



Harborco

Confidential Instructions for the Negotiator for Other Ports (From the Association of Eastern Seaboard Ports)

We are very dubious about the benefits Harborco claims we will realize from this new deepwater port. In fact, our analysts suggest that we will suffer substantial losses over the first ten years of the new port's operation. In particular, the largest of our ports will suffer a 25 percent decline in gross revenue while the three smaller ports will each lose about 10 percent of their gross revenue. Our total loss will thus be close to \$600 million (in current dollars).

We are not, in principle, completely opposed to the idea of a deepwater port on the East Coast. We do not believe any such project should be allowed to undermine existing port operations.

We are sending you to this meeting for two reasons. First, we hope that your participation may help derail the negotiations and prevent Harborco from securing enough support for its FLA application. Secondly, if Harborco is able to muster enough support for its own proposal, we hope you can increase the costs facing the new port (thus minimizing its competitive advantage) and win some compensation for us in the process.

Scoring

In order to help you plan your negotiating strategy, we have constructed a special scoring scheme to illustrate which negotiable outcomes are of greatest and least importance to us. Under this scheme, our most preferred outcome (no agreement at all) is worth 150 points. If, however, an agreement seems imminent, you still have an opportunity to score up to 100 points by negotiating certain aspects of the port's design.

The use of points may seem artificial and awkward to you. For the purposes of this negotiation, it enables us to combine our several interests – protecting our current business, preserving opportunities for growth, securing federal funds for our own projects – into a single "currency." This, in turn, allows us to compare the potential gains and losses associated with different issues.

This case was written by Denise Madigan and Thomas Weeks under the supervision of Professor Lawrence Susskind (M.I.T.), Assistant Professor David Lax and the Negotiation Roundtable. Copies are available from the Teaching Negotiation Resource Center (TNRC), online at www.pon.org, by email: tnrc@law.harvard.edu, or by telephone at 800-258-4406. This case may not be reproduced, revised or translated in whole or in part by any means without the written permission of the Teaching Negotiation Resource Center Coordinator, Program on Negotiation at Harvard Law School, 501 Pound Hall, Cambridge, MA 02138. Please help to preserve the usefulness of this case by keeping it confidential. Copyright © 1984, 1988, 1989, 1994, 1995, 1996, 2007, 2014, 2018 by the President and Fellows of Harvard College. All rights reserved. (Rev. 9/18)

In addition, the points allow us to compare the benefits (or costs) of the negotiated agreement to our alternatives. In this case, it would be worthwhile for us to support Harborco's proposal only if it yields at least 31 points to us. Any proposal yielding fewer than 31 points would not be worth our support. (We would rather try to sue for compensation later.)

Your task is to try to earn as many points as possible in this negotiation. This is not being greedy – it simply means that we want to further our legitimate interests as far as possible. We would like to see Harborco's bid for a license fail, but if an agreement seems unavoidable, we would support any project worth at least 31 points. (Some compensation is better than none.) But 31 points is the bare minimum we can accept. We certainly hope you will do much better.

Compensation to Us

This is by far the most important of the negotiable issues. Our largest port will lose roughly 25 percent of its business once the new port begins operation. The smaller ports, which are more specialized, will lose 10 percent. We would need a total of \$600 million (in current dollars) to compensate us for our anticipated losses. We have assigned this issue the following points:

* \$600 million (100% compensation for our losses)	= 60 points
* \$450 million (75% compensation)	= 45 points
* \$300 million (50% compensation)	= 30 points
* \$150 million (25% compensation)	= 15 points
* No compensation	= 0 points

Of course, you should worry about this issue and those that follow only if agreement seems inevitable. (Note: If an agreement worth more than 31 points does seem inevitable, you should vote in favor to insure that the agreed compensation will be paid.)

Federal Loan

We would like to see little or no federal financing in this project. The less money DCR contributes to this project, the less likely it is that the project will succeed. (In fact, Harborco probably cannot afford to go ahead with the port unless there is at least some federal money involved.)

In addition, we are currently in the process of applying for federal loans to finance renovations in our own building and operations. (To date, the DCR has contributed very little money to our ports.) The less money DCR spends on this project, the more it will have to spend on other ports like our own. You should therefore argue that DCR would

be better off allocating its funds across several projects rather than concentrating its resources on Harborco's one *risky* venture.

We have assigned the following points to this issue:

- * No loan = 18 points
- * \$1 billion = 13 points
- * \$2 billion = 8 points
- * \$3 billion = 0 points

Employment Rules

We are not big fans of organized labor, but we do think that any new port should face the same labor costs we face. (Our ports are completely unionized.) If Harborco succeeds in keeping organized labor out of its port, it will face significantly lower labor costs than we face. Furthermore, in the absence of unions, the new port may be able to install a wide range of laborsaving technologies (including large-scale containerization). This would allow the new port to realize even lower production costs, making it even harder for us to retain our own business (or compete for new business).

We are therefore in the awkward position of favoring union preference on this project. We would rather not publicly champion the cause of organized labor, because our arguments may be turned against us later in our own labor negotiations. We want to prevent Harborco from realizing any unfair competitive advantage.

We have assigned the following points to this issue:

- * unlimited union preference = 12 points
- * union quota of 2:1 = 8 points
- * union quota of 1:1 = 6 points
- * no union preference = 0 points

You may note that the difference is greatest between no union preference and the union quota of 1:1. This is because we feel that once the unions are allowed on site, Harborco will have a difficult time introducing large-scale labor-saving technologies. In addition, it will only be a matter of time before the bulk of Harborco's work force is unionized.

Industry Mix

This is a difficult issue for us to weigh, because we have to rely on very uncertain projections. We would like to see Harborco's freedom to develop industries constrained as much as possible. The more restricted the industry mix, the less competitive Harborco will be.

On the other hand, we should be wary of advocating these kinds of restrictions, because we may wish to expand our own operations in the future.

Given our conflicting interests here, and the fact that compensation is a more important and immediate concern, we have assigned the following points to this issue:

- * all clean = 10 points
- * clean/dirty = 4 points
- * primarily dirty = 0 points

The point spread reflects the fact that we would like to prevent Harborco from developing food- processing plants that could compete with our own.

Ecological Impact

This last issue is of very minor concern to us, relative to the other issues up for discussion. Though we would like to see Harborco face additional costs associated with improving the ecology, we do not care enough to assign points to this issue.

Nevertheless, you should probably treat this issue with caution, for we do not want to antagonize potential allies. Perhaps we can use this issue strategically, since the other parties may not realize that this issue is not important to us.

* * * * *

We have attached a one-page scoring sheet that summarizes the points assigned to each issue. This information is CONFIDENTIAL!! Do not show your scoring sheet to anyone. You may convey some or all of the scoring information verbally to a mediator, but do not show him or her your scoring sheet.

Good luck. We're confident that you will either succeed in derailing an agreement, or negotiate an extremely valuable agreement for us.

Confidential Score Sheet for OTHER PORTS

Issue/Option	Total Points	1st vote	2nd vote	3rd vote
A: Industry Mix	(10)	_____	_____	_____
1. primarily dirty	0			
2. clean/dirty	4			
3. all clean	10			
B: Ecological Impact	(0)	_____	_____	_____
1. harm	0			
2. maintain & repair	0			
3. improve	0			
C: Employment Rules/ Distribution	(12)	_____	_____	_____
1. unlimited union preference	12			
2. union quota 2:1	8			
3. union quota 1:1	6			
4. no union preference	0			
D: Federal Loan	(18)	_____	_____	_____
1. \$3 billion	0			
2. \$2 billion	8			
3. \$1 billion	13			
4. no federal loan	18			
E: Compensation to Other Ports	(60)	_____	_____	_____
1. Harborco pays \$600 million	60			
2. Harborco pays \$450 million	45			
3. Harborco pays \$300 million	30			
4. Harborco pays \$150 million	15			
5. Harborco pays no compensation	0			
A through E: TOTAL (your goal)	(100)	_____	_____	_____

MINIMUM NEEDED FOR AGREEMENT = 31

Remember:

- * If negotiations fail and no port is built, you earn 150 points.
- * If negotiations succeed and a port is built, you can earn anywhere between 31 and 100 points, provided you vote in favor. If you vote against a final proposal worth more than 31 points, your points for that outcome will be discounted by .8 for uncertainty.
- * If a bad port is built (worth less than 31 points) – over your objections – you can still earn 31 points by withholding your support and challenging the port in court.

Confidential Summary of Points for Other Ports

Your name: _____

Group #: _____

Did Harborco get an agreement? (circle one) **YES** **NO**

If "yes" who signed (or voted for)
the agreement?

Federal DCR
Union
Other Ports
Governor
Environmentalists

If your group reached agreement, please describe the agreement and identify the number of points it generated:

ISSUE:	OUTCOME	POINTS
A. Which industry mix was agreed to?	_____	_____
B. Will Harborco harm, maintain and repair, or improve the ecology?	_____	_____
C. Will unions receive preference? How much? Unlimited? 2:1? 1:1?	_____	_____
D. How much in loans will DCR guarantee? (amount)	_____	_____
E. How much compensation will other ports receive? (amount)	_____	_____

TOTAL POINTS GENERATED BY AGREEMENT:
(ADD ITEMS A THROUGH E)

If total exceeds 31 points and Other Ports voted "no," multiply by 0.8: _____

If no agreement was reached, points = 150.

APPENDIX: A Discussion of the Scoring Scheme for the Other Ports' Negotiator

We have several interests in today's negotiation. Our first preference is to see the negotiations end with no agreement. If agreement seems inevitable, we would like to see Harborco's competitive advantage limited by being forced to hire union workers and restricted to an all-clean industry mix. We'd also like immediate and full compensation for our projected losses.

This is clearly a complex negotiation for us. Several issues will be discussed, and a variety of outcomes are possible. There may be no agreement, or there may be one that gives Harborco its maximum competitive advantage. If agreement is reached, we may lose or compromise on compensation.

Therefore, we have decided to use points in our instructions to indicate how no agreement or different agreements serve (or harm) our overall interests. Under the scoring scheme described in the instructions, no agreement would be worth 150 points – the best possible outcome. If the other parties appear to be approaching agreement, then an agreement worth 100 points would be the best we could do. In contrast, an agreement worth zero points would be the worst possible outcome. (Note that an agreement worth zero points may have a "non-zero" effect on us, i.e., may involve net costs or net benefits. It is assigned zero points only because it reflects "zero gains" over the worst possible outcomes.)

Differences in points can tell you which issues (or specific outcomes) are most worth arguing for. For example, in this negotiation we are most concerned about the compensation issue and have therefore assigned it 60 out of 100 possible points. We would not want to end up with our worst outcome on this issue (no compensation), if the port were approved. In contrast, we are least concerned about the ecological impact issue and therefore assigned it zero points. None of the ecological impact outcomes would have much of an effect on us.

Because we will be evaluating you on the basis of your score in this negotiation, you should examine your score sheet closely when planning your negotiating strategy. But remember, you should not vote for any agreement worth fewer than 31 points (if you vote for an agreement at all). Supporting such a project would cost us more than we could gain.

Do not, under any circumstances, show your score sheet to any other player. You may try to express the strength of your interests to other players, but you should not show them your actual score sheet. They will have to trust you to give them accurate information about your preferences – just as they would if this were a real-world negotiation.