A newly formed national consortium, Harborco, is interested in building and operating a deepwater port off the coast at Monterey. 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 cannot proceed without a license issued by the Federal Licensing Agency (FLA).

The Project
The deepwater port proposed by Harborco would be the first of its kind on the West Coast. It would be located in Monterey, close to wetlands, beaches, and beautiful rocky headlands, and the mouth of the Salinas River. Like the European Europort at Rotterdam, it would accommodate a new generation of large cargo ships, container vessels, and supertankers—ships that are especially cost-effective in transporting raw materials and goods.

The deepwater port would be based on an artificial island in Monterey Bay roughly 9 square miles in area, built up 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 on the coast next to the new CSU campus, 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 might not be fully developed until 20 years later. The projected cost of the port is roughly $5 billion (in 1999 dollars).

The Parties
• Harborco is excited about the prospect of a deepwater port on the West Coast. It believes such a port could generate substantial profits within ten years after operations begin. 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 deepwater port and Harborco's application for a license.
  • The Sierra Club is generally opposed to any “development” of coastal areas, especially development which threatens fragile ecosystems, adds to air and water pollution, increases waste disposal problems, increases health and safety problems, and endangers fish, water birds, and other economically important but ecologically vulnerable organisms. The Sierra Club is worried that Harborco's proposed port would seriously damage the environment and destroy the basic ecology of Monterey Bay.
  • Local Federation of Labor Unions The Unions are generally pleased that new development is being considered for Monterey. It anticipates the creation of hundreds of new jobs in both the short-run and long-run. It will argue strongly, however, that these jobs should be reserved for local union members.
  • Other California Ports—San Francisco, Oakland, Los Angeles, Long Beach, and San Diego—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 West Coast ports will share in the economic benefits generated by the new port.
  • The Federal Department of Coastal Resources (DCR) 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
deepwater port established somewhere on the West Coast, and it has the resources and authority to subsidize such a port if it chooses.

Governor Davis is in his first gubernatorial term and is eager to promote development in California, especially as he is thinking of running for re-election in 2002. He is also sensitive to the needs of organized labor, a powerful political constituency who voted for him last election. The Governor is therefore anxious 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 licensing this project.

However, the FLA, like many government agencies, is caught between a Republican Congress and a Democratic White House. The FLA is 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. It will approve Harborco’s proposal ONLY IF Harborco can muster the support of at least 4 other parties. (The FLA would prefer to see all 5 parties support a Harborco application, but it will grant a license even if only 4 lend their support).

Two of the parties 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. Any other two of the parties acting together can exercise a veto because the FLA needs 4 other parties to agree on the proposal.

The Issues
Preliminary discussions have taken place between Harborco and representatives of the five key parties. In these conversations, Harborco identified five issues which 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 deepwater port is only part of the development Harborco has planned. With the construction of the port will come a variety of industries seeking access to the port. These industries will either lease or purchase land on the artificial island and onshore, and will eventually generate the bulk of the revenues associated with the new port.

Harborco initially requested permission to develop any industry mix it chooses. This means that it could choose to develop (or encourage) any type of industry or plant, including steel mills, oil refineries, 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.

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 "most dirty" 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. But 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, the creation of the island, and general construction activity could seriously disrupt ecologically delicate areas both on and off-shore. The damage would include the alteration of nesting habitats and a reduction in natural tidal flushing in the local wetlands, dredging damage to beaches, potential toxic spills, adverse impacts on local fisheries, and substantial damage to the flourishing tourist trade.

Harborco admits that the new deepwater port would create some damage to the ecological setting, but 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. 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 on-going fishery management and wildlife protection, the creation of new and larger protected wetland areas, an active anti-erosion program, and the construction and operation of a waste treatment facility to treat effluents flowing into the Bay.

**Issue C: Employment Rules**

Construction and operation of the deepwater port is expected to generate hundreds of new jobs in the community in both the short-run and the long-run. These jobs can be distributed among potential employees in one of four 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 ratio of union to non-union workers would not fall below 2 to 1.

**Option C3**: Union Quota of 1:1: The ratio of union to non-union 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 non-union workers, enabling Harborco to maintain its hiring flexibility and to reduce its expected wage costs. In addition, new workers might be drawn from outside Monterey.

**Issue D: Federal Loan**

The federal Department of Coastal Resources (DCR) has a mandate to promote economic use of coastal areas while preserving the environmental integrity of these areas. It can provide a substantial loan (or guarantee private borrowing) to help cover the construction and operating cost of the port over the next 20 years.
Harborco estimates that the total cost of developing the port will be roughly $4 billion, and has requested $3 billion in guaranteed loans. The DCR, however, has suggested that there are certain aspects of port design that it must insist on before it will contribute to the port. Four options appear possible:

**Option D1**: A $4 billion loan (at 12% interest) over the next 20 years.
**Option D2**: A $2.5 billion loan (at 12% interest) over the next 20 years.
**Option D3**: A $1 billion loan (at 12% interest) over the next 20 years.
**Option D4**: No federal loan.

**Issue E: Compensation to Other California Ports**

Harborco believes the new port will generate significant economic growth both in and outside the state. It contends that the entire regional economy will be improved by the port, and that the other five major California ports will benefit from this growth.

The other ports, however, expect to suffer substantial loss of traffic once the new port begins operation. They estimate that their losses will be roughly $600 million in the 10 years after the new port begins operation. They think Harborco should compensate them for these losses.

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 in their design which would enable them to serve more effectively as feeder ports for the new deepwater 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 $4 billion loan from the DCR (Option D1)
- no compensation payments to other ports (Option E5)

Harborco can submit changes to its proposal at any time during the licensing review process, but it would much prefer to have its application approved as is.

In an attempt to muster support for its current proposal, Harborco has invited all the key parties to a meeting at Asilomar. 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 4 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. A professional mediator 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. Each party has its own agenda, of course, and the delegates each have their secret instructions from the party they are representing.

The discussions may progress in any direction, but Harborco will be searching for a proposal that will win enough votes for FLA approval. Anyone can suggest alternate 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 at the end of the session. 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 enough votes for FLA approval early in the meeting, the parties may choose to forgo subsequent voting rounds.)

The mediator 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 hand-raising. Once a proposal is passed (i.e. receives supporting votes from at least 4 of the 5 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 which either benefit the supporting parties or entice the non-supporting party to vote for the agreement. But if proposed improvements are not unanimously supported by the parties to the original agreement, 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 4 votes in addition to Harborco’s), the FLA will reject Harborco’s application for a license.