posi- tional mode. At that point, together with the other members of their team, they must identify the problems addressed by the demands and must make a list of their own interests and those of the other party on the issue in question.

2. At the second step, both teams meet directly and work on problem definition and on listing, discussing and comparing interests, the purpose being to make participants aware of the interdependency of interests in the face of a shared problem.

3. Both teams then move on together to the third step, which is a brainstorming exercise to look for solutions.

4. At the fourth step, the teams work separately. They select three solutions, for each of which they prepare a list of objective criteria designed to ensure that those solutions are mutually beneficial.

5. Both teams then get together for the fifth and last step—discussing those solu- tions and choosing one of them, based on the appropriate criteria.

Bergeron and Bourque (1996) conducted a survey of ten groups to find out how much this training had influenced how they bargain. Respondents said that by focusing on problems, interests and priorities, the training had changed how they prepare their demands. They added that both parties had been able to formulate their interests at the bargaining table, and the majority were surprised by the benefits of brainstorming as a problem-solving technique. The results have, however, led us to hypothesize that the intensity of training and facilitation might be positively correlated with the degree of success of MGB implementation. Starting in the fall of 1996, our approach will move up to the level of moderate intensity, and we will be able to assess more accurately its impact on the extent of MGB penetration in the workplace.

The purpose of joint training is not only to teach new skills but also to build support for MGB. As commitment to the new approach builds up, members of both bargaining teams participate in joint training sessions. These sessions stress how and why MGB departs from traditional bargaining. Participants receive lectures on the concepts and core assumptions underpinning MGB. They also take part in simulations in which instructors use role playing to try to bring them to concentrate on their interests, to move away from positional bargaining and to learn to listen and understand the problems of others. The option of returning to the 'old way' is available right from the start, throughout the different phases of the MGB process. Joint training is both a way of exploring MGB and of building support for it. Parties may decide before or after the training sessions to retain the services of a coach to act as facilitator when direct bargaining begins.

Susskind and Landry assert that joint training is more likely to succeed when both bargaining teams have members who are relatively inexperienced in traditional bargaining (1991, 9). The selection of the bargaining team is a crucial strategic moment on the road to meaningful MGB. One of the purposes of joint training is of course to help people get rid of old baggage, to change their attitudes and to adopt new behavioural patterns. Parties probably cannot do without professionals or other knowledgeable persons on their negotiating teams, but the radical transformation required by MGB means that team members with a fresh outlook should be brought on board. The novelty of MGB and the suspicion or skepticism it may initially arouse requires the development of group dynamics conducive to broader participation. Each negotiating group has to make sure they retain their constituents' support as they move through the process. The potential of MGB is greatly affected by constituency relations, and the reshaping of traditional roles is easier if there are nonprofessional negotiators and representatives who are directly involved in the workplace and are perceived as closer to the constituents. Moreover, parties can make the bargaining structure more flexible by inviting constituents to discuss and brainstorm on specific issues. This allows the parties to define better core problems and interests while at the same time creating a feeling of participation and building support among principals.

In preparing their agendas, the parties are or will become aware that some issues lend themselves more easily to MGB than others. Wage issues tend to be more distributive, while integrative bargaining may come more naturally on matters of plant survival and technological change. Parties may even decide to carry on with distributive bargaining on economic issues, and to undertake MGB on other issues where common interests are more obvious and where joint problem-solving techniques appear easier to apply. Another survey that we have conducted supports the idea that some issues are more readily adapted to MGB than others. Tables 1 and 2 present the results of a survey of

5 Step MGB Training

1. *Written demands from each team in traditional positional mode.*
2. *Joint meeting on problems and interests.*
3. *Joint brainstorming*
4. *Selection by each team of 3 mutually beneficial solutions.*
5. *Joint discussion of solutions and selection of one.*

groups that experienced MGB across Canada. For managers, MGB has been particularly useful in establishing less restrictive work rules, while union respondents found it useful in achieving better job security.

Finally, MGB thrives in debureaucratized and decentralized contexts. It changes not only the structure and dynamics of the bargaining process, but also the outcomes and the substance of the contract. Instead of dealing with a closed-end contract of fixed duration, the parties are involved in a continuous process of adjusting working conditions and company policies and practices in the light of a changing environment.

Challenges and Sources of Resistance to Change

A variety of obstacles or challenges present themselves when parties attempt to apply MGB. One serious issue that arises in many cases is the right of the firm to address the issue of job security, which often emerges in negotiations over matters such as flexibility, cost reduction, and downsizing. In this context, MGB may be perceived by workers as an employer tactic to gain concessions.

Parties design their own process as they gain experience in dealing with problems and in handling relationships between and within their respective groups. Even if the parties engage in joint training and information sharing, the MGB process is still fragile. Traditional forms are liable to reappear as the inevitable stumbling blocks arise. Difficulties may be caused by the tactics of some bargainers, by pressures from constituents, or by other constraints beyond the control of the actors at the table.

The constrained and highly channeled structure of the traditional model stands in sharp contrast to the open and involving structure of the interest-based model. (Cutcher-Gershenfeld 1994, 331)

MGB implies the use of purely integrative tactics, but in the present economic context some highly distributive issues are often at stake, such as subcontracting and concessions on wages and benefits. While traditional bargaining structures constrain problem-solving approaches, principled bargaining constrains the use of distributive tactics (Cutcher-Gershenfeld 1994, 328-330).

Increasing the constituents' participation in the process helps to address the intraorganizational dilemmas involved in maintaining support for MGB. In varying degrees, both parties will run into difficulties when bargaining intraorganizationally. Some union activists will continue to look upon MGB as a form of cooptation leading to demobilization of members and thus to loss of bargaining power. Senior executives who gave a nod to the process at the outset may express second thoughts as the area of potential solutions and bargainable issues widens, bringing home to them the full implications of MGB. Their continued support may depend in part on the importance and status of labour relations in their organization (Heckscher and Hall 1994, 236).

Table 1 - Unions' MGB Experience and Issues[1]
N = 7

Issues	Importance	Usefulness
Higher wages	2.3 (3)	1.3 (3)
Higher fringe benefits	2.6 (6)	2.3 (6)
Resist more flexible pay systems	3 (1)	3 (1)
Reduced use of regular part-time employees	2 (2)	2 (2)
Reduced use of temporary employees	2 (3)	2 (3)
Reduced use of contracting out	2.6 (6)	1.8 (6)
Resist flexibility in scheduling hours	2 (2)	2 (2)
Influence on use of new technologies	2 (1)	2 (1)
Influence on number of job classifications	2.6 (3)	2.3 (3)
Resist flexibility in performing work across jobs	2.5 (4)	2.8 (4)
Increased job security	2.9 (7)	2.6 (7)

[1]Table codes:

	'importance' of issue	'usefulness' of MGB
	1 = not at all important	1 = not at all useful
	2 = moderately important	2 = moderately useful
	3 = extremely important	3 = extremely useful

Table 2 - Management's MGB Experience and Issues[1]
N = 6

Issues	Importance	Usefulness
Lower wage costs	2.8 (4)	2.5 (4)
Lower fringe benefits costs	2.5 (4)	2.5 (4)
More flexible pay systems	2 (1)	3 (1)
Increased use of regular part-time employees	2.5 (2)	3 (2)
Increased use of temporary employees	2 (3)	2.8 (3)
Increased use of contracting out	2.3 (4)	2.8 (4)
Increased flexibility in scheduling hours	2.8 (4)	2.8 (4)
Increased use of new technologies	2 (2)	1.5 (2)
Reduced number of job classifications	2.3 (4)	2.3 (4)
Increased flexibility in performing work across	2.3 (3)	2.3 (3)
Reduction in workforce size	2.5 (2)	2.5 (2)
Less restrictive work rules	2.5 (6)	2.5 (6)

[1]Table codes:

	'importance' of issue	'usefulness' of MGB
	1 = not at all important	1 = not at all useful
	2 = moderately important	2 = moderately useful
	3 = extremely important	3 = extremely useful

The struggle to grasp MGB, to become familiar with it and to commit to it must continue beyond the initial phases of planning and training, and must persist until a settlement is reached. There will be periods of reassessment, doubt, crisis and readjustment, potentially resulting in a return to the traditional model. The union, for example, may decide that the time frame does not allow it to sustain MGB without hampering its bargaining power and the ability to mobilize its membership.

Some issues may not be considered suitable for principled bargaining; lead bargainers may fear that they are losing power and control, over the process itself or over the members of their bargaining team and their constituents. Although the parties may have learned to discuss problems and interests openly, to explore solutions and generate options, they still have to face some deadlines and learn how to package an agreement and how to make decisions on its substance and format. As time constraints begin to induce a sense of urgency among stakeholders and as financial elements become more prominent, traditional bargaining may, ironically, be better able than MGB to generate cooperation at the bargaining table and in 'sidebar' meetings. The traditional model becomes more integrative, and MGB becomes more vulnerable, when constituents grow more and more impatient because time seems to be running out and nothing appears to have been settled. The problem is even more difficult to overcome if each bargaining team has not been active in generating continuous support for the process, by keeping leading constituents informed and by involving them in the negotiations and even in what is happening at the bargaining table itself.

MGB is likely to generate innovations that were not foreseen or approved in advance by constituents. Because the new process operates through less constrained channels and with looser hierarchical control by lead bargainers, constituents' impressions are more difficult to manage (Ancona, Friedman, and Kolb 1991, 166). This provides a severe test of both parties' commitment to MGB and their preparedness for it.

Conclusion

The withering of traditional bargaining requires a strategy that focuses not only on developing new skills but also on radically transforming role expectations, power dynamics and the relationship between the parties.

Setting the stage and context for MGB is the hard part, not teaching the ideas or perfecting the simulations of MGB. An improved theory is needed to complement the theory of mutual gains bargaining. (Friedman 1994, 278)

Adaptation of current collective bargaining practices to a challenging environment cannot follow a predetermined path. Changes in economic prospects may breed insecurity and uncertainty among managers and among union leaders and members, but so do changes in dispute resolution mechanisms. People tend to use familiar methods to deal with new problems. MGB cannot be successfully introduced in an improvised way. It should be viewed as part of a transition from a relationship based on suspicion and conflicting interests to one built on trust, common interests, and interdependence. It is almost inconceivable that parties who have successfully negotiated a collective agreement through MGB will revert to confrontational tactics the next time around.

MGB is a much more flexible tool than traditional bargaining, but it can hardly exist in isolation from a more global and integrated perspective on the firm's industrial relations as a whole. Training, coaching, and facilitating are useful, but are not enough for effective and sustained MGB.

. . . it seems that mutual gains training and facilitating can maximize the potential of participatory organizations but cannot transform the bureaucratic ones. If that is so, successful mutual gains interventions need to be part of a wider transformation of labor relations and organizations. (Heckscher and Hall 1994, 246247)

Is there one best way to introduce MGB? Probably not. Each workplace has to tailor its approach to its own needs and characteristics—to stakeholders' attitudes toward change and their behaviour in that regard, to their ability to put into place conditions conducive to MGB and to their ability to overcome obstacles, particularly those associated with intraorganizational dynamics. Finally, one must not ignore the fact that power imbalances between the parties can impair the successful introduction and maintenance of MGB.

> *MGB should be viewed as part of a transition from a relationship based on suspicion and conflicting interests to one built on trust, common interests, and interdependence.*

References

Ancona, Deborah G., Raymond A. Friedman, and Deborah M. Kolb. 1991. The group and what happens on the way to 'yes.' *Negotiation Journal* 7: 155-73.

Bacharach, Samuel and Edward J. Lawler. 1981. *Bargaining: Power, tactics and outcomes.* San Francisco: Jossey-Bass.

Bergeron, Jean-Guy and Reynald Bourque. 1996. *L'Impact de la formation sur les pratiques de la negociation raisonnee: Un bilan provisoire.* Paper presented at the 33rd annual Conference of the Canadian Industrial Relations Association, Brock University.

Chaykowski, R. and M. Grant. 1995. From traditional to mutual gains bargaining: The Canadian experience. *Collective Bargaining Review* (May): 79-88.

Crozier, Michel and Erhard Friedberg. 1977. L'Acteur et le systeme. Paris: Editions du Seuil.

Cutcher-Gershenfeld, Joel. 1994. Bargaining over how to bargain in labor-management negotiations. *Negotiation Journal* 10: 323-35.

Cutcher-Gershenfeld, Joel, Donald Power, and Maureen McCabe-Power. 1996. Global implications of recent innovations in U.S. collective bargaining. *Relations Industrielles* 51: 281-301.

Dunlop, John. 1958. *Industrial relations systems.* New York: Holt.

_____ 1993. *Industrial relations systems.* Rev. ed. Boston: Harvard Business School Press.

Dupont, Christophe. 1982. *La negociation: Conduite, theorie, applications.* Paris: Dalloz.

Fisher, Roger. 1989. Negotiating inside out: What are the best ways to relate internal negotiations with external ones? *Negotiation Journal* 5: 33-41.

Fisher, Roger, William Ury, and Bruce Patton. 1991. *Getting to yes: Negotiating an agreement without giving in.* 2d ed. New York: Houghton Mifflin.

Friedman, Raymond A. 1994. Missing ingredients in mutual gains bargaining theory. *Negotiation Journal* 10: 265-79.

Grant, Michel and Jean Harvey. 1993. Unions and productivity: Convergence or divergence in perceptions? *International Studies of Management and Organization* 22 (4): 93-101.

Heckscher, Charles and Lavinia Hall. 1994. Mutual gains and beyond: Two levels of intervention. *Negotiation Journal* 10: 235-48.

Lewicki, Roy J., Joseph A. Litterer, John W. Minton, and David M. Saunders. 1994. *Negotiation.* 2d ed. Burr Ridge, IL: Irwin.

Lindbloom, C. 1948. Bargaining power in price and wage determination. *Quarterly Journal of Economics* 62: 397-417.

Morin, Fernand. 1993. La négociation collective selon le modele de 1944 est-elle périmée? In *La négociation collective: Adaptation ou disparition?,* ed. by Colette Bernier et al., pp.13-43. Sainte Foy: Les Presses de l'Universite Laval.

Owen, David and Anthony J. Lloyd. 1985. The use of financial information by trade union negotiators in plant level collective bargaining. *Accounting Organizations and Society* 10: 329-50.

Peach, David A. and David Kuechle. 1975. *The practice of industrial relations.* 2d ed. Toronto: McGraw-Hill Ryerson.

Stevens, Carl M. 1963. *Strategy and collective bargaining negotiation.* New York: McGraw-Hill.

Susskind, Lawrence E. and Elaine M. Landry. 1991. Implementing a mutual gains approach to collective bargaining. *Negotiation Journal* 7: 5-10.

Verma, Anil and Joseph Weiler. 1994. *Understanding change in Canadian industrial relations: Firm level choices and responses.* Kingston, ON: IRC Press, Industrial Relations Centre, Queen's University.

Walton, Richard E., Joel E. Cutcher-Gershenfeld, and Robert B. McKersie. 1994. *Strategic negotiations.* Boston: Harvard Business School Press.

Walton, Richard E. and Robert B. McKersie. 1965. *A behavioral theory of labor negotiations.* New York: McGraw-Hill.

Industrial Relations Centre (IRC)
Queen's University
Kingston, ON K7L 3N6
irc.queensu.ca