



## Harborco

### General Instructions

Harborco, a newly formed national consortium, is interested in building and operating a deep-water port off the coast of Seaborne. The consortium's members are drawn from a variety of enterprises, most of which are diversified among a number of commercial activities. Harborco is prepared to participate in the financing, construction, and operation of the port. It has already engaged in some preliminary planning and design work, but it cannot proceed without a license issued by the Federal Licensing Agency (FLA).

### The Project

The deep-water port proposed by Harborco would be the first of its kind on the East Coast. It would be located in Seaborne at the estuary of the Banksedge River. Like the European seaport Rotterdam, it would accommodate a new generation of large cargo ships and supertankers – ships believed to be especially cost-effective in transporting raw materials and goods.

The deep-water port would be based on an artificial island of roughly nine square miles, created with fill from the dredging of the access channel. The island would be connected to the shore by a network of highways, railroads, and pipelines. Onshore, an Air-Sea-Cargo Center (ASCC) would be developed, along with major connections to existing highways, railroads, and pipeline networks. Substantial infrastructure would be needed to accommodate an intermodal freight terminal of this sort. Most of the industrial plant and ancillary facilities would be located on the island. While components of the port could be operational as early as five years after construction begins, the port's full development might not be completed until 20 years later. The projected cost of the port is roughly \$4 billion (in current dollars).

## Harborco: General Instructions

### **The Parties**

Harborco is excited about the prospect of a deep-water port on the East Coast. It believes such a port could generate substantial profits within ten years after operations begin. (Harborco bases its projections on an independent study by Transport Associates, Inc., which concluded that such a port could be economically viable under several possible scenarios.) In addition, Harborco believes the local, regional, and national economies could benefit from a port, which would dramatically reduce the transport costs of imports and exports.

Several other parties, however, have an interest in the deep-water port and Harborco's application for a license.

**The Environmental League:** This coalition of environmental interest groups is generally opposed to any development of coastal areas, especially development that threatens the fragile ecosystems, adds to air and water pollution, increases waste disposal problems, and increases health and safety risks. The League is worried that Harborco's proposed port would seriously damage the environment of Seaborne and destroy the basic Banksedge River ecology.

**Local Federation of Labor Unions (The Unions):** The Unions are generally pleased that new development is being considered for Seaborne. They anticipate hundreds of new jobs will be created in both the short and long run. They will argue strongly, however, that these jobs should be reserved for local union members. (This local federation is affiliated with the National Federation of Labor Unions.)

**Other Ports in the Region:** The four other ports in the region are not pleased with Harborco's proposal. They expect to lose a substantial amount of business to the new port, if it is constructed. They are extremely skeptical of Harborco's claim that all regional ports will share in the economic benefits generated by the new port.

**Federal Department of Coastal Resources (DCR):** This Cabinet-level agency created during the Reagan Administration has a dual mandate: (1) to help realize the economic potential of the nation's coastal resources, and (2) to preserve the environmental integrity of the nation's coastal areas. The DCR would like to see a deep-water port established somewhere on the East Coast, and has the resources and authority to subsidize such a port.

**Governor Sherwood (of Seaborne):** Governor Sherwood is in her second gubernatorial term and is eager to promote development in her state. She is sensitive, however, to the needs of organized labor, a powerful political constituency, and is therefore eager to see that unions share in the benefits of the port.

## Harborco: General Instructions

### **The Licensing Process**

Harborco submitted an application just one month ago for FLA review. While aware of other parties' interest in its proposal, Harborco expected little difficulty in the licensing phase of this project.

The FLA, however, has recently been criticized by several members of Congress for failing to consider the "broader public interest" in its previous licensing determinations. Consequently, the FLA is now very sensitive to the level of political support surrounding each application it reviews.

In this case, the FLA will not approve Harborco's application unless it is clear that there is substantial support for the project. Therefore, the FLA has decided that it will approve Harborco's proposal ONLY IF Harborco can muster the support of at least four other parties. (The FLA would prefer to see all five parties support a Harborco application, but it will grant a license even if only four lend their support.)

Two parties, however, can exercise some veto power. Harborco can veto any proposal in this negotiation (since no other party is capable of initiating the development). In addition, the Federal DCR can veto any project that requires a federal loan or loan guarantee.

## Harborco: General Instructions

### **The Issues**

Preliminary discussions have taken place between Harborco and representatives of the five key parties. As a result of these conversations, Harborco has identified five issues that seem to be of concern to all or some of the parties. A general description of the issues is provided below; more detailed information is provided in each party's Confidential Instructions.

#### **Issue A: Industry Mix**

The deep-water port itself is only part of the development Harborco has planned. The construction will attract a variety of industries seeking access to the port. These industries will either lease or purchase land on the artificial island and onshore, and they will eventually generate the bulk of the revenues associated with the new port.

Harborco has initially requested the freedom to develop any industry mix it chooses. This means that it could choose to develop (or encourage) any type of industry or plant, including oil refineries, steel mills, or a resource recovery plant. The environmentalists, however, have argued that strict limits should be placed on the industry mix allowed in the area; they are asking that only relatively "clean" industries such as high-tech production plants be allowed.

As a result of this controversy, three options have surfaced in the discussions between Harborco and the environmentalists.

**Option A1: Primarily dirty** – No industry would be excluded, but the mix would probably be dominated by oil refineries, petrochemical plants, steel production plants, and a resource recovery plant.

**Option A2: Clean/Dirty** – Would exclude the dirtiest industries, but would allow a limited number of moderately dirty plants (including food-processing plants).

**Option A3: All clean** — Would be limited to only clean industries such as high-tech production industries; dirty plants would be excluded.

Air pollution, water pollution, and waste disposal would vary with the industry mix selected. Regardless of the industry mix, all industries would conform to existing federal and state pollution regulations.

### **Issue B: Ecological Impact**

The dredging of the access channel, creation of the island, and general construction activity could seriously disrupt existing ecologically delicate areas both onshore and offshore. The damage would include the alteration of nesting habitats, a reduction in natural tidal flushing, the destruction of wetlands, serious land erosion, adverse impacts on existing fisheries, and substantial subsurface geologic impacts (caused by drilling and dredging).

Harborco admits that the new deep-water port would create some damage to the ecological setting, but it also claims that such damage would be within the limits defined by federal and state regulations. Environmentalists, however, counter that the damage would be excessive and that Harborco has no right to disrupt the area.

In light of these arguments, three outcomes are possible:

**Option B1: Some harm to ecology** – This would involve unremedied disruption to the ecology. Fish and animal nesting habitats would be altered (or effectively destroyed), valuable wetlands would disappear, water temperatures and currents would change, and certain types of aquatic flora and fauna would be destroyed. All this would take place within federal and state impact mitigation guidelines.

**Option B2: Maintain or repair ecological balance** – This would involve special precautions to divert construction and dredging activity (where possible) from the most ecologically delicate or important areas. But it would also include the relocation or recreation of habitats destroyed by unavoidable dredging and construction.

**Option B3: Improve the ecological setting** – Like the previous option, this would include special efforts to bypass delicate areas during construction and dredging. But it would also include a variety of other efforts to improve the local environment. Environmentalists propose ongoing fishery management and wildlife protection, creating new and larger protected wetland areas, an active anti-erosion program, and constructing and operating a small waste-treatment facility to treat effluents flowing into the estuary from the Banksedge River.

## Harborco: General Instructions

### **Issue C: Employment Rules**

Construction and operation of the deep-water port is expected to generate hundreds of new jobs in the community in both the short and long run. These jobs can be distributed among potential employees in one of three ways:

**Option C1: Unlimited union preference** – Jobs would be reserved for local union workers, where appropriate. This would enable local union members to claim as large a share of the new jobs as possible.

**Option C2: Union quota of 2:1** – Limited preference could be given to union members where the ratio of union to nonunion workers would not fall below 2 to 1.

**Option C3: Union quota of 1:1** – The ratio of union to nonunion workers would not be less than 1 to 1.

**Option C4: No union preference (unrestricted hires).** Harborco would be free to hire whomever it chooses. In this scenario, most workers would probably be nonunion, enabling Harborco to maintain its hiring flexibility and to reduce its expected wage costs. In addition, new workers might be drawn from outside Seaborne.

### **Issue D: Federal Loan**

The newly created Federal Department of Coastal Resources (DCR) has a mandate to promote economic use of coastal areas, while preserving their environmental integrity. It can provide a substantial loan (or guarantee private borrowing) to help cover construction and operating costs of the port over the next 20 years.

Harborco estimates that the total cost of developing the port will be roughly \$4 billion, and it has requested \$3 billion in guaranteed loans. However, the DCR will insist on certain aspects of port design before it will contribute to the port. Four options appear possible:

**Option D1:** A \$3 billion loan (at 15% interest) over the next 20 years

**Option D2:** A \$2 billion loan (at 15% interest) over the next 20 years

**Option D3:** A \$1 billion loan (at 15% interest) over the 20-year period

**Option D4:** No federal loan

## Harborco: General Instructions

### **Issue E: Compensation to Other Ports in the Region**

Harborco believes the new port will generate significant economic growth both inside and outside the state. It contends that the entire regional economy will be improved by the port, and that the other four major ports on the Eastern Seaboard will benefit from this growth.

The other ports, however, expect to suffer a substantial loss of traffic once the new port begins operation. They have estimated the present discounted value of their losses to be roughly \$600 million, representing losses for 10 years after the new port begins operation. They think Harborco should compensate them for these losses.

In light of this conflict, five possible options are up for consideration.

**Option E1:** Harborco pays \$600 million (or 100% compensation) in current dollars to the other ports.

**Option E2:** Harborco pays \$450 million (or 75% compensation).

**Option E3:** Harborco pays \$300 million (or 50% compensation).

**Option E4:** Harborco pays \$150 million (or 25% compensation).

**Option E5:** Harborco makes no compensation to the other ports.

Though the ports would be free to spend this money as they wished, they could use these funds to make changes that would enable them to serve more effectively as feeder ports for the new deep-water port.

### **The Negotiation**

Harborco has already submitted a license application to the FLA, which proposes the following:

- \* A primarily dirty industry mix (Option A1),
- \* Some harm to the ecology (but within federally and state-prescribed limits) (Option B1),
- \* No special preference for union workers (Option C4),
- \* A \$3 billion loan from the DCR (Option D1), and
- \* No compensation payments to other ports (Option E5).

Harborco is free to submit changes to its proposal at any time during the licensing review process, but it is anxious to have its application approved as is.

In an attempt to muster support for its current proposal, Harborco has invited all the key

## Harborco: General Instructions

parties to a meeting at the Ritz-Carlton Hotel. Its stated objective for the meeting is to seek a negotiated agreement among all parties to ensure unanimous support for its proposal. (Of course, Harborco needs the support of only four other parties in order to secure a license.)

### **Mechanics of the Negotiation**

All five parties have agreed to attend the meeting, and are seated at the negotiating table. The FLA representative opens the meeting and explains the procedures that the negotiating session will follow. Each party has seen a copy of Harborco's current FLA application.

The discussion may progress in any direction, but Harborco will be searching for a proposal that will win enough votes for FLA approval. Anyone can suggest alternative proposals, but Harborco's concurrence is needed for any proposal to be adopted.

Three formal voting rounds are scheduled for the meeting. The first will take place 15 minutes after the meeting begins, the second after 40 minutes of discussion, and the third after 85 minutes of discussion. Additional votes may be taken at any point during the meeting, but at least three voting rounds must take place. (There is of course one exception: if a project receives sufficient votes for FLA approval early in the meeting, the parties may choose to forgo subsequent voting rounds.)

The FLA representative will administer the three scheduled voting rounds. If Harborco cannot decide on a revised project to propose at the time of a formally scheduled vote, the participants must vote on the original Harborco proposal.

Voting is done by a show of hands. Once a proposal is passed (i.e., receives supporting votes from at least four of the five other parties), the votes are binding and parties cannot renege on their promise of support. The parties are free, however, to explore improvements in the agreement that either benefit the supporting parties or entice the non-supporting party to vote for the agreement. If the parties to the original agreement do not unanimously support proposed improvements, the original agreement stands.

Negotiations must stop at the end of the meeting. If no agreement is reached (i.e., if no proposal receives at least four votes in addition to Harborco's), the FLA will reject Harborco's application for a license.



## Harborco

### **Confidential Instructions for the Governor's Negotiator (From Governor Sherwood of Seaborne)**

I am very eager to see this deep-water port built in Seaborne. Our state has suffered a serious decline in economic activity over the past five years, and a project the size of Harborco's could provide the stimulus for a dramatic economic recovery. (Obviously, I could also benefit personally from a recovery introduced during my tenure in office.)

I have spent some time with Harborco's people discussing the pros and cons of various design options. I generally favor Harborco's proposal. My only serious reservation has to do with its provisions for organized labor. As you know, the unions are a major political power in this state and, if antagonized, could impede my re-election efforts in two years. Therefore, I would like to see Harborco accommodate at least some of the union's demands.

I am also concerned that today's negotiations may force Harborco to make concessions on the environment and compensation that could reduce the economic profitability of the port. So you may find yourself in the position of defending most of Harborco's initial proposal, while advocating special consideration for local unions.

### **Scoring**

To help you plan your negotiating strategy, my aides and I have constructed a 100-point scoring scheme to illustrate which negotiable outcomes are of greatest and least importance to me. Under this scheme, my most-preferred set of outcomes is worth 100 points; my least-preferred is worth zero. You can score up to 100 points in the negotiation, depending on how each of the five issues is resolved.

The use of points may seem a bit artificial and awkward. But for the purposes of this negotiation, it enables me to combine my several interests – new jobs for my constituents, growth in the tax base, re-election, etc. – into a single "currency." This, in turn, allows me to compare the potential gains and losses associated with very different issues.

## Harborco: Confidential Instructions for the Governor's Negotiator

In addition, the points allow me to compare the benefits (or costs) of a negotiated agreement to my alternatives. In this case, it is worthwhile for me to support Harborco's proposal only if it generates at least 30 points. Any proposal worth fewer than 30 points would cost me political credibility and might deter future development in the state.

Your task is to try to earn as many points as possible in this negotiation. This is not being greedy -- it simply means that I want you to further my legitimate interests as far as possible. I will support any project worth at least 30 points, but that is the bare minimum I can accept. I certainly hope you can do much better.

### **Federal Loan**

I firmly believe that the project will not survive in the long run without substantial loans guaranteed or provided by DCR. Although I doubt Harborco will attempt to construct the port without federal financing, if it does, I fear Seaborne will be stuck with a partially complete white elephant in five to ten years.

The value of these loans includes more than just the savings Harborco can realize with federally guaranteed loans. It also includes the value of a significant federal commitment to the project. The federal government is unlikely to abandon or over-regulate a project to which it has committed billions of dollars.

In addition, I would like to be able to demonstrate to my constituents that I can bring federal money into this state. Thus, even \$1 billion in loans would generate significant political benefits for me.

I have assigned the following points to this issue:

- \* \$3 billion = 40 points
- \* \$2 billion = 30 points
- \* \$1 billion = 23 points
- \* No loan = 0 points

### **Employment Distribution**

This issue is particularly important to me because of the political strength of labor unions in this state. I would be very reluctant to sign an agreement that deliberately snubbed organized labor.

Although I would prefer to see the unions get all they have requested, I am very anxious to see that Harborco at least guarantees the union some presence in the work force. Once the unions have a foot in the door, they should have little trouble consolidating and improving their share of the port's work force. In addition, any quota would be a major and visible victory for the unions.

## Harborco: Confidential Instructions for the Governor's Negotiator

I have assigned the following points to this issue:

- \* Unlimited union preference = 24 points
- \* Union quota of 2:1 = 18 points
- \* Union quota of 1:1 = 12 points
- \* No union preference = 0 points

The points reflect the importance of guaranteeing the unions at least some preference.

### **Industry Mix**

I am not anti-environment, but I do think we should avoid placing demands on industry in excess of existing federal and state regulations. The development proposed by Harborco will be a significant boost to our local economy. We should remember that Harborco will have to abide by existing environmental regulations, no matter what industries it chooses to develop.

Harborco's analysts are convinced that a diverse industry mix, including primarily dirty industries such as oil refineries, steel mills, and a resource-recovery plant, could provide the greatest economic stability and revenue over the long run. My analysts agree. They suggest that the narrower the industry mix, the more vulnerable it will be to swings in the economy. We want Harborco to be free to pursue as diverse and profitable a mix as possible.

I have assigned the following points to this issue:

- \* Primarily dirty = 14 points
- \* Clean/dirty = 8 points
- \* All clean = 0 points

Included in these point assessments is my fear that if we impose too many restrictions on this project, we will deter future development in the state.

### **Ecological Impact**

As in the case of industry mix, I think we should avoid imposing unnecessary costs on would-be developers. In no way will the port violate existing state and federal regulations governing the protection of flora and fauna.

I have assigned the following points to the issue of ecological impact:

- \* Do some harm to the ecological setting = 12 points
- \* Maintain and repair the setting = 8 points
- \* Improve the setting = 0 points

## Harborco: Confidential Instructions for the Governor's Negotiator

I am not averse to improvements in the environment, but I do think we should avoid forcing developers to bear the cost of such improvements.

### **Compensation to Other Ports**

This is a very difficult issue for me. I am clearly not anxious to see Harborco's profits diverted to ports in other states. I am also, quite frankly, astounded that the other ports expect to be compensated. The eastern states compete against one another for industrial projects and federal grants on a regular basis; there is never any expectation that the winners should compensate the losers.

Nevertheless, I do not want to appear vigorously opposed to such compensation. The governors of these states are my friends and colleagues. As members of the Coalition of East Coast States, we are trying to work together on a number of critical issues. I would rather not antagonize these people, if I can avoid it.

Given the personal, professional, and political complications surrounding this issue, I have assigned it the following points, with a request that you treat this issue diplomatically:

- \* No compensation = 10 points
- \* \$150 million = 7 points
- \* \$300 million = 4 points
- \* \$450 million = 2 points
- \* \$600 million = 0 points

While any compensation could cost Harborco as much as the demands being made by the environmentalists, these payments would not cause as much damage to our state. The environmental costs would be viewed by potential developers as a cost imposed by our state. In contrast, the compensation costs would be viewed as costs imposed by other states.

\* \* \* \*

The one-page scoring sheet summarizes the points assigned to each issue. This information is CONFIDENTIAL! You should not show your scoring sheet to anyone. You may convey some or all of the scoring information to a mediator, but under no circumstances should you let him or her see your scoring sheet.

Good luck. I am confident that you will negotiate an extremely valuable agreement for me.

Harborco: Confidential Instructions for the Governor's Negotiator

**Confidential Score Sheet for the Governor's Negotiator**

Issue/Option	Total Points	1st vote	2nd vote	3rd vote
<b>A: Industry Mix</b>	<b>(14)</b>	_____	_____	_____
1. primarily dirty	14			
2. clean/dirty	8			
3. all clean	0			
<b>B: Ecological Impact</b>	<b>(12)</b>	_____	_____	_____
1. harm	12			
2. maintain & repair	8			
3. improve	0			
<b>C: Employment Rules/ Distribution</b>	<b>(24)</b>	_____	_____	_____
1. unlimited union preference	24			
2. union quota 2:1	18			
3. union quota 1:1	12			
4. no union preference	0			
<b>D: Federal Loan</b>	<b>(40)</b>	_____	_____	_____
1. \$3 billion	40			
2. \$2 billion	30			
3. \$1 billion	23			
4. no federal loan	0			
<b>E: Compensation to Other Ports</b>	<b>(10)</b>	_____	_____	_____
1. Harborco pays \$600 million	0			
2. Harborco pays \$450 million	2			
3. Harborco pays \$300 million	4			
4. Harborco pays \$150 million	7			
5. Harborco pays no compensation	10			
<b>A through E: TOTAL (your goal)</b>	<b>(100)</b>	_____	_____	_____

**MINIMUM NEEDED FOR AGREEMENT = 30. This is also your score if no agreement is reached.**

Harborco: Confidential Instructions for the Governor's Negotiator

**Confidential Summary of Points for the Governor's Negotiator**

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
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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)** \_\_\_\_\_

**APPENDIX: A discussion of the Scoring Scheme for the Governor's Negotiator**

I have several interests in today's negotiation. I'd like to see the federal government guarantee billions of dollars of investment in our state, and I'd like to claim credit for helping unions win preferential treatment from Harborco. I'd also like to prevent the environmentalists from imposing excessive costs on Harborco (and other developers in the future).

This is clearly a complex negotiation. Several issues are being discussed, and a variety of outcomes are possible. We might win the union issue but lose the industry mix issue. We might have to compromise on compensation, ecological impact, or federal loans. There might even be no agreement at all.

Therefore, I have used points in your instructions to indicate how different possible agreements might serve (or harm) my overall interests. Under the 100-point scoring scheme, an agreement worth 100 points would be the best agreement you could negotiate. An agreement worth zero points would be the worst. (Note that an agreement worth zero points may have a "non-zero" effect on me, i.e., it may involve net costs or net benefits. It is assigned zero points only because it reflects "zero gains" over the worst possible outcome.)

Differences in points can tell you which issues (or specific outcomes) are most worth arguing for. For example, in this negotiation I am most concerned about the federal loan issue and have therefore assigned it 40 out of 100 possible points. I would not want to end up with the worst outcome (\$600 million in compensation payments) on the compensation issue.

Since I 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. Remember, you should not vote for any project worth fewer than 30 points. Supporting such an agreement would cost more than I 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 let them see 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.

Finally, resist the temptation to compare your score with the scores of other players. A score of 75 points may mean more (or less) to you than to other parties. While your bottom line is 30 points, theirs may be 20 or 80. Their bottom lines depend on their valuation of the alternatives to agreement – a psychological factor that makes comparison across parties difficult to interpret.