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Nonmarket Negotiations: Leveraging Performance when Negotiating with Governments, Influencers, Media, NGOs, Communities and other Key Stakeholders

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ABSTRACT: *This work highlights the primary effects of externalities on businesses, organizations, and teams. It then discusses the necessity for adapting and complementing traditional concepts, models, and theories of negotiation in this increasingly diverse and complex nonmarket arena. A third topic focuses on strategic negotiations with Governments, one of the most potent components among nonmarket forces. Finally, the work provides a list of practical recommendations for negotiators in the new era of externalities' impacts and nonmarket prominence.*

KEYWORDS: negotiation, nonmarket, lobby, influence, strategy.

INTRODUCTION

The importance of nonmarket forces on business environments – being defined as the social, political, and legal arrangements that structure the organization's interactions outside of, and in conjunction with, markets (Baron, 2013) – is growing exponentially. These forces can be represented by NGOs (Non-Governmental Organizations), activists, unions, influencers, media, and Governments, among other stakeholders, all at different levels: local, national,

regional, and global. The external context of the business environment and society as a whole, where strategies and negotiations occur, is experiencing significant transformations. This necessitates organizations to adapt to new requirements. These changes permeate all areas of the organizations, affecting their members. It is crucial for all these actors – organizations, areas, and executives – to comprehend these ongoing changes and equip themselves to confront even more significant challenges to achieve their professional and personal goals and purposes.

Among all nonmarket forces, the Government emerges as a pivotal stakeholder that necessitates integrated strategies with updated negotiation approaches in today's and future business environments. This is due to its substantial participation, influence, and impact on economies and organizations. Research in this field demonstrates that it can provide guidelines and effective recommendations to address real issues and enhance practitioners' actions concerning the relationship with Governments (Navarro, 2021).

This contextualization reinforces the importance of externalities such as ESG (Environmental et al.), diversity, inclusion, and reputation, among others. Executive leadership recognizes the essentiality of dealing with them, but at the same time, recognizes that aligning the interests of their stakeholders with those of their organizations is a challenging task (McKinsey, 2020). Therefore, it is necessary to reflect deeply on the changes in the context, strategies and tools regarding how negotiations are planned, developed and executed, considering an increase both in the complexity of the business environment, as well as in the requirements for organizations and for those who are in charge aiming an outstanding performance in this nonmarket environment, where externalities play a crucial role.

METHODOLOGY

This section explains the research design, including philosophy, data collection, analysis, and conduct. The qualitative information for this work was obtained through the author's direct participation, firsthand observation, and active research (Silverman, 2011). Additionally, formal and informal meetings were conducted during several lectures and workshops, and academic materials and case studies developed with students and professionals were used to gain more data and insights. The next topic will present the findings and analysis.

HOW EXTERNALITIES ARE CHANGING THE NONMARKET ENVIRONMENT

Two main components can define the art and science of negotiation. First, specific knowledge about theories, techniques, models, and hybrid skills (hard and soft) is necessary to achieve

optimized results that meet – ideally – the interests of all parties involved. Second, the accumulated experience, or what is learned along the personal and professional journey – i.e., success stories, achievements, failures, and learning – on which it can be based to improve and use as a reference for future challenges.

To all this complexity, many externalities were added that changed the environments where organizations operate, demanding quick responses from them, their areas, and the professionals who work in them. In the following sections of this topic, we present what significant changes can influence the nonmarket field where negotiations take place today and, in the future (Navarro, 2022).

CHANGES ON CONTEXT

Multiple external factors influence the decisions of organizations, changing operations and even business models. During COVID-19, for instance, retailers had to adapt to home deliveries and online sales; schools adopted distance learning as an alternative; online events and business meetings proliferated; and Congress voted bills of law online. Many of these practices are now adopted as a complement or substitute for their current operations. The trend is to increase the importance, weight, and impact of local, regional, and global externalities.

With the ease of obtaining and passing on information from multiple sources and anywhere across all components of the value chain, the result is a more complex playing field, with more variables to be considered and addressed by all (Kennedy, 2017). Issues once relegated to a possible lower priority, such as the gender, ethnic, or age composition of a Board, social and environmental actions in the analysis of an investment or loan, and the different, more inclusive forms of communication for an expanded target audience are examples. This way, a greater complexity of the business environment is expected.

There is a growing increase in the frequency of interaction with a broader range of stakeholders, reflected in the number of contacts made and the shorter time interval between them. As a result, employees are more tired, and companies are looking for flexible working formats and initiatives that benefit their well-being. Face-to-face meetings coexist with virtual interactions: the former is usually reserved for initial interactions and subjects of greater relevance, while the latter is used to deal with topics that are already advanced and of lesser importance.

Aspects such as reputation, trust, and credibility are being increasingly valued. As a result, organizations devote greater attention to these assets, seeking to constantly measure their

evolution, together with traditional aspects such as return on investment, market share, and short-term results, including incorporating them into goals to be achieved by their executives. With a massive presence in multiple interaction channels, including social networks and other digital media, CEOs and other C-level executives are constantly scrutinized by different audiences, including customers, shareholders, suppliers, competitors, unions, communities, media, NGOs, digital influencers, and Governments. This fact also occurs with the manifestations of employees at any other hierarchical level, although they may take longer to cause effects.

The digital world is present in the personal and professional lives of executives and organizations, in channels that are open for interaction 24 hours a day, seven days a week. The growth in digitization of various segments of the population and the corresponding increase in the use of networks around the world has brought more people to the discussions and debates, only sometimes in an organized, respectable way or bringing accurate data and information. Regardless, they are voicing that echo, make demands, express their opinions, and influence organizations and their different audiences. Therefore, they have to be carefully taken into account when monitoring and in the adequate responses in terms of content and deadlines.

It is also part of this complex context that there is a greater need for collaboration and co-creation in generating perceived value. Currently and in the future, organizations need to be concerned with aligning what is valuable for their customers and other interested parties because objectives, variables, stakeholders, and aspects of value have all expanded. One way to do this is to seek co-creation in the development of products, services, interactions, and negotiations with these audiences.

Statements and, above all, actions of the organizations start to receive requests for clarification by the most varied means, by different agents, private and public. The reasons behind a decision to install or remove a factory from the country, why there is an unexpected price increase, or the explanation for the lack of regularity in the supply of a product or service are common agendas and demands in the media, NGOs, and Governments. In other words, a greater demand for transparency via different communication/interaction channels is part of the game.

A greater agility in organizations' responses and changes is expected. Time, as the same fixed variable for everyone, becomes more valued since more and more tasks are currently performed in the same interval. Thus, the demands on organizations also tend to have a more agile expectation in terms of resolution.

Finally, with so much knowledge being generated and shared in record time, the need to learn and train in new technical skills (hard skills) is essential. Keeping up with all the changes that are taking place in the context can be an arduous and tiring task, but it is necessary. Moreover, this also occurs in social abilities or soft skills. Qualification in different areas of knowledge is therefore increasingly needed.

IMPACTS ON ORGANIZATIONS

Organizations deal with a more numerous and diverse set of stakeholders that, together, make up an interconnected ecosystem, with possibilities of mutual influence, further expanding the concept of the quintuple helix (Carayannis & Campbell, 2019), i.e., Industry, Government, Academy, Society, and Environment, to incorporate actors such as NGOs, investors, various types of media, among others.

What organizations defend, whether visions, themes or proposals – the so-called "advocacy of interests" – through greater complexity in the context as seen in the previous section, starts to demand that common "synergies of interests" be sought, with collaboration and alignment within the same sector, or (even better from a negotiation power perspective) across different multiple sectors, aiming to reinforce the importance of the subject.

Issues that could once be dealt with one by one in a relatively sequential corporate agenda are now shown to impact each other, making a holistic approach necessary to assess these impacts to define the best strategy and corresponding actions. A practical effect for organizations is the necessary analysis and monitoring of multiple propositions at the local, regional, and national levels, as well as the possible existing international parallels.

Organizations need to reflect in their purposes, objectives, and goals (fundamental for the continuity of the business itself) the demands that arise from a myriad of stakeholders through various relationship channels. This way, what makes the business economically/financially viable and perennial (which may include indicators such as revenue, profit, and productivity) needs to be aligned with broader aspects, being necessary to create combined strategies to serve people, business goals and the planet, finding the best and most positive trade-offs possible.

The traditional approach to business intelligence, with all applicable tools, now has the necessary support from other types of intelligence in organizations: cognitive, emotional, political, resilient, and moral. With this set, organizations have a greater chance of meeting the different interests and expectations of a greater number of stakeholders in an environment that is growing in complexity.

Faced with this more complex context, organizations feel the need to shift from consistent to convincing speech. Just having the same corporate speech repeated over and over is not enough anymore. It is necessary to align discourse and practice, present concrete results over time that are coherent, genuine, and empathetic, and have clear, effective, and persuasive communication.

The organization's image has always been valued, as once well crafted, it can lead to differentiation and bring comparative advantages over competitors. Today (and in the future) there is a need, with a long-term vision and ambitious goals (but feasible and realistic), to build a consistent sum of experiences, concrete actions and positions inside and outside the organization that result in an admirable reputational heritage, which meets both business objectives from the point of view of competitors and customers, as well as when it involves other stakeholders and broader aspects. Many organizations considered the many external factors as a "distraction" from achieving the expected results. Due to the new context, the mentality changed so that the – inevitable, growing, and more impactful – externalities are "embraced" by everyone in the organization and used so that not only risks and problems are identified and faced but also real opportunities are captured. Context changes also lead organizations to map not only traditional market forces (such as competitors, customers, suppliers, and new entrants) but also nonmarket forces (such as governments, media, and the academy). Alignment and integration between market and nonmarket strategies have become more necessary than ever.

For organizations and their executives, more is needed to be ahead in terms of market share. Amid this more complex and changing context, a process of building authority is needed, effectively being recognized as such by its different stakeholders. The organization's image, reputation and trust transcend the umbilical representation of its CEO (or other spokesperson), and starts to occupy a position of institutional reference before its various audiences, in face of the most diverse themes – political, economic, social, environmental, among others. The increasingly frequent externalities present in organizations' daily activities and the resulting impacts brought by them have always been seen as agents of crisis. However, with the new context, they come to mean – if proactively well understood, followed by adequate preparation – an inducement to potential risks and opportunities. New niches and ways of doing business, relating, negotiating, and seeking connections with different audiences arise.

IMPACTS ON ORGANIZATIONS' AREAS AND PROFESSIONALS

As challenges involving nonmarket forces increase, more organizations create new areas, reinforce existing ones or seek support (e.g., via consultants) for them. As a result, areas that

deal (and negotiate) within the nonmarket (such as Institutional and Government Relations, Legal, Compliance, Communication, and ESG) has risen in the corporate hierarchy, often reaching the C-level and hiring more experienced and qualified professionals (ORIGEM, 2023), combined with an even more transversal performance of the areas, with greater interaction, seeking to put all others “on the same page”, and making intensive use of digital resources.

These nonmarket areas traditionally encompass operations at Federal, State and Municipal levels. Due to the changes in the context and the need for integration, they move towards an operation that goes beyond these borders, with more co-responsibilities between internal areas, stakeholders and themes, and may include (in the case of multinationals) regional scope (e.g., Mercosur, Latin America) and/or global, as the repercussions discussed here are verified in the activity, and are not exclusive to a region or country.

These areas are growing also in number of members. Today and in the future, the trend is to have larger, diverse, inclusive and multidisciplinary teams, which will be able to perform a broader transversality (inside and outside the organization) and exercise the necessary collaboration and co-creation, with increasing support via consultancies, councils, think tanks and advisory, including an arsenal of multiple technologies and online/offline tools (Fleisher and McGrath, 2020).

The greater interaction at a global level, the proliferation in the creation and sharing of information via digital scope, and the application of new technologies, among other factors, generated a myriad of new initiatives and innovative business models (many disruptive) that will simply make nonmarket areas to be concerned not only with adapting existing regulations, but also looking into analyzing and negotiating a set of new regulations for previously unthinkable situations. Space tourism travel, flying cars, autonomous stores and drone delivery systems are just a few examples (TrendHunter, 2024).

Having and knowing how to make even more connections, both in terms of quantity and quality, has always been and will be one of the main skills of the professionals who works in nonmarket areas. In addition, due to all points presented in previous sections, there is a need to develop and continuously improve an active, curious listening, with greater openness in terms of subjects, and with respect to the differences brought about by different actors. This will help in another of the main essential skills in this arena, that can help negotiators a lot: knowing how to “connect the many dots”, that is, searching in past (own or from others) experiences points of commonality that can serve as a basis or reference to face new challenges and more complex situations, generating potential ideas and possible alternatives to be explored during engagements.

Another important point for these professionals is to get used to deal with the excess of easily obtained information. We live in an era where one of the main raw key materials required for negotiations – information – has become exponential, abundant, digital and easily accessible. Thus, the question is not knowing where, how and with whom to look for information, but knowing how to deal with the large amount of information that is easily received in a short space of time. Therefore, professionals working in this area need to develop new skills, such as data processing, analysis, and generative Artificial Intelligence tools, for example.

Other key element to any negotiation – time – is a modern challenge. With more broad themes, variables, externalities and interlocutors to deal with in an unchanging 24-hour period nonmarket professionals need to transcend a necessary good time management towards a favorable strategic use of it. Increasingly, to define in a shared way – thus aligning the expectations of the different parties – what is urgent, priority and important, is essential. Operationally, the intensive use of technologies can also help in this task. An example was the multiplicity of rules, regulations, measures, and decisions published by Governments (sometimes with changes on the same day), via different legal instruments, to face the COVID-19 pandemic; only with the use of digital alert tools the proper mapping was possible.

For the modern professional, the so-called hard skills (technical skills) and soft skills (social skills) need to be constantly renewed, expanded, and put into practice. To face the new challenges brought by more complex and uncertain scenarios, with more diverse stakeholders, adaptability is essential. For this, the application of a combination of these skills on a day-to-day basis is necessary. Some of the skills and talents mentioned in recent studies (McKinsey, 2021) include: strategic, agile and critical thinking; communication (storytelling); “win-win” negotiation; creativity; programming and data/statistics analysis; resilience; empathy; sociability; humility; integrity; energy, passion and optimism; self/motivation-knowledge-control-leadership; emotional intelligence; and digital ethics.

ADAPTING NEGOTIATION CONCEPTS, MODELS AND TOOLS FOR USE AT THE NONMARKET

The Negotiation field of study comprehends a series of celebrated authors, institutions and approaches. Nevertheless, due to the raise of externalities that impact the context and the organizations, as seen in the previous topic, it is necessary to perform a review, adapting and complementing these traditional views in order to incorporate the magnitude of the nonmarket field where the negotiations are taking place. When negotiating in the nonmarket, 3 elements gain prominence: interests, information, influence. This occurs due to importance of them at the intersection among these two fields, as shows by Figure 1.

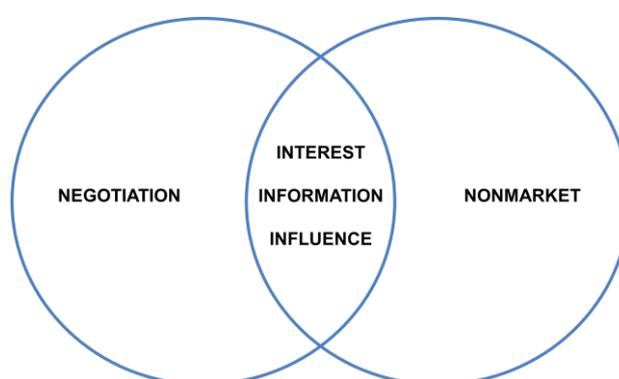


Figure 1: The 3 “Is” of Nonmarket Negotiation

The focus on interests, not positions, is one of the most significant contributions to the study of this field, as a central pillar of the Harvard approach (Fisher et al., 1983). In the case of nonmarket, several interests are at stake, as we now have a more diverse and broader range of stakeholders and parties involved. Therefore, the defense (or synergy) of interests common at the nonmarket has to be treated as a critical point. The asymmetry of information is another characteristic of every negotiation. However, due to the higher amount of easy-to-access available data at the nonmarket, this is another topic that needs to have greater attention. Finally, influence is a goal to be achieved in all negotiations. However, when we are considering the nonmarket arena, it is a more significant factor of importance, as long-term influence and relationships are a must. A series of considerations and adaptations need to be taken into account when considering negotiations at the nonmarket level.

First, the usual approach to “separate the person from the problem” most of the time is a difficult task in the nonmarket. Most of the time, in this arena, the “person” (or institution/organization) is directly linked with or an inseparable part of the “problem.” This issue occurs because, at the nonmarket, besides the interests brought to the negotiation table, there may also be – in a robust way – ideologies, preconceived judgments, past experiences, and other externalities that affect the relationship of the involved parties.

The “go to the balcony” traditional recommendation in negotiations, *i.e.*, to take a moment to face the ongoing discussion from a distance, balancing with a better view and different “lenses,” is absolutely crucial in the nonmarket arena due to so many aspects usually involved, tangible or not. This is also much more important if we consider the diversity and volatility of stakeholders and context, respectively.

In traditional negotiations, the pursuit of mutual benefit options is based on objective criteria, with clear gains and losses identified. In the nonmarket arena, there are two processes beneficial to complement this, seeking co-creation of perceived value: CONFORT and OD²P (Navarro, 2021), both detailed on the following topic. In terms of main objectives when structuring a negotiation, we also need to notice the following aspects, precisely important when dealing with the nonmarket:

- When mapping the negotiation process, remember to perform a complete stakeholder mapping. An additional tool, a Power x Interest matrix (Navarro, 2021), can be useful for this.
- When preparing to negotiate at the nonmarket, use the strategic thinking process, with the 5Ps adapted to this environment, as detailed in the next topic.
- Through negotiation, parties intend (ideally) to achieve mutual gains. At the nonmarket, a broad synergy of interests should be pursued.
- In negotiations, difficult situations may arise and need to be managed the best way possible, using the theory, concepts, and tools available to the negotiator, such as the ones already mentioned. At the nonmarket, consider that these difficult situations occur more often, and the management process can be considerably more complex due to the nature and number of the different stakeholders and subjects involved.
- The traditional imperative to “learn with each negotiation” at the nonmarket gets reinforced. One of the best ways to prepare for a negotiation at this arena is to look for previous, similar cases, as many of the situations faced are not entirely unprecedented. It can be found that parallels (good or bad) occurred in the past, whether in the same business sector or other related sectors or even in different sectors, nationally or in other countries, recently or long ago.
- Also, when focusing on the Value Creation step, one should balance decisions by choosing between alternatives and options. The former are located outside the negotiation and usually represent the greater source of power; the latter are present inside the negotiation process and can be seen as the greater source of value creation. At the nonmarket, pay attention to the options involved because they contribute to a long-term relationship, as these types of negotiation almost always require.

Finally, the following trends can be mentioned regarding negotiations at the nonmarket:

- The intensity of the negotiations gets increased due to the “knowledge revolution,” digitization, and possible remaining impositions of the COVID-19 pandemic;
- Decisions become more horizontal, as there are more people (stakeholders) with analysis and decision power;
- Companies seek the ability to cooperate, including with competitors;
- Multiple parts (internal and external) involved in more volatile contexts;
- Higher frequency of interaction through multiple communication channels (omnichannel);
- Greater possibility of generational and cultural conflicts; and

· More frequently, the presence of emotions may cause an undesired polarization.

STRATEGIC NEGOTIATIONS WITH GOVERNMENTS

There are many references available regarding the growing nonmarket field of study. Not so many works, however, focus on Government being a main force influencing organizations' external environment (Navarro, 2019b). Even fewer works deal with the specific topic of negotiating with Governments (Salacuse, 2008).

The prominent participation and influence of Government at its different levels – local, national, regional, and global – on different aspects of the nonmarket contributed for a greater attention: regulatory environment shaping; determination of taxes, duties and rates on products and services; inclusion/exclusion of goods and activities on international trade agreements; standards definitions/requirements; restrictions for mergers and acquisitions; fostering (or blocking) substitutes and innovations; specific licenses, rules and regulations for commercial operations and advertisement; among other significant impacts.

Despite this relative recent growth of importance and perception, the nonmarket environment – and specifically the relation with Government – has been still an uncharted ocean of risks and opportunities for many organizations, mainly when they do not strategically prepare themselves accordingly to negotiate with these kinds of forces.

As a result, there are still companies that do not have a dedicated Government Relations area, and even when there is one, they are generally understaffed or comprised by non-senior employees, hierarchically far from and not integrated with the decision-making process at C-level. At the same time, there are companies who are preparing themselves (although in different ways) to engage strategically with Government – and thus obtaining significant comparative advantages.

This way, this topic aims to highlight main concepts and tools to be used to maximize results on negotiations with Governments with a strategic intent within the nonmarket environment, as one of its key components (Navarro, 2019a).

WHY NEGOTIATIONS WITH GOVERNMENTS ARE DIFFERENT

Dealing with Governments brings differences, as it requires a special set of skills, techniques, and strategies. Government has a monopoly on the use of power and force in society, bringing a unique imbalance to negotiations. Also, the scope in this particular type of negotiation is different. Instead of the traditional focus on people-problems-propositions, here the triad is participants-purposes-processes. In the case of participants, there are Government units (Departments, Agencies, Ministries, Councils); the Federal, State, and City levels; the different

branches (Executive, Congress, etc.); companies; NGOs; private sector associations; individuals; and – last but not least – the public dimension (society).

In terms of purpose, there is, for example, to ensure agreement on transactions, and obtain rules that favor interests (e.g., adequacy of a particular regulatory environment). Finally, regarding processes in this area they are usually of high complexity, involve a series of interpretations, and may include political biases and restrictions, such as rules, norms, and protocols.

The necessary in every negotiation process first phase of preparation is key, and needs to clearly include (i) which are the prioritized goals/objectives to be achieved, (ii) the mandate of the representatives involved, (iii) the team that will participate on the negotiations (e.g., size, composition, tasks, roles), (iv) in which terrain the negotiation is better to take place (e.g., at the company's new factory or at the Minister's meeting room?). Also, it is needed to ideally identify supporters and resistances, profiles, interests, and options (BATNA – Better Alternative To a Negotiated Agreement) beforehand. An organizational analysis is a good practice as well, in order to map the hierarchy (both institutions and individuals involved), known level of bureaucracy, processes, and reputations. Finally, the selection of interlocutors (focal points) is also important, as well as the level of access and relationships that may be involved.

At practical level, when dealing with Governments, precedents may be useful – previous decisions on similar topics, for instance, can point to a possible negotiation path towards an agreement. Also, it is important to define the criteria to be used to solve deadlocks, and to bring no surprises to the negotiation table, anytime, with this particular stakeholder, since this is a long-time type of relationship. Remember also to use minutes, drafts, white papers, and numbers, with a great level of objectivity, to support the ongoing negotiations. As a last differential, the assessment of available and necessary resources, coalitions, consulting services, lobbying, network usage, and eventually mediation and arbitration are all more common in this type of negotiation.

“CONFORT” APPROACH

CONFORT (Navarro, 2021) refers to a fundamental aspect in the Government Relations (Government relations) area, which is to have “comfort” with what is being advocated/negotiated, in all views (legal, technical, ethical, cultural, among others). Also, the acronym brings 3 aspects that can be used as a checklist process still in the realm of ideas, before starting activities related to planning or implementation. The first is the content that is being presented; the second deals with the form, i.e., how key stakeholders are being addressed; and the third has to do with timing, or the moment of the approach. Once paying attention to these aspects, which are interconnected, the chances of success increase and the risks can be minimized, emphasizing that an error in any of these levels can be fatal for the whole government relations process.

The content appears first, because only with something in hands that is defensible from a technical, legal and ethical point of view one can be fully qualified to perform the Government relations activity to the fullest, regardless of the form and timing used. An executive who is not well acquainted with the subject he or she will defend before Government representatives runs serious risks of failure, although it is common in some meetings the professional in this area, a true “expert in generalities”, bring colleagues from technical areas to address specific issues in detail. But one should be prepared for meetings where the technical part, however important it may be, stay in the background – depending on a political decision, for example. The Government relations professional should therefore bear in mind the correct understanding of the key issues related to the subject being treated: What are the impacts (political, financial, economic, technological, competitive, social, cultural, etc.) brought by a favorable decision? And, if not approved, what would happen? Which perspectives (local, regional, national, international) can be generated by an approval (or not)? In short, what is at stake and why the issue is important, with justifications, numbers and other complementary and supportive information properly studied as back-up. Therefore, a proper evaluation of the content, i.e. understand what is, in brief, the topic or issue to be dealt with Government stakeholders, is the first step. Once done this, one can move on to the also important matter of form.

Any professional who has held a meeting with Government representatives (whether in the Executive, Legislative or Judiciary branches, or at the state or municipal levels) realizes that the way the content is presented differs, depending on the hierarchical level involved. A slide presentation full of details can be ideal for an event in which the Government relations professional is an invited speaker, but not for a corridor talk at Congress with a House member or Senator; it would then be better to have half a page containing the main points of discussion that could be immediately available as an ad memoir. Knowing in advance what is the appropriate format for each type of audience is a critical process task in order that the content, that has been validated earlier, can be delivered optimally and effectively, producing the expected result. A good alternative that comes from skilled practitioners is to have multiple forms of the content available to different interlocutors: a 30-page document may be preceded by a one-page cover letter that sums up well the matter and bring the essential points; a presentation can be made available in full in both hard copy (or in a pen drive) at the end of a meeting, as through a link on the Internet so a further work can be carried out, taking the stakeholders (or their assistants) to a website where more detailed information is available (if necessary, using a password).

Defined the content and the appropriate form, the best timing is to be defined in the process, that is, the most appropriate time for the issue to be taken to Government stakeholders. This

point is no less important than the other two aforementioned; all effort during this process can be lost if the right content is presented in the appropriate form, but on the wrong timing. In the Government relations area, there are cases where time limits (deadlines) cannot be surpassed (e.g. contributions to public consultations, legal injunctions manifestations) and so in these cases there aren't many choices, being valid only the recommendation to not let the actions for the last moment. But there are other occasions where some flexibility exists, when the best time for an approach can be chosen: Before an election period or after? At the end of many public discussions or before this occurs? When the subject is "hot" in the media or after it "chills"? An important point is that the choice of appropriate timing should be based on criteria that consider both the interests of the organization as the Government representative(s) – making this alignment to determine the best timing is fundamental. For example, it may be that a decision on a certain matter is urgent for the company, but in the Government party's point of view this sense of urgency is the same? Why would it be? Can it be made so? Often this preliminary alignment is required to determine the best timing for a matter to be addressed/discussed with the model. Thus, the preparation and validation of these aspects – content, form and timing – gathered at the CONFORT process is an important part when negotiating with Governments.

OD²P METHODOLOGY

When discussing a subject, especially a new matter, as is the nature of those intrinsically related to innovation for example, there are a lot of opinions being expressed, by different stakeholders involved. These individual manifestations deserve to be heard, respecting differences – it is part of a beneficial process. However, in order to effectively seek the change of a certain stage (concerning a regulatory environment, for example) these multiple opinions can end up generating stagnation: many involved parties present their multiple different opinions, and the discussion can often not advance, restricted to more opinions on those brought to the debate. For this inertia to be avoided, a simple but effective methodology (Navarro, 2021) can be implemented: OD²P (Opinions – Data/Diagnostic – Proposals).

Once having access to opinions, data should be sought (e.g., information, benchmarks and other possible references) that may help to transform these opinions into a precise diagnostic, i.e., to objectively confirm some of the opinions, discard others and perhaps adapt certain parts of them. A good diagnostic, therefore, is essential if one wants to assure that the situation discussed deserves attention, being backed-up by sufficiently reliable material.

For the process to be completed, an additional step is still necessary: with the diagnosis at hand, one must draw up a proposal (or, ideally, more than one) that aims to resolve the

diagnosed situation. In the complex process of Government relations, reaching this stage of concrete proposals is fundamental. The different key interlocutors, which have been previously identified and prioritized, have many issues to deal with, and only by bringing to the table a set of concrete proposals to meet a precise diagnostic can the chances of success be increased.

5PS APPLIED TO THE NONMARKET

Another tool that can be used by the Government relations area to expand analysis and foster creative/intuitive thinking during negotiations with Government is an adaptation of the 5Ps (Navarro, 2020; Mintzberg, 1987), before moving on to the planning stage and later execution.

The first “P” refers to the most common definition of strategy, which is to see it as a “Plan”. This way, it is understood as a specific set of actions or guidelines indicating the ways to solve problems or seeking opportunities. It is the classic military approach, being understood as the design of a war or campaign plan, or as in game theory viewed as a plan that specifies which choices can be made by the player on each possible situation. Certainly, strategy can be seen as a plan, but not only that way, otherwise it can get “stuck” to pre-defined steps. Another caution on this point is to be alert to “emerging” opportunities (and/or risks) previously unplanned, that precisely because were not included in the plan may not be captured (and/or avoided). In the strategic activity of Government relations there is the need to design plans, but flexibility is needed. It is virtually impossible to predict every round that will take place during a negotiation with Governments or other external factors that may influence the ongoing processes, such as national or international economic conditions, or a crisis situation, for example. In this area, one must have back-up (contingency) plans previously thought, although not fully defined in detail, to be activated if necessary. The activity of scenarios-based planning, held by many companies, can help in this process.

Otherwise, strategy can also be defined “looking back”, leading to the second “P”, as in “Pattern”. In this approach, strategy can be a procedure that repeats over time, giving consistent behavior. It is what the company is doing effectively and proved to be working (or, also, wrong). This second type of definition for strategy can be of great help for the Government relations professional – many of the situations faced are not entirely unprecedented; it can be found parallels (good or bad) in the past, whether in the same business sector or in other related, or even in different sectors; nationally or in other countries; occurred recently or long ago.

The third definition of strategy is about “looking from above”, or in terms of “Perspective”. This approach seeks to formulate strategies considering a better understanding of the externalities that surrounds the company.

This way of thinking – seeking a “broader vision” – can also help the Government relations professional to “see the entire picture”, not only regarding their company (which itself often involves different segments), but also competitors, suppliers and potential new entrants, for example. In fact, in this area, this kind of approach, involving tangible factors (*e.g.*, cost reductions, higher revenue generation, tax incentives) and intangible (such as reputation and corporate image), is fundamental.

The fourth “P” deals with strategy seen as “Position”. On this view, strategy is closely linked to the position that the corporation assumes before its competitors, customers and other players in the industry in which it operates, seeking one well-defined generic competitive strategy: differentiation, low cost or focus (niche). In the case of Government relations, when thinking of strategy as position, an analogy can be made with the types of manifestation that the area can adopt with its main interlocutors: (1) favorable, contrary or neutral; (2) proactive or reactive; (3) influencing or monitoring; (4) institutional or sectoral. The first type relates to how the organization will position itself regarding a particular subject (*e.g.*, with respect to a particular bill of law being discussed at Congress); the second, to the approach of the action, being more “incisive” or not; the third, to the form of the organization's positioning, approaching more or less of the subject and/or parties involved; and the fourth, which is related to the process and strategic convenience of the organization to engage directly or via its sector (*i.e.*, institutional versus sectoral strategy) in certain subject and/or selected stakeholders from Government.

Finally, the fifth “P”, of “Plot” (in the sense of maneuver, trick), brings the interpretation of working as a ploy aimed to weaken or topple opponents and competitors, in real bargain processes and use of power and influence. Here may be found the most common association with the work the Government relations area (also) performs: the lobby, the legitimate backstage talks with Government representatives, aiming to meet corporate and/or sectoral targets. These maneuvers – always paying attention to ethical issues – many times are implemented in order to sensitize stakeholders, accelerate processes, draw attention to the importance of certain decisions, among other reasons.

Important to notice that these concepts should not be considered as mutually exclusive, but compatible and complementary steps: the Government relations professional can appeal to the use of the 5Ps when developing its strategic alternatives and analyzing possible ways forward against the many challenges that are faced during a negotiation process. The goal is not to find a single solution, but consider the results from different approaches, contributing positively to its performance.

TEN PRACTICAL RECOMMENDATIONS FOR THE NONMARKET NEGOTIATOR

A series of recommendations aimed at improving the performance when negotiating with nonmarket actors at this complex arena are hereby presented, aiming to foster reflection, based on experience and direct involvement of the authors (Navarro *et al.*, 2016), to be used in real negotiation cases.

1. Make a proper mapping of (all) stakeholders

The definition of stakeholders (interested parties) may vary, usually considering any group or individual who may affect or be affected by the activities and goals of the organization. To conduct a comprehensive mapping of possible different stakeholders is a key activity at the nonmarket arena, considering the multiplicity of players and interested parties. Do not forget stakeholders that can help to create and maintain a long-term, constructive dialogue process. In this proactive engagement process, one must go beyond the obvious, looking to explore and expand the list of potential stakeholders that could affect or be affected by the organization's strategies. A correct key stakeholder's mapping can greatly facilitate the task of the nonmarket negotiator; the reverse is true, that is, leaving out some important interlocutor can bring serious impediments to success.

2. Remember that people are self-serving

One of the fundamental principles developed in negotiation programs is to focus on the interests of the parties, not on the positions adopted by them during a negotiation process. This point is key for the advance of complex negotiations, as usually those involving the nonmarket are. So, finding out (through previous research and specific, direct or indirect questions, for example) which are the main and real interests of the involved nonmarket players and parties, going beyond the positions set on the table, is a very important step to guide the flow of the CONFORT approach and OD²P methodology previously discussed. These interests may prove to be institutional (a Ministry wishing to attract investments, for instance), professional (*e.g.*, a better hierarchical position for the interlocutor within the current or future Government structure), or even personal (like accumulation of specific knowledge about a particular subject for a possible future career as a consultant after leaving the Government staff). In fact, we are talking after all about people, and regardless of the position they hold, it's human nature to have specific interests, including linking them to emotional issues. It is a must, therefore, always to be alert to the interests involved so it can ideally be made compatible, aiming at the achievement of common goals between the parties.

3. Have a focal point (or two)

As the relationship with many people is part of the negotiation process at the nonmarket, a good practice is to have focal points, in order to help maintain a constantly updated and fast flow of key information from one side of the table to the other. This way, in the nonmarket arena aim to have at least two focal points: one in the more social/political sphere and another in the technical field (ideally indicated or supported by the first). If during the interaction process to deepen the discussions other key players emerge (as they usually do), do not hesitate to get in touch with them, but remember to keep the focal point(s) originally involved close and well informed.

4. Use the power of networking

One great asset a nonmarket negotiator can have is its networking and relationships developed over years. Certainly, in any activity a good list of contacts is important, but in the case of the nonmarket, the level of this importance increases a lot. Propelled by social media, the power of the network increased over the last years, especially in moments of crisis and with high demand for attention. So, take good care of your network, both public and private, with the proper care it should receive. Used with due care, social networks are great tools.

5. Never fight uphill

Attacking uphill, understood in the nonmarket arena as creating conflicts with (actual or former) Mayors, Governors, Deputies, Senators, Presidents, journalists, NGOs' leaderships, digital influencers, etc., is strongly not recommended. At the heat of the "battle", the emotional should be separated from the rational. This does not mean having to agree on everything, with roughness, or irregularities. For all these there are specific paths that can be followed to seek proper correction. In the nonmarket arena, maintain a long-term, partnership spirit and do not engage in confrontation; the constructive approach is valued by nonmarket players in general.

6. Irrefutable offers

The principle of having "irrefutable offers" in hands to use them at the right time is very important at the nonmarket negotiation table, that is, when we are able to offer propositions that our interlocutors have nothing to lose, only to win, we can use them to streamline decision making. For example, consider that an amendment in a specific legislation is necessary to enable the performance of your business in a determined region. If you can prove (through data, case studies, simulations, etc.) that the requested change will not adversely affect the operation of any company that is already present in that region, will

generate more tax collection, more direct and indirect jobs, and also will contribute to an increased competition in the market, formatting the presentation of such proposal in this "irrefutable offer" manner can contribute to a greater chance for expediting a quick agreement by all parties involved.

7. Learn (also) by experience

Previous experiences have been source of inspiration for new steps – often innovative, although based on ideas previously explored in some form. In the nonmarket arena, in most cases we do not need to "re-invent the wheel". In reviewing past cases, experienced by us or others we know, we can use experiences that keep similarities to that we are dealing to promote the initial strategic discussions about a new situation, as explored when previously discussed the 5Ps model. This way, it is well worth a search within the sector, in other sectors, in the same or other countries, before effectively implementing actions.

8. Pick our battles wisely

This is related to always evaluate and think about those "battles" or causes that one really wants to fight, considering the expenses (intellectual, financial, time, etc.) one will have to spend versus what, in succeeding, one would have to gain. In other words, the nonmarket arena is lavish in presenting situations where it is important to really consider whether it's worth to expend great efforts to get small victories. At the nonmarket, be always alerted to pick the right battles that are really worth fighting for.

9. Communicate effectively

In the nonmarket arena, it is key to use proper, clear and adequate communication. Interactions need to be effective – no part involved wants to have the feeling of wasting precious time. One of the goals of this process is to influence the other part, understood as building alignment around an idea, action, initiative or position. This must not be confused with manipulation, which is exerting devious influence over the other part for your own advantage. While manipulation requires influence, intention matters. Influence has to do with long-term, win-win situations; manipulation has no long life. Effective communication towards influence means making your thinking visible. Be prepared to properly use different ways of communication such as white papers, official letters, e-mails, infographics, videos, conference calls, executive summaries, online conferences, case studies and technical reports, seeking value co-creation with other involved parties to enhance their effects towards your objectives.

10.Be resilient: the environment may change (it almost always do)

When dealing with many different issues brought to the nonmarket arena, a good choice is always to seek resilience, *i.e.*, be flexible within limits, adjusting to a sudden increase in external pressure, waiting for the moment to return to the original situation when externalities' interference ceases. In many cases, the highest probability is that, no matter how much a negotiation has been planned, it can be hardly anticipated all possible scenarios, especially in highly regulated sectors and in emerging markets, ending up by surprising the organization (and all involved). Therefore, as a first rule, in case of an unfavorable change in the external environment, do not panic; try to bear the initial pressure and avoid first harsh reactions of any spokesperson of the company with key stakeholders. Then, keep calm and carry on working, without losing sight of the objectives that have been set (and, ideally, the determined back-up plans). Finally, use your network properly, looking for opportunities to reverse the unfavorable situation with the support of selected stakeholders. Different regulations and norms are present and in constant change. It impacts all sorts of negotiations, and alter the credibility on the whole negotiation process, because the "rules of the game" may change. Due to this, it is important to count on adequately skilled professionals, more familiarized with sudden changes of norms, rules or new legislations.

DISCUSSION AND IMPLICATIONS

Our study aimed to provide recommendations on effective methods for building trust during virtual negotiations. We hope that these suggestions will assist other negotiators in enhancing their remote negotiation skills. Furthermore, our goal was to contribute new knowledge to the academic community, with potential hypotheses for future research. These observations have various implications for research across different fields, such as (i) business mediation (Dias, M., 2018); (ii) negotiations with governmental agents (Araujo, C.; Dias, M., 2022; Correa, Teles, Dias, M., 2022; Dias & Navarro, 2018); (iii) debt collection negotiations (Dias, M., 2019, 2019b; Dias, M. and Albergarias, 2019; Dias, M., 2022; Teles, A., Dias, M., 2023; Schimtz, T. & Dias, M., 2023); (iv) retail business negotiations (Dias, M. et al., 2015; Dias, M. et al., 2015, 2014, 2012); (v) industrial negotiations (Dias, M., Navarro and Valle, 2013, Dias, M., et al., 2014; Dias, M., et al., 2013; Dias, M., & Davila, 2018); (vi) interbank negotiations (Dias, M.; Pereira, L; Vieira, P., 2022); (vii) business lobbying (Fernandes & Dias, 2024); (viii) virtual negotiation (Santos & Dias, 2024, 2024b, 2024c).

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