

## FROM THE FACTORY TO THE PLAYROOM: MATTEL, INC. – SHENZHEN UNION KING SALES CONTRACT EXERCISE

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### LEARNING OBJECTIVES

- Assimilating information learned in the classroom into a sales contract exercise;
- Describing basic negotiation principles and considerations in the international context;
- Considering all of the legal and ethical issues which can arise;
- Appreciating the complexities of careful drafting; and
- Learning about your own negotiating style, strengths and weaknesses.

### NEGOTIATION FUNDAMENTALS

- Three basic negotiation styles:
  - 1) *Adversarial*, characterized by a high degree of determination to win a “zero-sum game”;
  - 2) *Cooperative*, characterized by valuing fairness and relationship building through reaching a mutually satisfying goal; and
  - 3) *Integrative*, characterized by exercising problem-solving techniques to satisfy the interests of both parties.

How are you inclined to handle conflict?

- Competing – the goal is to win;
  - Avoiding – the goal is to delay;
  - Compromising – the goal is to find middle ground;
  - Collaborating – the goal is to find a mutual gain-gain solution; or
  - Accommodating – the goal is to yield.
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- Harvard Negotiation Project: *Getting to Yes: Negotiating Agreement without Giving In*  
**Positional negotiation** focuses on winning  
**Principled negotiation** focuses on “basic interests, mutually satisfying options, and fair standards.”
  - **What are your overall objectives?** From your unique position as Mattel or Union King, what would be the best outcome? Review the drafting checklist to determine your key goals, as opposed to other points that are negotiable.
  - **The negotiating environment in China.**
    - One of the most fundamental points is to realize that doing business in China requires building trust and respect. This must be accomplished over a period of time and requires patience.
    - An important aspect of business development is the concept of *guanxi* (pronounced “guan-chee”), or developing useful connections and favors.
    - Gift giving is often a part of such relationship building to demonstrate esteem and to express thanks. Care, however, must be exercised to avoid rising to the level of a bribe in violation of Chinese law or the Foreign Corrupt Practices Act. As such, expensive gifts to individuals or cash payments should be avoided.

## CONTRACT DRAFTING CHECKLIST:

- ✓ Are all terms sufficiently definite in the contract (description, price, quantity)?
- ✓ What are the packaging details?
- ✓ How will payment be made? What currency will be used? (Check the value of the Euro vs. Yuan and recent trends.) When is payment due?
- ✓ What are the terms of delivery? Who bears the risk of loss?
- ✓ Who is paying for shipping costs?
- ✓ What warranties will be made? Goal: very detailed warranties to avoid previous problems with lead paint and design deficiencies.
- ✓ What law will govern the contract? What forum will hear any disputes?
- ✓ Is intellectual property adequately protected? Is Union King prevented from manufacturing “knock-offs”? Can Mattel limit Union King from manufacturing for competitor companies?
- ✓ Are potential public relations nightmares over recalls, labor issues, etc. avoided?
- ✓ Have you addressed all problems you can envision from the factory to the playroom?

## ASSIGNMENT

A. Use the worksheet to negotiate a sales contract. Both sides should consider their ideal terms. Mattel should approach Union King, describing their products, manufacturing needs, timetable, etc. to begin the negotiations.

B. Each group of negotiators should hand in *one collective* report containing:

1. Written contract containing all contract terms as agreed upon by the parties. Be sure to include and elaborate on all important details.

2. Mattel Italia’s answers to the following questions:

- a) What issues, if any, affected your negotiations?
- b) What concerns do you have about the contract?
- c) What would you do differently next time? Why?

3. Union King’s answers to the following questions:

- a) What issues, if any, affected your negotiations?
- b) What concerns do you have about the contract?
- c) What would you do differently next time? Why?

4. An overall evaluative statement about the negotiation exercise.

(E.g. what did you learn, what would have made it better, what should be added or deleted?)

# Appendix A: Negotiation Worksheet

**Buyer/Mattel**

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**Seller/Manufacturer Union King**

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<b>TERMS</b>	<b>OFFER</b>	<b>COUNTER-OFFER</b>	<b>NEGOTIATIONS</b>	<b>ACCEPTANCE/ FINAL TERMS</b>
The Goods				
Delivery Terms				
Payment terms (method/time frame)				
Warranties				
Choice of law clause				
Forum selection clause				

Shipping Cost				
Other terms/clauses See assignment checklist!				

**APPENDIX B:**

**SAMPLE CONTRACT OUTLINE  
FOR AN INTERNATIONAL SALE OF GOODS**

*– Contracts should be very detailed–*

Agreement made and entered into this [date], by and between [name of seller], of [address: city, state, country] (herein referred to as “Seller”), and [name of buyer], of [address: city, state, country] (herein referred to as “Buyer”).

1. Seller hereby agrees to transfer and deliver to buyer the following goods:

add description, quantity & price

2. Seller hereby agrees to deliver the goods [delivery terms, who bears the risk of loss & shipping cost].

3. Buyer hereby agrees to [payment terms; if a letter of credit is used, attach a copy].

4. Seller warrants [list any warranties].

5. Add any agreement re: marketing, including costs, scope of marketing, rights to intellectual property, etc.

6. In the event of a dispute arising out of this agreement, Buyer and Seller agree [forum selection and choice of law].

7. Any other terms of the agreement [e.g. remedies, etc, –be creative and comprehensive].

This agreement has been executed in duplicate, whereby both Buyer and Seller have retained one copy each, on [date].

**Buyer (add name)**

**Seller (add name)**

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[type the name of each group member under separate signature lines & all must sign the final contract to receive credit]