

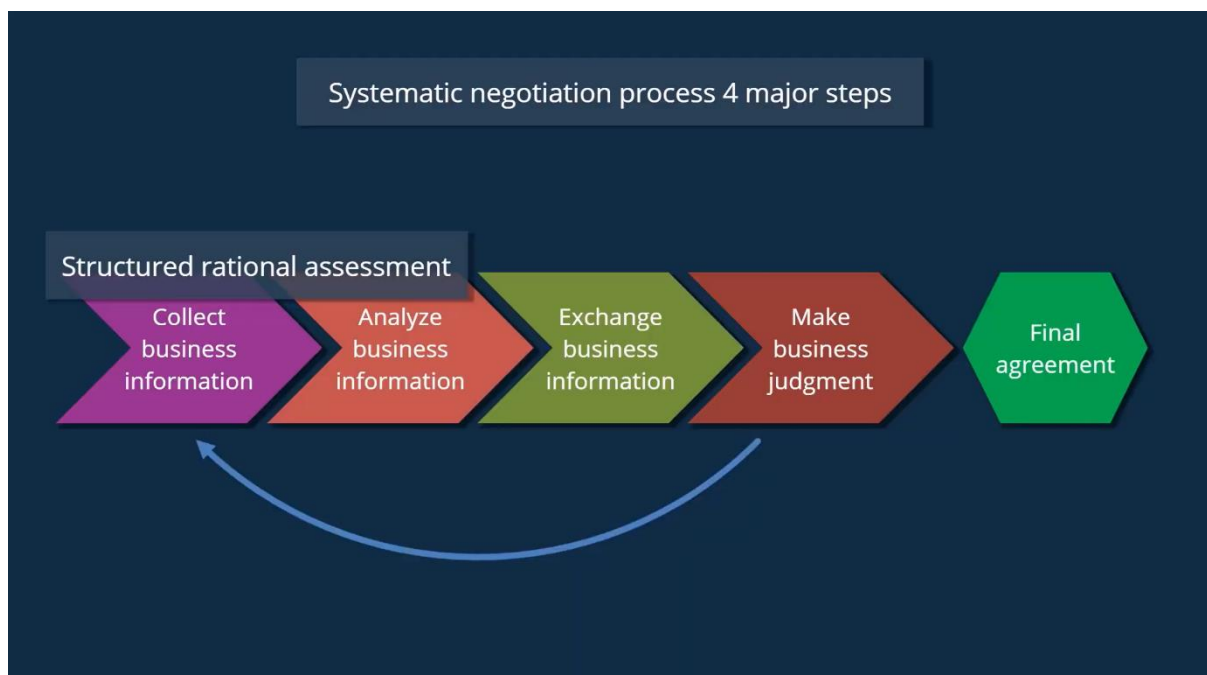
M3L9a. Systematic Negotiation Process

Slide #1



In this topic, we will discuss the systematic negotiation process.

Slide #2



A systematic negotiation process includes four major steps.

The first step is collecting business information to prepare for the negotiation.

The second step is to analyze the information to calculate business positions of different offer options.

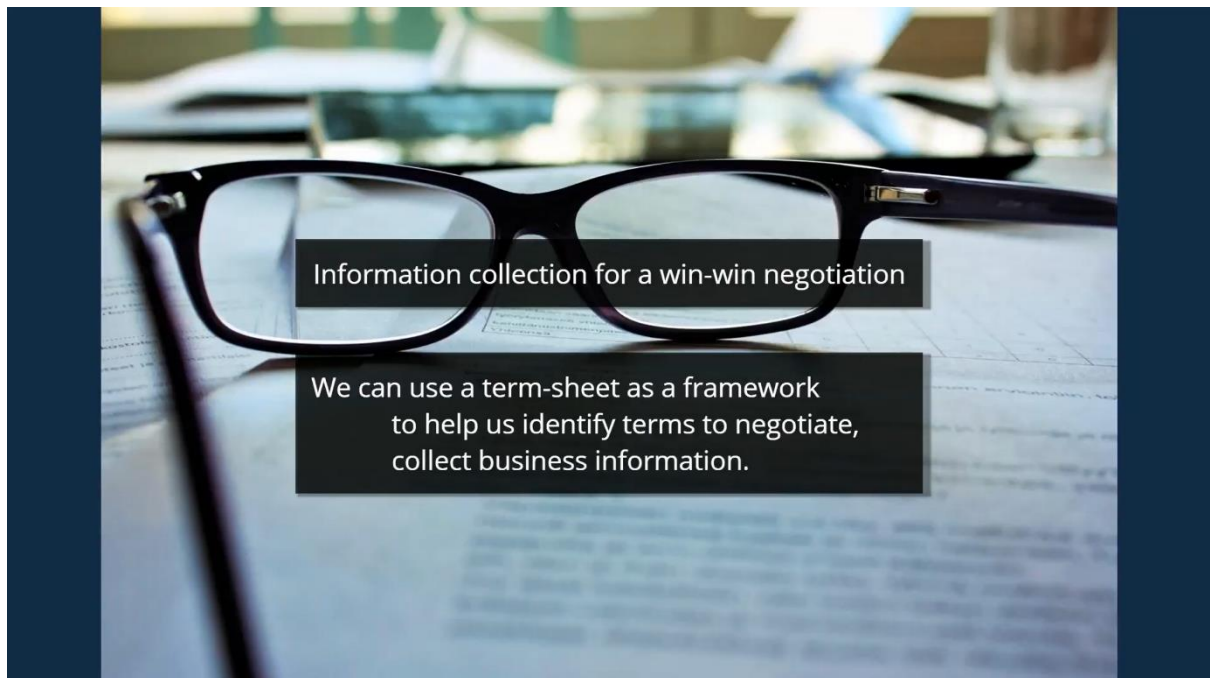
After that, we will engage our partners to exchange information and understand each other's business interests.

The fourth step is to make business judgment about the information that we will learn from our discussions with our partners.

It is not uncommon that we repeat the process several times to fully understand each other's business needs, limitations, and offers to reach final agreement.

The information collection and the business analysis require structured rational assessment, while the engagement and judgment steps rely on managers intuitive reasoning.

Slide #3



We can use a term-sheet as a framework to help us identify terms to negotiate, as well as collect business information.

Slide #4

Terms/Issues	Relative importance (0-10)	Desired outcome	Expected outcome	Acceptable outcome
Licensed technology				
Licensed products				
Field of use				
Territory of use				
Grant				
Milestones				
Royalty				
Minimal annual consideration				
IP expenses				

(1) company strategy statement
(2) business performance objectives
(3) key performance indicators
(4) R&D capabilities
etc.

Here is an example of a term-sheet that we will use in technology license negotiation.

A term-sheet should include at least the following information.

The first is negotiation terms or issues which are listed in the first column of this table. For example, the license technology, royalty, and so on. Other issues we want to negotiate.

The second set of information to collect is about the relative importance of each term to our organization. Such type of information includes company strategy statement, business performance objectives, key performance indicators, research and development capabilities, and so on. These terms are rarely equally important to our company, and we need to weigh them differently when trading issues in the negotiation.

Also, we can mark what items are negotiable and what are non-negotiable. Do not forget listing those items that are not important to you, but likely important to your partners. Those items are your source of leverage.

Slide #5

Terms/Issues	Relative importance (0-10)	Desired outcome	Expected outcome	Acceptable outcome
Licensed technology				
Licensed products				
Field of use				
Territory of use	Market information about product and potential partners determine fair market value of each item			
Grant				
Milestones				
Royalty				
Minimal annual consideration				
IP expenses				

The third set of information we need to collect is the market information about the product and potential partners, so that we can determine the fair market value of each item.

Each issue should include three position points.

Slide #6

Terms/Issues	Relative importance (0-10)	Desired outcome	Expected outcome	Acceptable outcome
Licensed technology		Our wish under best-case scenario		
Licensed products				
Field of use				
Territory of use				
Grant				
Milestones				
Royalty				
Minimal annual consideration				
IP expenses				

One is the desired outcome, which represents our wish under best-case scenario.

Slide #7

Terms/Issues	Relative importance (0-10)	Desired outcome	Expected outcome	Acceptable outcome
Licensed technology			Most likely scenario	
Licensed products				
Field of use				
Territory of use				
Grant				
Milestones				
Royalty				
Minimal annual consideration				
IP expenses				

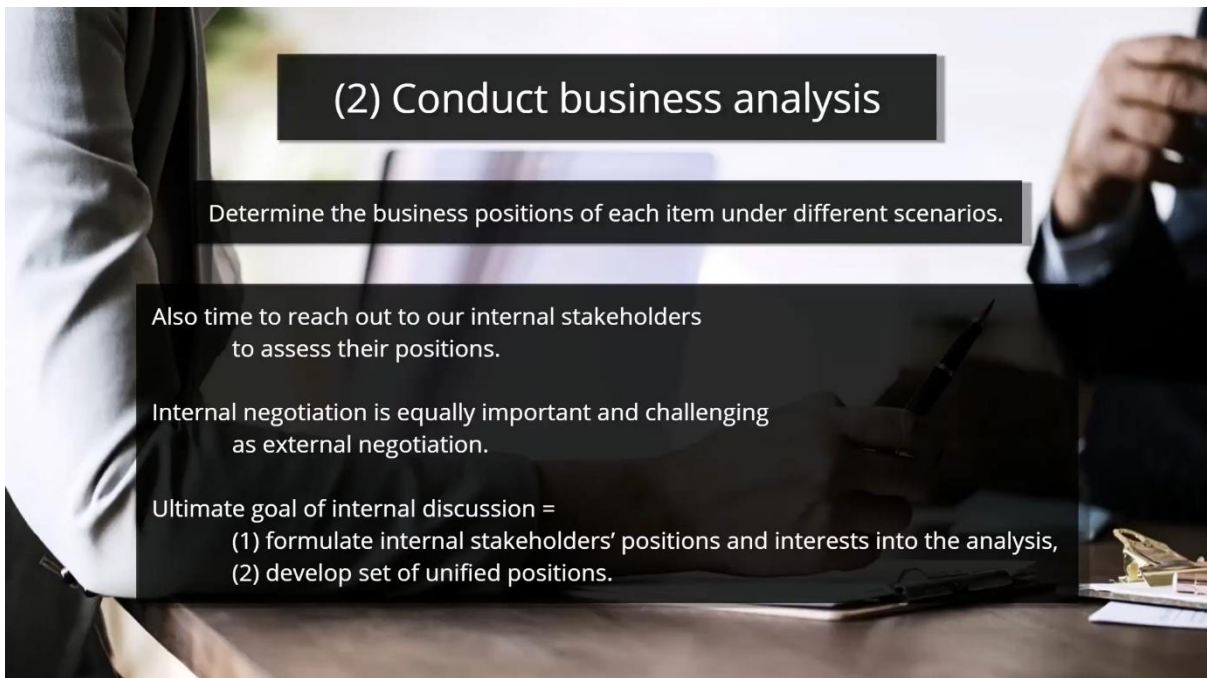
The second point is the expected outcome, which represents the most likely scenario.

Slide #8

Terms/Issues	Relative importance (0-10)	Desired outcome	Expected outcome	Acceptable outcome
Licensed technology				Resistance point BATNA
Licensed products				
Field of use				
Territory of use				
Grant				
Milestones				
Royalty				
Minimal annual consideration				
IP expenses				

The third point is the acceptable outcome, or our resistance point, or BATNA. We may have to walk away from the negotiation if the outcome is not acceptable.

Slide #9



(2) Conduct business analysis

Determine the business positions of each item under different scenarios.

Also time to reach out to our internal stakeholders to assess their positions.

Internal negotiation is equally important and challenging as external negotiation.

Ultimate goal of internal discussion =
(1) formulate internal stakeholders' positions and interests into the analysis,
(2) develop set of unified positions.

Our next step is to determine the business positions of each item under different scenarios.

This is also the time to reach out to our internal stakeholders to assess their positions.

The internal negotiation is equally important and challenging as the external negotiation.

The ultimate goal of internal discussion is to formulate our internal stakeholders' positions and interests into the analysis and develop a set of unified positions.

Slide #10

Terms/Issues	Relative importance (0-10)	Desired outcome	Expected outcome	Acceptable outcome
Licensed technology				
Licensed products				
Field of use		All fields		
Territory of use			US and Japan	
Grant		Inputs from different stakeholders are organically weaved into term-sheet positions.		
Milestones				
Royalty		We will revisit term-sheet during negotiation should be evergreen, tailored to the point when reach agreement.		
Minimal annual consideration				
IP expenses				

For example, our Product Development Department desires to have a broad field of use, so that they can develop a product for different industries.

Our Marketing Department expects to include U.S. and Japan territories in the license, and our Accounting Department prefers fixed licensing payment, so that they can manage the budgeting and the planning well.

All of those inputs from different stakeholders are organically weaved into the term-sheet positions.

We will revisit the term-sheet positions several times during our negotiation as new information comes in.

So, the term-sheet should be evergreen and tailored to the point when we reach an agreement with our counterpart.

Slide #11

Terms/Issues	Relative importance (0-10)	Desired outcome	Expected outcome	Acceptable outcome
Licensed technology				
Licensed products	Emphasize one thing about the term-sheet: TOP SECRET			
Field of use				
Territory of use				
Grant	Never share your version with your counterpart. Prepare a shared version of the term-sheet to communicate offers, document the negotiation progress. Do not share your version of the term-sheet.			
Milestones				
Royalty				
Minimal annual consideration				
IP expenses				

I needed to emphasize one thing about the term-sheet. The term-sheet should be your top secret.

You should never share your version of the term-sheet with your counterpart.

You should prepare a shared version of the term-sheet to communicate offers and document the negotiation progress with your partners, but do not share your version of the term-sheet with your secret information.

Slide #12

Terms/Issues	Relative importance (0-10)	Desired outcome	Expected outcome	Acceptable outcome
Licensed technology	5	All three	X & Y	X & Y
Licensed products	5	Battery	Battery	Battery
Field of use	8	All fields	Auto & energy	Auto
Territory of use	4	Global	US and Japan	US
Grant	9	Exclusive	Exclusive	Exclusive
Milestones	5	2022 commercial product	2020 commercial product	2019 commercial product
Royalty	8	4%	5%	6%
Minimal annual consideration	6	\$100,000	\$150,000	\$200,00
IP expenses	3	\$50,000	\$70,000	\$150,000

I suggest you spend a couple of minutes studying the term-sheet, looking into the details of those columns.

The expected outcome, desired outcome, resistant points, and relative importance.

Study the term-sheets, understand the terms, and the logic behind the three position points of each term.