USING THE ONE-TEXT PROCESS[1]

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The One-Text Process is a way negotiators and mediators use the Seven Elements[3] to manage complex subjects with numerous stakeholders who hold conflicting views and exercise very different levels of authority. Examples include crafting legislation or treaties; collective bargaining with labor and management; creating cease fire agreements; coordinating health care quality, access, or cost; budgeting; establishing organizational governance or management processes and structures; planning which in-laws to visit for how long on which holidays; and settling which life partner's career should be advanced and balanced with what family interests this time around.

The process employs a single negotiating text, clear guidelines, and neutral facilitator(s), drafter(s), and commentators to manage thorough, efficient communication among stakeholders that leads to progress and closure while protecting stakeholder working relationships. The process helps participants avoid positional thinking that suboptimizes results or even paralyzes talks by intransigence over mutually incompatible demands. Instead, it helps them build the mutual understanding, emotional balance, respect, trust, openness to persuasion, and creativity that complex solutions require.

How does the One-Text Process work?
At the heart of the process is a simple question: "What's wrong with this?" A person or organization who wants to pursue an interest-based, collaborative process to resolve a problem or exploit an opportunity comes up with a possible solution and asks stakeholders whose agreement is essential to success to comment on how the solution does or does not satisfy their interests. The approach can be used to gain participants' approval for the One-Text process itself.

Here are the steps.
1. Choose Process Managers and Drafters[4]
    a) Identify and nominate a skillful person or group to act as "Process Manager." If accepted, they will monitor and guide *communication* and the process. Regardless of whether the prime mover of the process has authority to act, usually it is a good idea to nominate a candidate only after obtaining their agreement to serve.

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[3] See *Getting To Yes Summary* by Charles L Barker and Paul Cramer.

[4] See "Who Plays What Roles" below for explanations of these roles.

When consulting stakeholders[4] about a process manager, ask "What's wrong with this nomination?" Listen to their *interests* and fine tune the nomination through successive "drafts" to optimize the identity, role, and the conduct of the person in the role for all concerned.

When you can't improve the pareto optimality of the nomination, "freeze" it and ask for all stakeholders' *agreement*. At the same time, clarify the consequences for each stakeholder of their refusal to agree. This is their process *BATNA*.[3, 5] Make any stakeholder's agreement revocable. Stakeholders may withdraw any time they feel that their *interests* are not being served as well or better than any alternate process. It is easier to say "yes" to begin when you know you can change your mind once you gain experience with the process. This makes the one-text process itself a one-text, perpetually open for improvement.

b) Identify and nominate a skillful person or group to act as Drafters.[4] Use the same approach as that for establishing Process Managers. If accepted, the Drafter(s) will create the successive draft package of *options* that constitute possible solutions. Drafters should be knowledgeable about the problem. However, when acting as Drafters, they must be able to separate the process from the problem itself and work with strict neutrality to improve the overall package of each successive draft of the one-text.

2. <u>Explain the ground rules and ask the stakeholders to accept them as interim operating guidelines (*communication*)</u>
Essentially, explain the One-Text Process to all intended participants as it is described in this memorandum. Clarify that the rules are not binding. Rather, they are a set of operating assumptions that all stakeholders agree to follow for their mutual benefit until such time as they agree on a better approach or decide to abandon the negotiation and pursue their BATNA.

This approach creates a Process Agreement early in the negotiation that governs all stakeholder's behavior by their mutual consent. When things do not go according to plan and someone gets concerned, as is almost inevitable, the Process Agreement helps bring everyone back on course. It reminds the stakeholders of their purposes and the value of their collaboration and working relationships. With these values in mind, stakeholders will usually correct their own errant behavior voluntarily.

Do not confuse a Process Agreement with agreements on the substantive content of the negotiation. Agreements on the merits should be made at the end of the process, only after following the process outlined below. A rush to make a decision about the substantive problem often promotes positional, wasteful thinking and may lead to termination of the negotiation when the best interest of the group is to agree.

Distinguish advocacy roles from neutral process roles. The commentators and decision makers[4] for each stakeholder in the process will seek a solution of the substantive problem

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[5] BATNA is a negotiator's Best Alternative to a Negotiated Agreement; in this case a revocable process agreement.

that best satisfies their interests. They are advocates and, at times, may be partisan even though their view of the material facts and hypotheses is partial.

Neutral process roles such as Process Manager, Drafter, and Wizard[4] may be filled by representatives of one or more stakeholders or by neutral outsiders. However, once in the process role, that person must set aside their partisan stakeholder point of view and step fully into the role and task required of them by the process. They must be willing to learn, open to persuasion, respectful of all other points of view, and creative in reframing the problem with information about interests and crafting new, pareto-optimal options that maximize fairness to all involved. It helps to have the permission of their employer to do so.

3. Elicit *interests* of the parties
    The first step addressing the substantive content of the problem at hand is to ask stakeholders what interests of theirs are affected. If a stakeholder advocates a position, don't argue with them. Instead, inquire behind their position to understand their interests. Ask: "Tell me more about *why* you think we should do X."

    Learn about priorities among interests. Ask: "Among the concerns you've explained, which is the most pressing?" Or, "It sounds like X is very important in light of…."

    Build your working relationship with each stakeholder. Regardless of whether you agree or not, constantly *demonstrate* that you have heard and understand what they are saying. Saying to them "I understand" is not good enough. To demonstrate respect, cultivate your genuine curiosity to understand them. Synthesize what you've heard and paraphrase back to them. State their view as compellingly as you can. Pause and wait for them to assess your understanding. Once they *feel* heard, they can relax and listen for the purpose of understanding others.

    If someone has a hard time articulating their interests, try some hypotheses. Ask: "How important is X to you? What about Y?" "Assuming Z is a critical need [pause for correction], would it be helpful to do something like Q…?"

    The person or group eliciting interests of stakeholders should be acceptable to the stakeholders in this role. S/he or they may be specially designated for that purpose, be a Process Manager, or a Drafter (s). The keys to this role are for the person to be neutral, listen well, and behave congruently with the collaborative intent of the process.

    Often the person(s) eliciting interests in the first round of the process is/are themselves employed or aligned with one of the several stakeholders who disagree with one another. This is often true of a Drafter. If so, their demonstrable neutrality and collaborative behavior will be critical to the quality of their inquiry. These qualities are likely to depend, in part, on the clarity and congruence of the instructions they receive from their principals within their stakeholder/employer. They cannot do a good job of learning about other stakeholders' interests if they are simultaneously worried about being criticized by their own "side" for being too sympathetic to the "enemy." They need the permission of their employer to carry out the role of Drafter in a neutral way.

4. <u>Prepare One-Text Draft#1 of a possible agreement (*options*)</u>
   The job of the Drafters is to translate their understanding of stakeholder interests into a realistic, sufficient, and operational approach to solving the problem that generated the need for a negotiation in the first place. To succeed, the Drafters must understand and synthesize all pertinent interests from among the stakeholders. They must be sufficiently knowledgeable and creative in framing and solving the problem to generate new options for satisfying the underlying interests of the stakeholders.

   After exploring the interests of the stakeholders, the Drafter(s) prepare a written draft agreement for distribution to the same stakeholders. The draft should be clearly labeled "Draft #1 for comment only." The purpose of Draft #1 is not usually to resolve the controversy. It does not need to be polished or even complete. Rather, it is the first draft of a package of options designed to evoke further, more detailed, comment and thus a deeper understanding of stakeholder interests. After successive drafts, the ultimate package of options begins to approach the pareto-frontier by optimizing the elegance and utility of the proposed solution for as many stakeholders as possible.

   Drafters address high priority interests as they begin. They deal with the "easy" issues e.g. a high value result for one stakeholder that has a very low cost for others. They may test many versions of options – even in the same draft. Where information is missing, they may leave blanks as needed.

   A tool often employed by Drafters is brainstorming. When brainstorming, Drafters separate inventing from deciding. They avoid criticizing options and instead seek to invent as many new and different ideas as they can. To do so, they may take on different perspectives; e.g. different disciplines like mathematician or linguist; cultures; attitudes such as optimism, humor, or curiosity; or roles such as child, alien, or thief. The also seek to exploit potential gains in differences such as risk tolerance, time sensitivities, or form vs. substance. Draft #1 may include many different options for various parts of the problem, including multiple, mutually inconsistent options to address the same aspect of the overall problem.

5. <u>Ask for criticism</u>
   The Drafters distribute Draft #1 and ask each stakeholder "What's wrong with this draft?" People hate to make decisions. It's risky. But they feel free to criticize ideas. At least implicitly, if not explicitly, the criticisms reveal what interests of the stakeholders the draft fails to satisfy and why.

   Encourage reviewers to provide criticism, their reasoning and interests, rather than edits inserting their "answers" or positions, which are much harder to reconcile or synthesize. Ask "What's wrong with this draft" instead of "Will you agree to this draft?" Look for preferences or trade-offs among the interests of commentators.

   If legitimacy is an important concern, the Drafters may seek to ascertain why parties think their approach is legitimate. They might ask: "Why would changing this part of the draft make it fairer? What entitles you to that?" As they begin, Drafters emphasize the source or principles underlying numbers. It is easier to interest other stakeholders in multiple

principles from which numbers are derived than it is to get them to entertain a lower or higher number than the one they want.

6. <u>Redraft the text in light of what you have learned</u>
Drafters continue this process of criticism and redrafting until they feel that they cannot improve the draft further for any given stakeholder without significantly worsening the draft for other stakeholders. Consider conditionally freezing parts of the draft, subject to eventual acceptance of other parts of the draft still in improvement.

7. <u>Present the text to the stakeholders as a Yes or No choice</u>
When the Drafters conclude that the draft cannot be improved and the stakeholders are as ready as they may ever be to accept it, they freeze the draft. They then ask the stakeholders to make a decision to accept or reject the draft. They also clarify with each stakeholder what the consequences are likely to be of saying "No." e.g. that stakeholder's BATNA.

8. <u>Each stakeholder then makes its decision: Agreement on these terms, or no agreement</u>
If they say "yes," a well-drafted One-Text should indicate exactly what they get. The solution is predictable, legitimate, and a reasonable and transparent accommodation of all stakeholder interests.

If they say "No," they return to the problem as it arose when the One-Text Process first began with all the uncertainties and risks inherent in that situation.

Who plays what role?
<u>Process Manager</u>
Process Managers monitor and guide *communication* among the stakeholders using the Seven Elements. They help stakeholders
- clarify *interests*, NOT positions,
- generate *options,* rather than seek concessions,
- clarify *BATNAs,* rather than "bottom lines",
- maximize *legitimacy,* instead of focusing on what stakeholders are willing or unwilling to do, and
- craft realistic, sufficient, and operational *commitments* at the end of the process

They also share responsibility for monitoring and guiding the working *relationships* among the stakeholders with the stakeholders themselves.

Process Managers must be able to distinguish guiding the process from the substantive content of the negotiation. With the permission of stakeholders, Process Managers may not only monitor and guide the process, but may also act as Drafters and comment or decide on the substantive content. However, they must be precise and transparent about each role or risk losing their own credibility and that of the process.

<u>Drafters</u>
Drafters design and compose possible options in writing to resolve the underlying controversy based on increasingly more nuanced understanding of the interests of the stakeholders. They do

this through successive, increasingly detailed and more pareto-optimal, drafts. Each draft is circulated among stakeholders for criticism and increasingly more detailed statements of interest.

There is only ONE draft, the "One-Text." The Drafters, not the commentators, "own" each draft.

Drafters fulfill the role of a mediator; a person whose primary interest is to reach agreement among the stakeholders. This is different from the role of negotiator; a person whose primary interest is to influence the agreement to serve their own interests as well as possible.

Commentator
Commentators represent the interests of each stakeholder. Their responsibility is to explain their interests and criticize successive One-Texts by describing how any given package of options fails to satisfy their interests as well as possible.

Decision Maker
A Decision Maker is authorized by a stakeholder to make binding *commitments* on behalf of their respective organizations. They decide whether to accept or reject the final One-Text.

Wizard
A Wizard has expertise in the subject matter of the One-Text. Drafters, Commentators, and Decision Makers may consult Wizards for advice on the meaning and merit of a One-Text provision. Wizards do not draft the One-Text. They are not Commentators on behalf of a stakeholder, and they do not make binding commitments for a Stakeholder. Their role is limited to providing expert advice and opinions when asked by Drafters or according to process rules established by a given stakeholder to govern their internal contribution to the One-Text Process. By following these guidelines, a Wizard's remarks cannot be mistaken for the view of the Drafters or a commitment by a stakeholder.

What are some problems to avoid?
The One-Text is not a "straw-man" process
Process Managers and Drafters are careful to avoid soliciting proposals for new options or to encourage positional thinking. Comments that propose options rather than clarify interests are much harder to reconcile or synthesize. After proposing options, commentators expect to see their ideas in the next draft and may be feel disrespected if the ideas are not included. When a commentator proposes an option, Drafters ask *"Why is this option appealing to you? What interest(s) does it serve?"*

Don't take criticism personally
Drafters and Process Managers do not defend a One-Text. They do not argue with commentators. They invite criticism in order to understand stakeholder interests and redraft the next One-Text as a more pareto-optimal possible solution.

Commentators will want to offer their own options regardless of the process instructions
Commentators may suggest ideas that are not framed as criticisms. Rather than ignoring these ideas, ask for the reasoning behind them and take the reasoning (rather than the actual suggested ideas) into account.

Stakeholders may expect this process to yield unanimity
Explain that what the process promises is an efficient way for multiple stakeholders to have their perspectives heard and their interests understood, to generate solutions based on those perspectives, and to get as many critical decision makers aligned as possible. The goal is a sufficiently broad agreement to take effective action. This does not necessarily mean unanimity. A majority, or even a plurality, of stakeholders may be sufficient to take meaningful action towards resolving a problem. This approach avoids the problem of hold outs.

In the end, one or more stakeholders still may conclude that their BATNA is better than any agreement possible through the One-Text process. In that case, they will say "*No"* to the One-Text and go to their BATNA. If enough stakeholders reach this conclusion, a good outcome of the One-Text will be educated participants who make a wise choice NOT to agree.

As the iterations progress, commentators may ask, "Why did that option I like get dropped from this draft?"
Explain the ways the new draft attempts to take the underlying interests of stakeholders, fairness, and optimality into account. Drafters invite commentators to tell them how and why the new draft does not meet their interests, is wasteful, or isn't fair. Highlight and explain inherent tradeoffs in evolving drafts. The content of a new draft may change because a new option substantially satisfies a high priority interest of one or more stakeholders at a very low cost to subsidiary interests of other stakeholders. It may be helpful in setting expectations for the process and encouraging creative thinking to take significantly different approaches to a solution in successive early drafts.