



## 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).

### **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.

### **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.

## **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 productions 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.

### **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

### **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

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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 Environmental League Negotiator (From the League's Board of Directors)**

We are very concerned about Harborco's proposal to construct and operate a deep-water port. This development would result in substantial environmental damage. Although we can try to use this meeting to negotiate an improvement in the environment, we should prepare ourselves for yet another episode of government-sanctioned degradation of the environment.

We were initially reluctant to send you to this meeting. After all, we don't want to be seen as lending our support to an environmentally harmful project. On the other hand, your participation in the meeting may help prevent the worst possible scenario: a deep-water port including primarily dirty industries, and causing serious damage to the ecology.

Of the five issues to be discussed at this meeting, only two are important to us: the industry mix and the ecological impact. Although it might seem unusual for an environmental group like ours to support a major development project on the coast, we feel it might be worth lending our support, if we can negotiate some extra environmental protection.

### **Scoring**

In order to help you plan your negotiating strategy, we have constructed a special 100-point scoring scheme to illustrate which possible outcomes are of the greatest and least importance to us. Our most-preferred set of outcomes is worth 100 points; our least-preferred is worth zero points. Compromising on one or more issues is worth somewhere between zero and 100 points, depending upon how each of the issues is resolved.

The use of points may seem artificial and abstract. For the purposes of this negotiation, it enables us to combine our several interests – minimizing pollution, protecting wildlife

and the wetlands, preserving the credibility and efficacy of our organization, etc. – into a single "currency." This in turn allows us to compare the potential gains and losses associated with different issues.

In addition, the points allow us to compare the benefits (or costs) of a negotiated agreement with our alternatives. In this case, we can support the port only if it yields at least 50 points to us. We cannot afford to lend our support to any development project worth fewer than 50 points. Should Harborco fail to muster enough votes for its project, fine. The port is not constructed, and we are no worse off today than yesterday. If Harborco succeeds in winning approval for an environmentally disastrous project, we do not want our names attached to it. We can always attempt to delay the project in court.

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 will support any agreement that yields at least 50 points of value, but that is the bare minimum we can accept. We certainly hope you will do much better.

### **Industry Mix**

We are extremely concerned that Harborco will succeed in introducing a primarily dirty industry mix into Seaborne. Such a mix would wreak continuous and long-term havoc on the environment. Oil refineries and steel mills typically discharge vile and hazardous effluent – all perfectly legal! In addition, oil refineries introduce the danger of explosions, fires, and oil spills. Resource recovery plants, in turn, introduce hazardous wastes (including highly toxic dioxins) and threaten worker and community safety. We must strongly object to any proposal that would permit the introduction of primarily dirty industries into Seaborne.

Therefore, we have assigned the following points to the industry mix issue:

- \* All clean = 45 points
- \* Clean/dirty = 22 points
- \* Primarily dirty = 0 points

Obviously, our first preference is for the all-clean industry mix. Though virtually any industry will have some waste to dispose of, the all-clean industries are the least objectionable. Note, however, that even if we win this issue we could not sign an agreement without concessions on the ecological impact issue as well.

### **Ecological Impact**

Although we are very concerned about industry mix, we are even more concerned about ecological impact. Ecological settings will be disrupted as soon as construction on the port begins, and once the damage is done, it may be very hard to repair. (In contrast, the damage created by the primarily dirty industries will not begin until the plants are in operation. Perhaps by that time we will have stricter regulations in place.)

At a minimum, we hope to persuade Harborco to refrain from degrading the ecology. We also want to negotiate major improvements to the area.

We have assigned the following points to this issue:

- \* Improve the setting = 55 points
- \* Maintain and repair the setting = 25 points
- \* Do some harm to the ecological setting = 0 points

This point spread reflects the value of environmental protection and improvement. It also reflects our desire to score an immediate and visible victory. Our constituent environmental groups will be impressed by any agreement that generates immediate and concrete improvements to the environment. This will, in turn, boost morale and (we hope) contributions to the League.

**Other Issues.** We have no strong feelings about the other three issues up for discussion: employment, federal loans, and compensation to other ports. Our primary concern is the environment. Still, you should probably treat these issues carefully, since we do not want to antagonize potential allies. In addition, we may be able to use these issues strategically, since the other parties may not know that they are unimportant to us.

\* \* \* \* \*

The one-page scoring sheet summarizes our analysis of the issues. This information is **CONFIDENTIAL!** You should not show this sheet to anyone. You may convey some or all of the information verbally to a mediator, but do not show him or her your scoring sheet.

Good luck. We're confident that you will negotiate an extremely valuable agreement for us.

**Confidential Score Sheet for the Environmental League Negotiator**

| Issue/Option                                 | Total Points | 1st vote | 2nd vote | 3rd vote |
|--|--------------|----------|----------|----------|
| <b>A: Industry Mix</b>                       | <b>(45)</b>  | _____    | _____    | _____    |
| 1. primarily dirty                           | 0            |          |          |          |
| 2. clean/dirty                               | 22           |          |          |          |
| 3. all clean                                 | 45           |          |          |          |
| <b>B: Ecological Impact</b>                  | <b>(55)</b>  | _____    | _____    | _____    |
| 1. harm                                      | 0            |          |          |          |
| 2. maintain & repair                         | 25           |          |          |          |
| 3. improve                                   | 55           |          |          |          |
| <b>C: Employment Rules/<br/>Distribution</b> | <b>(0)</b>   | _____    | _____    | _____    |
| 1. unlimited union preference                | 0            |          |          |          |
| 2. union quota 2:1                           | 0            |          |          |          |
| 3. union quota 1:1                           | 0            |          |          |          |
| 4. no union preference                       | 0            |          |          |          |
| <b>D: Federal Loan</b>                       | <b>(0)</b>   | _____    | _____    | _____    |
| 1. \$3 billion                               | 0            |          |          |          |
| 2. \$2 billion                               | 0            |          |          |          |
| 3. \$1 billion                               | 0            |          |          |          |
| 4. no federal loan                           | 0            |          |          |          |
| <b>E: Compensation to<br/>Other Ports</b>    | <b>(0)</b>   | _____    | _____    | _____    |
| 1. Harborco pays<br>\$600 million            | 0            |          |          |          |
| 2. Harborco pays<br>\$450 million            | 0            |          |          |          |
| 3. Harborco pays<br>\$300 million            | 0            |          |          |          |
| 4. Harborco pays<br>\$150 million            | 0            |          |          |          |
| 5. Harborco pays<br>no compensation          | 0            |          |          |          |
| <b>A through E:<br/>TOTAL</b>                | <b>(100)</b> | _____    | _____    | _____    |
| (your goal)                                  |              |          |          |          |

**MINIMUM NEEDED FOR AGREEMENT = 50. This is also your score if no agreement is reached.**

**Confidential Summary of Points for the Environmental League 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 |
|---|---------|--------|
| 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)             | _____   | _____  |
| <b>TOTAL POINTS GENERATED BY AGREEMENT:<br/>(ADD ITEMS A THROUGH E)</b> |         | _____  |

## **APPENDIX: A Discussion of the Scoring System for the Environmental League Negotiator**

We have several interests in today's negotiation. We'd like to see improvements made in the ecological setting, including ongoing fishery management and erosion prevention. We'd like to prevent Harborco from introducing nuclear power in the area. We'd also like to score a major victory in order to improve our organization's credibility with other environmental groups.

This is clearly a complex negotiation. Several issues are being discussed, and a variety of outcomes are possible. We may win improvements in the ecological setting, or we may win only maintenance and repairs. We may succeed in limiting Harborco to an all-clean industry mix, or we may have to settle for a clean/dirty mix. We may be excluded entirely from an agreement (and be faced with a project that does maximum damage to the environment). Or, there may be no agreement at all.

Therefore, we have decided to use points in our instructions to indicate how different agreements serve (or harm) our overall interests. Under the 100-point scoring scheme described in the instructions, an agreement worth 100 points would be the best agreement you could negotiate. In contrast, an agreement worth zero points would be the worst possible agreement. (Note that an agreement worth zero points may have a "non-zero" effect on us, i.e., it may involve net costs or net benefits. It is assigned zero points in our scoring scheme only because it reflects "zero gains" over the worst possible agreements.)

Differences in points can tell you which issues (or specific outcomes) are most worthwhile for us. For example, in this negotiation we are most concerned about the ecological impact issue and have therefore assigned it 55 out of 100 possible points. We would not want to end up with our worst outcome (harm to the ecology) on this issue.

In contrast, we are least concerned about the employment, federal loan, and compensation issues and have assigned them zero points. The outcomes possible in each of these areas would not directly affect 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. Remember, you should not vote for any project worth fewer than 50 points. Supporting such a project would cost us more than we would 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 parties in the negotiation. A score of 75 points may mean more (or less) to you than to other parties. While your bottom line is 50 points, theirs may be 40 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.