



## **Negotiation Tips for Exporters**

### **The Tipping Scale Negotiation Strategy**

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Exporters have unique negotiating challenges because they have to negotiate two broad types of agreements: 1) domestic agreements, and 2) international agreements. Having a negotiation paradigm can be useful in approaching each negotiation to ensure that the resulting agreement is not only equitable, but also effective. One such paradigm is the Tipping Scale Negotiation Strategy. Imagine a scale in which you are on one side and your negotiating counter-part (“Them”) is on the other side. While many negotiators seek to balance the scale in their favor by stacking their side with as many factors as possible, others may seek a more balanced approach. Knowledge about the factors is critical as you prepare for, and engage in the negotiation process.



There are eighth major factors exporters must consider and analyze if they want to maximize their chances of entering into an equitable and effective agreement. These factors can be evaluated on a weighted average basis, emphasizing the factors that will tip the scale in your favor, if your goal is to get the best deal for yourself. These factors can also be evaluated on a balanced basis, emphasizing equity between the parties, with each factor to ensure that both sides feel like they have been treated fairly, if your goal is to get a deal that is best for both sides, and sustainable.

**Factor 1: The Real Party in Interest.** With whom are you negotiating? For whom are you negotiating? With parties in the U.S., their identity, interests, and positions are easily verifiable. The identity, interests and positions of the real parties in interest in foreign jurisdictions may not be as obvious. For example, if you are doing business in China, are you negotiating with the owner, manager, broker, or other designee, or are you negotiating with the Chinese government? If you do not know the real party in interest, it will be difficult to

reach an agreement; even if you reach an agreement, it may not be an effective agreement, as it may not be enforceable.

**Factor 2: The Facts.** What are the relevant facts? Some facts are obvious. It is easy to identify the products, prices, and general terms of a transaction. Other facts are not as obvious. For example, variations in products, prices, other general terms, and the underlying reasons for the variations (such as local custom, conflicts of laws, environmental factors) are facts which affect the negotiation process and outcome. Therefore, it is worth the effort to confirm you have all of the relevant facts.

**Factor 3: Logical Reasons:** What are the logical reasons for your demands? What are the logical reasons for their demands? Do not assume that they will understand and follow your logic. Do not assume that pointing out the flaws in their logic will be constructive. Your job here is to be able to demonstrate that you understand and respect their logical reasons, and to convey your logical reasons in an understandable way so that they understand them, as well. This mutual understanding can lead to a reconciliation of the differences, an essential ingredient in the negotiation process.

**Factor 4: Emotional Reasons:** What are their primary emotional motivations and triggers? How can you tap into and leverage their emotional motivations and triggers to influence Them? What are your primary emotional motivations and triggers? Should you disclose your emotional motivations and triggers, and, if so, why, how and when? The goal is here to see if there is an underlying emotional interest for the real party in interest and the negotiating parties, if different. What does this deal mean to the real party in interest? Will it make Them feel more powerful, more secure, more dominant in the marketplace? What does this deal mean for the negotiating party, if not the real party in interest? Will it make Them feel more valuable to the real party in interest? Will it mean a chance at a promotion? Will it mean a bonus?

**Factor 5: Empathy:** Can you develop an understanding of what they are thinking, experiencing (emotions, feelings, and mood), want and need? Can you demonstrate your understanding to them in a way that demonstrates you appreciate their point of view? Can you influence Them to develop and demonstrate the same for you? The goal here is to encourage Them to see things from your perspective, and also to demonstrate to Them know that you

understand their perspective. This will lead to appreciation, emotional bonding and trust, which are fundamental to overcoming obstacles during the negotiation process, as they reduce friction between the parties, and encourage cooperation and collaboration.

**Factor 6: Dominant Reason:** What is their dominant reason for demanding X (with X being the financial, delivery, timeline, and other terms they are asking for or insisting on)? What is the dominant reason, which will cause Them to walk away? What is your dominant reason? The goal here is to identify the boundaries during the negotiation process. How far can each side push before the negotiation process breaks down? Armed with this information, you can “test the waters” on terms and conditions without fear of killing the deal.

**Factor 7: Creativity:** Can you help each other create more value – more for you and more for Them? Is there a way to expand the pie? Creativity is important for exporters for several reasons. For example, if the parties cooperate on identifying barriers in the supply chain process, they can collaborate on ways to overcome these barriers, by leveraging resources that may not be available to either side individually. These resources may be internal to the parties, or external (such as governmental agencies such as the U.S. Department of Commerce, Ambassadors, etc...).

**Factor 8: Public Interest:** How can you both collaborate to help other interested parties? During the negotiation process, negotiating parties often forget that the resulting deal will impact more than just the parties. Often times the negotiating parties overlook the impact on each companies’ workers, the workers’ families, and the communities in which the businesses operate. By encouraging Them to join with you to identify the impacted non-parties and deliberately consider what the deal means to them, the parties may be willing to accommodate each other to ensure that everyone impacted is fairly treated.

By considering and analyzing these eighth factors before the negotiation process, exporters can prepare themselves to be more effective during the process. Analyzing these factors before the negotiation process can also help exporters pre-frame their negotiation counter-parts to encourage and promote accommodation, cooperation and collaboration during the negotiation process, which will help finalize equitable and effective deals faster. The result can be to tip the scale in your favor, or maintain a balanced scale where everyone benefits.



## NEGOTIATION PARADIGM



(The Balanced Negotiation Scale)