

Problem for Fourth Intercollegiate Negotiation Competition (07 OCT Version)

1. Negoland is a constitutional monarchy, with a population of approximately 50 million people. A map of the Country is provided as Attachment 1. The Country is divided into three provinces: Akasa in the north, Tanaha in the center, and Maraya in the south, and while both Akasa and Tanaha are classified as having temperate climates, the Maraya region is subtropical. The eastern part of Negoland faces the sea and the western part consists of a large mountainous area 3,000 to 5,000 meters above sea level. There are two large rivers in Negoland, namely, the Uchi River and Soto River, both of which originate in Akasa and flow into the sea in the eastern part of the country. Agriculture is flourishing, centered on the basin between these two rivers.
2. The capital of Negoland, Negoshia, is located in Tanaha province, along the Uchi River, and is a modern city with a population of approximately 3 million people. At the mouth of the Soto River, there is an industrial city, Portland, which carries on approximately 40% of Negoland's industrial production. In the western part of the province of Akasa, there is a coalfield that has recently been producing 100 million tons every year with current estimated recoverable reserves of 2 billion tons. In the mountainous area of the eastern part of Akasa there are also aluminum and iron mines. In the province of Tanaha the landscape is relatively flat, consisting largely of the fertile river basin of the Uchi River and Soto River. Further south, the province of Maraya has been popular with people wanting to relax and enjoy their holidays in a beautiful natural environment, with places such as Serebu Beach, famous for its pristine white sand.
3. Negoland's GNP is approximately 50 billion dollars. Major industries in terms of the GNP share are agriculture (30% of the GNP), manufacturing (30% of the GNP), and mining (15% of the GNP). The currency used in Negoland is the Negoland Dollar.
4. The current king is King Nego V. Under the Constitution of Negoland, the King is deemed to be the head of the State. Negoland was once an absolute monarchy, but in 1950, a national movement demanding a shift to a limited monarchy intensified, and because King Nego III, the grandfather of the current King, decided to avoid conflict with his citizens, a Constitution was established. A portion of the current Negoland Constitution is provided in Attachment 2 (except for the excerpts in Attachment 2, there are no Constitutional provisions to consider in relation to this Problem).
5. Last year, as a result of the accidental death of the former king, King Nego IV, who succeeded King Nego III, Nego V assumed the throne in accordance with the *Throne Succession Act*. Under the *Throne Succession Act*, if the King appoints his successor from the royal family during his time in office, such appointee is to succeed to the throne. All kings in the past appointed their firstborn children, and King Nego V is also King Nego IV's firstborn child. In accordance with King Nego IV's policy

that successors should study abroad to deepen their knowledge while they are young, Nego V studied sociology at a university in the U.S., thereafter obtaining a master's degree in economics in Arbitria, and further obtaining a master's degree in law in Europe. After returning to Negoland, Nego V served as a member of the Parliament and thereafter became prime minister.

6. King Nego IV had a high reputation as a ruler of virtue. He actively engaged in the duties of national administration, with no less vigor than the former kings under the absolute monarchy era. At the same time, King Nego IV also aspired to create a royal family that strives for the happiness of all citizens, and made efforts to shorten the distance between the citizens and the royal family. As a result of King Nego IV's visits to each province in a positive manner and his continuous efforts to have contact with the citizens, many citizens are passionately supportive of the royal family. In particular, King Nego IV had placed great importance on the elimination of poverty, the protection of the environment, and the nurturing of industries.
7. Poverty in the western inland area of Tanaha and the western part of Maraya is particularly serious. The indigenous Nego people reside and carry on agriculture in the western part of Tanaha, but crop production is very low due to the acidic soil, causing of their poverty. On the other hand, the western part of the Maraya Region is mountainous, with high elevation. The rugged landscape has prevented the development of paved roads and roadways, thereby delaying the development of infrastructure such as electricity and water. Negoland bamboo is indigenous to the area and there was a period, in earlier times, when the Negoland bamboo was appreciated as expensive building material when building traditional Negoland bungalow-style houses. However, in recent years, due to the decrease in quantity of Negoland bamboo, any cutting of the Negoland bamboo for commercial purposes has required a license from the government.

King Nego IV thought that the elimination of poverty was an important matter for national peace and stability, and while actively visiting these areas and coming into contact with the residents, he strived to improve their living environment. In particular, he established five years ago a research institute to develop higher-profit agricultural and forest products that can be cultivated in acidic soil. Moreover, he undertook the construction of a paved road (National Highway Route 15), which connects the western part of the province of Maraya to Ratte, Maraya's largest city.
8. Since King Nego IV learned environmental studies during his university years in Europe, he had a deep interest in environmental problems. Under King Nego IV's initiative, a working group within the Negoland National Economic Development Corporation was established 15 years ago to assess and propose environmental conservation legislation. As a result of the reports and proposals of this working group, various legislative measures for the protection of the environment were undertaken. Article 27 of the current Constitution was provided as one of these series of legislative measures. Moreover, since the population in urban areas was increasing, leading to a consequent rise in air pollution from causes such as the smoke emitted from garbage incineration and car exhaust emissions, the *Clean Air Act* was enacted.

Pursuant to the *Clean Air Act*, the municipal incineration of garbage was prohibited, large landfill sites were developed in suburban areas and standards concerning car exhaust emissions were tightened. Furthermore, the *Coastal Scenery Protection Act* was enacted for protecting the white sand at Serebu Beach, and government licenses became mandatory for any construction within 30 km of the beach and any marine navigation of a large vessel. King Nego IV also gave a speech explaining the meaning of the Kyoto Protocol at COP3, where the Kyoto Protocol was adopted. Negoland ratified the Kyoto Protocol in 2002.

9. From the perspective of nurturing industry, King Nego IV focused attention on increasing investment from abroad and the tourism development. Historically, with the view of protecting domestic corporations, Negoland had been setting restrictions on foreign capital investment. These restrictions were relaxed and some legislative improvements were made to make the investment of foreign capital easier. At the same time, although regular corporations were taxed on their business income at 40%, a preferential system was introduced in order to encourage investment from abroad, whereby a special reduced tax rate for certain businesses was introduced to reduce corporate income tax to 20% or even 10%. These current investment environments in Negoland are provided in Attachment 3.
10. In addition, it is hoped that the nurturing of the tourist industry is emphasized in a way that the blessed natural environment of Maraya province is harnessed. Already, Serebu Beach has become world-famous, but since transportation facilities are poor and there are no special attractions other than the beaches, the main clientele is limited to those people who have lots of time and who want to relax and enjoy their holidays. Consequently, the Happy Resort Development Project was conducted following the suggestion of King Nego IV. This project is an attempt to develop the area surrounding Happy Bay in Maraya province into a great resort spot. From the very start, dolphins and whales have been living in Happy Bay, and one could swim with the dolphins and enjoy whale watching. Seafood is also abundant. The aim was to develop an airport in the Happy Bay area, arrange hotels for family accommodations, restaurants and other tourist facilities, and attempt to invite tourists from abroad.
11. It is the Negoland National Economic Development Corporation that is in charge of planning and promoting public undertakings such as the aforementioned elimination of poverty, protection of the environment, and the development of industries. Since the Negoland National Economic Development Corporation's building was built with red bricks, it is generally called Red Corp. (hereafter, the Negoland National Economic Development Corporation is called "Red Corp."). In Negoland, the public sector is mainly in charge of undertakings concerning basic infrastructure, environmental protection, national land development, energy, etc., and the private sector often participates as a subcontractor. Red Corp. is thus a public corporation which mainly manages and operates such public undertakings, and, at the same time, is in a position to control various other public companies. For this reason, Red Corp. plays a very important role in the social economy of Negoland. The

current President of Red Corp. is King Nego V's brother/sister. Like King Nego V, he/she studied in the U.S. and Europe in his/her earlier years and obtained a Ph.D. in engineering. Under the President there are three to five Vice-Presidents, and of these, three positions are held by people holding posts as deputy ministers in the Ministry of Finance, the Ministry of Economy and Industry, and the Ministry of Environment and National Land Development, with the respective responsibilities and authority in the areas of monetary and financial policy, economic and industrial promotion, and environmental protection and national land development.

12. Red Corp also carried out planning and promotion of the Happy Resort Development Project, and currently owns and operates the Happy Resort. Since no company in Negoland was suitable to be entrusted with the development of the airport and the surrounding Happy Bay, it was necessary to use a foreign corporation in the operation of the project. Moreover, because Happy Resort was aimed mainly at increasing foreign tourists, it was necessary to select a company that excelled in the development of resorts that would meet the preferences of foreign tourists.
13. The construction of the airport, the arrangement of access to the resort from the airport, and the construction of hotels and other resort facilities were needed for the development of Happy Resort. From these, the construction of the airport and access to the resort from the airport was commissioned to Purple Corporation, a large Japanese construction company, not to Blue Corporation.
14. The company that Red Corp. selected for the development of the main construction of the resort was Blue Corporation of Arbitria. Arbitria is a neighboring country of Negoland, and has a population of approximately 60 million people. Its GNP is 1.8 trillion U.S. dollars, and main industries in terms proportional GNP are manufacturing (30% of the GNP), service industries (30% of the GNP), and real estate (20% of the GNP). There has been no change in these ratios for the last five years. The currency used in Arbitria is the Arbitrian Franc. Arbitria is a developed country, and its citizens are well off and have great interest in resorts, but the country is landlocked – it has no coastline. On a holiday period such as summer vacation, it seems there are about one million people every year who, in search of an ocean resort, travel by airplane for 8 to 15 hours to Oceania, Micronesia, and areas in the Caribbean. If a direct flight is arranged from the airport in Arbitria to the airport in Happy Bay, it can be reached in about 3 hours. The head of Red Corp. thought that many tourists from Arbitria could be expected if Happy Resort became attractive to the people in Arbitria.
15. Blue Corporation is a general construction company with its head office in Arbitria. It widely undertakes the design and construction of various facilities including general residential housing and commercial facilities such as office buildings and hotels, various public facilities such as schools and event halls, advanced industrial facilities such as research laboratories and factories, water and soil control facilities such as dams and dykes, energy facilities such as power plants, etc., urban redevelopment, infrastructure development of roads, airports, harbor

facilities, water and sewage, etc., and resort development. Reflecting the fact that Arbitria recently ratified Kyoto Protocol, Blue Corporation also has emphasized advice and support in various areas of environmental protection, such as anti-global warming measures, land pollution control measures, waste treatment, and energy conservation. Blue Corporation is the largest general construction company in Arbitria, and its annual sales amount to 20 billion U.S. dollars. It has branch offices and locally incorporated companies in over 20 countries, and also has a branch office in Negoland. When the head office building of Red Corp. needed repair work five years ago, it was Blue Corporation that conducted the repair work for turning the building into a modern office facility while preserving the historical red brick exterior appearance. The fluctuation of the business condition of Blue Corporation in recent years is provided as Attachment 4.

16. Staff officers of Blue Corporation visited Happy Bay, inspected the site with the staff officers of Red Corp., and discussed the potential etc., of Happy Resort. As a result of these discussions, it was decided that Happy Resort would consist of the following six zones.

ZONE A: accommodation facilities, restaurants, shopping mall, convention center

Area that consists of existing hotels: 3, a newly constructed large luxurious hotel: 1, newly constructed medium sized hotels: 3, various restaurants and eateries, a shopping mall, local specialty stores, a convention center with a capacity of 500 people that can be used for international conferences

ZONE B: cottages

Area consisting of 100 cottages built facing the sea and in the bungalow style that is the traditional residence in Negoland

ZONE C: beaches

Beaches with white sand as beautiful as Serebu Beach

ZONE D: amusement

Area consisting of swimming pools, amusement facilities such as a movie theater, and a marina

ZONE E: spas, diving spots, spots for swimming with dolphins

17. On April 1, a construction service agreement relating to the development project of Happy Resort was executed between Red Corp. and Blue Corporation. The duration of construction is three years, and the total construction cost is 200 million U.S. dollars. The construction cost is to be paid in accordance with the progress of construction under the agreement. The area plan of Happy Resort is provided as Attachment 5, and the major particulars of the services are the new construction of various facilities in ZONE A, the construction of cottages and development of the surrounding area in ZONE B, the repair of related facilities in ZONE C, the development of a swimming pool and a movie theater, etc. in ZONE D, the construction of spas and related facilities in ZONE E, as well as the construction of a bridge that connects ZONE E and ZONE A, and the like. Since the high season for overseas travel in Arbitria is between July and September, the opening date is set to be in three years, on July 1st, and the completion and delivery is scheduled for 3

months before the opening. Out of the agreement executed between Red Corp. and Blue Corporation relating to the development project of Happy Resort, those provisions that may concern this Problem are provided in Attachment 6. Moreover, aside from this, it is provided that under this Agreement, each on-site manager of Red Corp. and Blue Corporation has all the authority to represent Red Corp. and Blue Corporation, respectively, in relation to this Problem.

18. Blue Corporation took a strong stance about the potential of Happy Resort. When Red Corp. and Blue Corporation discussed how many tourists could be expected, the preliminary calculations submitted by Red Corp. and Blue Corporation with regard to the number of visitors in the first six months as well as the profit per customer were as shown respectively in Table 1 and Table 2 in Attachment 7. Since knowing how many tourists would visit from Arbitria was the key for Happy Resort and since also a new direct flight from Arbitria was planned for service in order to facilitate this, such preliminary calculation by Blue Corporation was unexpectedly pleasing to Red Corp.
19. Furthermore, although Red Corp. was originally not considering establishing ZONE E, there were suggestions by Blue Corporation that “recently, spas are booming in Arbitria, and there are many people who select their resort destinations based on whether or not there are spas where they could get various massages. Diving is also popular. The beautiful ocean in Maraya province will surely charm the divers in Arbitria. Especially, we have heard that people can swim with dolphins in Happy Bay. This should be one of the selling attractions”. Blue Corporation claimed that the effect in attracting customers by establishing ZONE E would be great, and further claimed that, by establishing ZONE E, the overall ability to attract customers should rise by 10% and the profit per customer should rise by 20%. What Blue Corporation submitted as the preliminary calculation, in the event that ZONE E is established, is shown in Table 3 in Attachment 7.
20. The overall Happy Resort plan would be influenced by the estimated number of tourists. By adding ZONE E, the cost would increase by approximately 30 million U.S. dollars. Although Red Corp.’s side thought that the numbers submitted by Blue Corporation were slightly too optimistic, Blue Corporation, in response to this, claimed that they found, after investigating through its subsidiary travel company, that Arbitrian people had great interest in Happy Resort and that the number of people who would want to go if Happy Resort were to be completed was greater than expected. Red Corp. internally conducted a preliminary calculation in the case that ZONE E was established. This calculation is shown as Table 4 in Attachment 7 and has not been shown to Blue Corporation. Although the increase of cost by 30 million dollars would be a heavy burden, Red Corp. consented to the establishment of ZONE E since it determined that if the number of visitors in Table 4 can be expected, it will not run a deficit even if ZONE E is established with the cost of 30 million dollars, and that it is important to first get more people to visit Happy Resort and Negoland.
21. The works of the Happy Resort went well and about two years have passed since the engagement of the construction service agreement between Red Corp. and Blue

Corporation. They were at the stage to determine the details of furnishing of the cottages in Zone B. One day in such stage, Negoland was introduced in a world famous magazine, in which an article was published to the effect that some intriguing healing power was found in the Negoland bamboo, which had been used for traditional Negoland residences. According to the article, it has been scientifically verified that the Negoland bamboo contained some element which would relax people, and the people in the western part of Maraya province were still today attaining their peace of mind by living in the traditional houses in which the Negoland bamboo was used. This magazine is also published in Arbitria, and the leader of Blue Corporation who read this article thought he would want to use the Negoland bamboo in the cottages in ZONE B. If the cottages are advertised as being built with the Negoland bamboo, they can be advertised extensively as the healing houses that Blue Corporation undertook. Moreover, the Happy Resort tour sales by its subsidiary travel company would also grow.

22. As mentioned earlier, the cutting of the Negoland bamboo requires a license from the Negoland government. Red Corp. who received this proposal, consulted the government. The government, for its part, would permit the cutting as an exception if doing so would lead to the success of Happy Resort, but since the Negoland bamboo forest takes up a significant part of the living environment of the residents in the western part of Maraya province, the Negoland government's judgment was to require supporting votes from two-thirds of the residents.
23. Consequently, Red Corp. and Blue Corporation gave an explanation of the Happy Resort development project to the residents of the western part of Maraya province, and requested that the residents agree to the cutting of the Negoland bamboo. When Red Corp. assessed the overall feeling to the proposal through an influential local individual, it discovered that there were many people against the project, centering on residents who were holding complaints against the government, and others who were holding negative feelings towards modern style resorts, and that the consenting people and the dissenting people were almost equally divided. Upon consultation with the influential local individual as to measures to overcome this situation, this person offered the following suggestion. According to this individual, because of the danger of landslides, there was a need for prompt reinforcement work in some parts of National Highway Route 15, and a request had been put forward to the government. The government's response, however, was that it had its hands full with road repair work in another area whose request had been submitted earlier, and it would be a while before the government could undertake the reinforcement work on National Highway Route 15. It was suggested that if the government promptly undertook this reinforcement work, the dissatisfaction toward the government would be mitigated and the supporting votes from two-thirds of the residents might be gained. In Negoland, Red Corp. is in charge of managing the national highways. Blue Corporation, after hearing this story, offered to Red Corp. that Blue Corporation could undertake the reinforcement work utilizing its own civil engineering staff. According to Blue Corporation, at that time a tunnel construction project undertaken by one of its teams was nearing completion, and if that team were to be sent to the

location, the work could be accommodated within one month. Also in the sense that it would be a contribution to the local community, it was suggested that Blue Corporation would not mind bearing the cost.

24. Red Corp. and Blue Corporation held a briefing session for the local residents. In this briefing session, Happy Resort on-site managers from both Red Corp. and Blue Corporation participated. At the briefing, the on-site manager of Blue Corporation stated that “our company’s position is that if the cutting of the Negoland bamboo is approved, as a token of our heartfelt appreciation, we would like to conduct, without charge, the reinforcement work on National Highway Route 15, about which we understand you have some current concern. It is a work that can be finished in about a week, so it will be completed within one month.” As the influential individual had suggested, many residents in response to this speech switched their previous dissenting position to support approval of the application to cut the Negoland bamboo, and supporting votes from two-thirds of the residents were obtained safely. Furthermore, since there was a request from the local influential individual that he/she would like to confirm the terms of Blue Corporation’s offer in writing, the document in Attachment 8 was handed to the influential individual. A copy of the document was also given to Red Corp.
25. In addition, the cutting of the Negoland bamboo was to be conducted by the local residents, who Red Corp. would employ and who would also carry the bamboo to Ratte, where the bamboo would be delivered to the staff of Blue Corporation. From Ratte, the staff of Blue Corporation would transport the bamboo to Happy Bay through National Highway Route 10. With regard to this point, the memorandum in Attachment 9 was exchanged between the on-site manager of Red Corp. and the on-site manager of Blue Corporation. The creation of employment opportunities due to this Negoland bamboo cutting operation was also one of the causes for the shift to support by the residents.
26. It was necessary to promptly commence the (bamboo cutting) operation in order to keep the schedule for the summer opening of Happy Resort. Since the consent of the residents was obtained at the residents’ briefing session, Red Corp. immediately applied for and received a permit from the government for the cutting of the Negoland bamboo. Two weeks after the briefing session, the bamboo cutting operation necessary for the Happy Resort was commenced, employing the local residents, and the truck arranged by Red Corp arrived at the cutting site.

At this time, however, an unexpected situation arose. Due to an earthquake that had occurred right before the completion of the tunnel being worked on by the team that was planned to assume the reinforcement work of National Highway Route 15, some emergency damage assessment and reinforcement work of the tunnel became necessary, and the team become unable to leave the tunnel site. It was reported that it would take about two weeks for the assessment and reinforcement work on the tunnel to be completed and the team would only be able to start the engineering work on National Highway Route 15 about five weeks after the briefing session.

When Blue Corporation reported the situation to Red Corp., Red Corp.'s response was, "We are sorry that the completion of the tunnel work has been delayed due to the earthquake, but we would like you to start the work on National Highway Route 15 as soon as possible. Can you not arrange for another team or ask another company?" Blue Corporation does not have other teams that can accommodate this type of work. The idea of asking Purple Corporation, who was in charge of the airport work, came up, but it was certain that the expense of about 500,000 U.S. dollars would be incurred if Blue Corporation were to make the request to Purple Corporation. There was also some psychological resistance in making the request to Purple Corporation, against whom Blue Corporation had competed in receiving the order for the Happy Resort Development Project. In the end, Blue Corporation replied to Red Corp., "Unfortunately, there is no other team. We will try to hurry them up, so please wait for a little while." Red Corp. said, "Because it is a promise made with the residents, we would like you to respond as soon as possible." Blue Corporation answered, "We understand." Blue Corporation actually made an effort by finishing up the tunnel work in one and a half weeks, which would usually take two weeks, and dispatched the team to work on National Highway Route 15 exactly one month and three days after the briefing session. On that very day, Maraya province had heavy rainfall, and a landslide occurred at the site that had been of greatest concern. Fortunately, there were no deaths or injured people, but the restoration work ended up taking three months.

27. The only efficient means of transportation for carrying the Negoland bamboo to the Happy Resort site in the quality and quantity required is the use of National Highway Route 15, and as a result of the landslide that had occurred on National Highway Route 15, the route to transport the Negoland bamboo to Happy Resort was closed. In response to this situation, Blue Corporation mailed the letter in Attachment 10 to Red Corp. A few days later, the letter in Attachment 11 was sent to Blue Corporation by Red Corp. As stated in the letter in Attachment 11, it is a fact that had the reinforcement work been conducted as scheduled, the landslide would not have occurred even under the heavy rainfall in this case.

After receiving the letter in Attachment 11, Blue Corporation was facing a dilemma. If the delay in construction did not fall under Article 7 Paragraph 3 of the Agreement, then a large amount of compensation would have to be paid if the construction schedule was not met. On the other hand, in order to meet the construction schedule, Blue Corporation would have to allocate more workers than planned and have them work on a 24-hour a day basis, in which case it would incur an additional cost of approximately 5 million U.S. dollars.

While Blue Corporation was in a quandary as to how it would deal with the situation, the on-site manager of Blue Corporation was suddenly summoned to the palace. When the on-site manager of Blue Corporation rushed to the palace in response to the summons, he/she was escorted to a chamber to have an audience with King Nego IV. King Nego IV spoke to the on-site manager of Blue Corporation as follows: "This Happy Resort is very important for the development of our country's tourist industry. We would like to have it open in July as planned by any means. I believe it is not easy for your company, but I would be very appreciative of your

cooperation. I have received a report that there is some difference of opinion regarding the terms of the Agreement, but I will not make it more difficult for you with regard to the cost.” The on-site manager of Blue Corporation felt completely obliged by the fact that the King himself requested their cooperation, and replied, “Certainly, Your Highness. We will do our very best to meet your expectations.” There was no discussion at all about matters such as the specific amount of additional cost. In response to the audience with the King, the on-site manager of Blue Corporation communicated to his head office as follows. “I received a request directly from His Majesty asking us to meet the construction schedule by any means. I also received words that His Majesty would not make it difficult for us. If we work on a 24-hour a day basis, we will be able to manage to meet the construction schedule, so please send support immediately.” After receiving this report, the head office of Blue Corporation decided to send the necessary additional workers. The on-site manager of Blue Corporation told the on-site manager of Red Corp. as follows. “I met His Majesty and was moved by His Majesty’s passion. We have decided that Blue Corporation will engage on a 24-hour a day basis and will manage to meet the construction schedule. We would like to discuss matters such as the cost at a later date, but the current estimation is about 5 million U.S. dollars.” The on-site manager of Red Corp. responded as follows. “I appreciate this and thank you for your support. We have acknowledged that King Nego IV has said that His Majesty would not make it difficult for your company concerning the cost. Our company is a public company and cannot act counter to the intention of His Majesty. Let us have a further discussion when things are a little more settled.” As it turned out, both the on-site managers of Red Corp. and Blue Corporation became extremely busy with the final stage of the construction work, and neither party offered to further discuss matters in relation to this issue.

28. The restoration work of National Highway Route15 finished two months earlier than the schedule, and transportation of the Negoland bamboo was also completed. There was some dissatisfaction toward Blue Corporation raised by some of the residents regarding the delay of the reinforcement work on National Highway Route 15, and also a claim that they should withdraw the consent to the cutting of the Negoland bamboo, but again, because of King Nego IV’s intercession with the local influential individual, such complaints did not surface. Blue Corporation obtained the requested support from its head office, and engaged in the work on a 24-hour a day basis, and thus ZONE B was safely completed one day before the scheduled construction work period. Work on other areas than ZONE B were also completed as scheduled. Red Corp. issued a Taking-Over Certificate to Blue Corporation in accordance with the Agreement.
29. On June 1, one month before the official opening, while the preparation for the opening was being carried forward, an inspection by King Nego IV was conducted. This inspection had been planned from the initial stage of the development project, and its scale was for a total number of 1,000 people. However, on this inspection day, a great problem occurred in relation to ZONE E. ZONE E was constructed on a small island floating in Happy Bay. ZONE A and ZONE E are connected by a suspension

bridge called Happy Bridge and its total length is approximately 400 meters. Commercial materials, etc. are supposed to be transferred by vessels, while tourists are supposed to walk or ride on a rickshaw to cross the Happy Bridge. One can view the scenery of Happy Bay from the bridge, and, as a bridge that can be crossed by walking on the sea, it is one of the selling attractions of Happy Resort.

30. However, when the party of about 1,000 people, led by King Nego IV, members of the royal household, various government officials, authorized representatives and special guests of both Red Corp. and Blue Corporation proceeded to cross Happy Bridge to visit ZONE E, the bridge started swinging wildly and fearful cries were raised from among the party. Lots of people, including King Nego IV, were not able to keep standing and squatted down. Up to that time, when the workers involved in the construction work and opening preparations used the bridge it had never swayed any significant amount, however this was the first occasion when 1,000 people crossed the bridge at the same time. The government immediately issued an order prohibiting the crossing of Happy Bridge, and work to investigate the cause was commenced by the staff of Red Corp. and Blue Corporation. However, no specific problem was found in the processes of designing, manufacturing, or building, and moreover, no defect had been discovered in the inspections by the Negoland government conducted at each process.

Red Corp. decided to close Happy Bridge and ZONE E until the cause could be clarified.

31. On July 1, Happy Resort (except for ZONE E) opened as scheduled. However, in addition to the negative image given following the sensational reporting of the “Happy Bridge Incident”, perhaps due to the closure of ZONE E, which included popular facilities such as the spas, the total number of visitors for July stopped at 60,000 people, which was less than even the conservative estimate made by Red Corp., and the profit per person was also sluggish. In August, because Red Corp. enhanced its PR marketing strategy with the cooperation of the Negoland government, visitors increased to 80,000 people.

32. The work to clarify the cause of the large swaying of the Happy Bridge was proceeding with difficulty, but toward the end of August, the staff of Red Corp., conducting research with reference materials at the Negoland University Library, found an article published 10 years ago in a representative English architectural magazine from Japan. Summary of the paper is something like the following.

“Humans shift their center of gravity when they walk, and therefore a certain force is applied on a bridge when a human crosses it. The force from the shift of the center of gravity created by walking by one human is not great, but if many humans cross a bridge at the same time, the force becomes considerable. When the cycle of application of this force is the same as the vibrational frequency of a bridge, the bridge will swing largely.”

The phenomenon introduced in the above article was something totally unknown in Negoland or Arbitria. The similar phenomenon occurred with the Millennium Bridge in London recently, but it was after this incident in Happy Resort. Although the

magazine containing the above article was kept in places such as university libraries in Negoland and Arbitria, there was no engineer who knew about the above-mentioned phenomenon, including not just the engineers of Blue Corporation but also of other Arbitrian construction companies. Nevertheless, the Japanese branch manager of Blue Corporation's Japanese subsidiary was a friend of the researcher who wrote the above article, and also knew of the above-mentioned phenomenon. However, this Japanese branch manager had not at all been involved in the Happy Resort Development Project, and moreover was not a person with such responsibility as to widely inform those within the company of the above-mentioned phenomenon.

33. The researcher who wrote the article was invited to Negoland at once to investigate, and it was found out that the above-mentioned phenomenon was indeed the cause for the large swinging of the Happy Bridge. Vibration control measures were immediately undertaken, and on September 1, the passage prohibition measure for the Happy Bridge was removed and ZONE E opened at the same time. ZONE E gained popularity, as had been anticipated by Blue Corporation, and the number of visitors and profit for September surpassed July and August. Business results such as the number of visitors and profit for the six-month period from July is provided in Attachment 7 as Table 5. Immediately after the removal of the passage prohibition measure for the Happy Bridge, King Nego IV passed away in an unfortunate accident, and King Nego V acceded to the throne.

34. In October, Red Corp. claimed that Blue Corporation was responsible for the two-month passage prohibition of the Happy Bridge, and, as damages incurred during this period, demanded from Blue Corporation the payment of 8,610,000 Negoland dollars, which is the difference between the expected profit amount indicated by Blue Corporation for July and August (Attachment 7 Table 3) and the actual profit amount (Attachment 7 Table 5). In July and August, 1 Negoland dollar equals to 1 U.S. dollar. In September, Negoland dollars drastically increased its value against U.S. dollars. The exchange rate of U.S. dollars and Negoland dollars has changed since July as follows:

Before August	1 Negoland dollar = 1 U.S. dollar
September	1 Negoland dollar = 1.2 U.S. dollar
Since October	1 Negoland dollar = 1.4 U.S. dollar

35. In response to this, Blue Corporation claimed that since phenomenon such as the one mentioned above had not been known in Arbitria, Blue Corporation was not liable. Moreover, Blue Corporation claimed that, even if Blue Corporation was liable, the amount should be the balance between the expected income amount estimated by Red Corp. (Attachment 7 Table 2) and the actual income amount (Attachment 7 Table 5), and in addition, payment shall be made in U.S. dollar, that is, 3,150,000 U.S. dollars at most. It is a fact that the payment by customers at Happy Resort is made in Negoland dollars. Further, the majority of the costs required for the operation of each facility within Happy Resort is also paid in Negoland dollars.

36. Conversely, Blue Corporation has demanded five million dollars as the cost which arose from accommodating the 24-hour a day working schedule to make the ZONE B construction work meet the schedule for construction. Blue Corporation has claimed, among others, that the closure of National Highway Route 15 was a reason falling within Article 7 Paragraph 3 of the Agreement, and that the payment of 5,000,000 U.S. dollars was what King Nego IV took responsibility for, and what the on-site manager of Red Corp. had also consented to. In response to this, Red Corp. claimed, among others, that the cause of the closure of National Highway Route 15 only occurred because Blue Corporation broke its promise and did not carry out the reinforcement work on National Highway Route 15 in the first place, and therefore it was not a reason that would fall within Article 7 Paragraph 3 of the Agreement. Furthermore Red Corp. argued that King Nego IV did not make such promise as to the payment of 5,000,000 U.S. dollars.
37. The claims made by both parties followed parallel lines, and the negotiation was tough going. This issue also reached King Nego V, who newly acceded to the throne. King Nego V, who was studying international commercial arbitration while in Europe, stated his opinion to the head of Red Corp., "If the negotiation is not progressing, why don't you rely on arbitration in accordance with the Agreement? Rather than negotiating sluggishly and giving impact on other businesses, it may be better to think things pragmatically by deciding the troubling issue by arbitration, and separating other business." Red Corp. and Blue Corporation decided to entrust the dispute between the companies to arbitration. The request for arbitration by Red Corp. is shown as Attachment 12 and the written response by Blue Corporation is shown as Attachment 13.

< Round A (Arbitration) >

This arbitration is conducted pursuant to UNCITRAL Arbitration Rules. Prior to conducting the proceedings, the Arbitrator instructed the submission, before the dates specified separately, of the preparatory pleadings in which the claims and reasons are stated with regard to the following three issues.

- (1) Whether or not Blue Corporation is legally responsible with regard to the damage incurred by Red Corp. arising from the fact that the Happy Bridge was subjected to a passage prohibition order for two months;
- (2) In the event that Blue Corporation is found legally responsible, the amount of compensation that Blue Corporation should pay to Red Corp.; and
- (3) Whether or not Red Corp. is liable to pay to Blue Corporation 5 million U.S. dollars, which Blue Corporation expended following the construction of ZONE B.

The Arbitrator has given instructions to include anticipatory arguments which would respond to the event that the other party's arguments have been accepted when preparing the preparatory memorandum or for the pleadings since all issues will be examined at the same time in the proceeding.

< Round B (Negotiation)>

38. The arbitration between Red Corp. and Blue Corporation finally concluded in a settlement. As for Happy Resort, ZONE E gained greater popularity than expected, and the Resort was able to raise proceeds of 28 million dollars in the year following the opening, and 30 million dollars the year after. The success of Happy Resort helped to raise interest among various countries not only in Happy Resort but in Negoland as a whole.

The shift of new foreign capital investment into Negoland each year for the last three years is shown below. The fact that the state structure centering on King Nego V is stable is also a factor for the advancement of foreign corporations into Negoland.

(in Million U.S. dollars)

	3 years ago	2 years ago	1 year ago	Estimate for this year
Mining and manufacturing	500	700	1,000	1,200
Others	200	300	300	400
Total	750	1,000	1,300	1,600

39. In particular, the advancement of Arbitrian companies into Negoland is active. In addition to the closeness in distance, since the cost of living in Negoland is approximately half the cost of living in Arbitria, more and more companies from Arbitria in search of cheap labor have been moving their factories to Negoland. Moreover, the actual annual growth rate of Negoland's GDP in recent years is increasing at 5% to 7%.

With these economic developments in Negoland, the purchase power in the domestic market of Negoland has also been drawing attention. Especially for companies in Arbitria, where its own domestic market has already been saturated, Negoland is attractive as a new market, and the setting up of sales bases for Negoland's domestic market by Arbitrian corporations are also becoming active.

Historically, Negoland and Arbitria had fought wars in the past, arising from the fact that they are neighbors, and there was a period when their relationship became tense over the recognition and acknowledgment of this history. Starting from the occasion when the Prime Minister of Arbitria and King Nego IV of Negoland mutually visited the other country and explained the importance of the friendly relationship between the two countries, their mutual understanding progressed and the current relationship between the two countries is very good.

40. In Negoland, in addition to the advancement of foreign corporations as above-mentioned, the construction rush of large commercial facilities and high rise apartment buildings in urban areas continues, and the demand for electric power is growing. In the past, Negoland had excess electric power and exported to other countries, but according to the demand for electric power estimated by the Negoland National Economic Research Institute (an affiliated corporation of Red Corp.), in four years, the currently power plants will not be able to meet the demand.

(in 1,000 megawatts)

	This year	1 year later	2 years later	3 years later	4 years later	5 years later
Increased power demand	0	500	1,000	2,000	4,000	5,000
Excess electric power	3,000	2,500	2,000	1,000	-1,000	-2,000

In Negoland, the electric power business is monopolized by the Negoland National Power Corporation, which is a 100% subsidiary of Red Corp. In response to this situation of increasing power demand, Red Corp. and the Negoland National Power Corporation have been deliberating a power plant construction project. At present, five projects are being examined.

- i. To construct a coal thermal power plant in Koru.
- ii. To construct a hydroelectric power plant in Danbo.
- iii. To construct a waste-generated power plant in Negoshia.
- iv. To construct an oil-fired power plant in Portland.
- v. To construct a wind-generated power plant in Kazehiru.

Already with regard to these five projects, basic research by the Negoland National Power Corporation has been conducted, and the matter is at the stage of determining which project is actually to be moved forward, and which contractor is to be commissioned.

41. Recently, Red Corp. publicized the basic plan for these five projects, and based on this basic plan, is engaged in the selection process of the corporations to be commissioned for these projects. In this project, the selection will be made through negotiated contracts based on overall assessment, not open bidding. Blue Corporation, with its experience in Happy Resort was also invited, and is being examined within the company regarding which of the five projects it is going to get commission. The basic plan that Red Corp. made public is as Attachment 14.

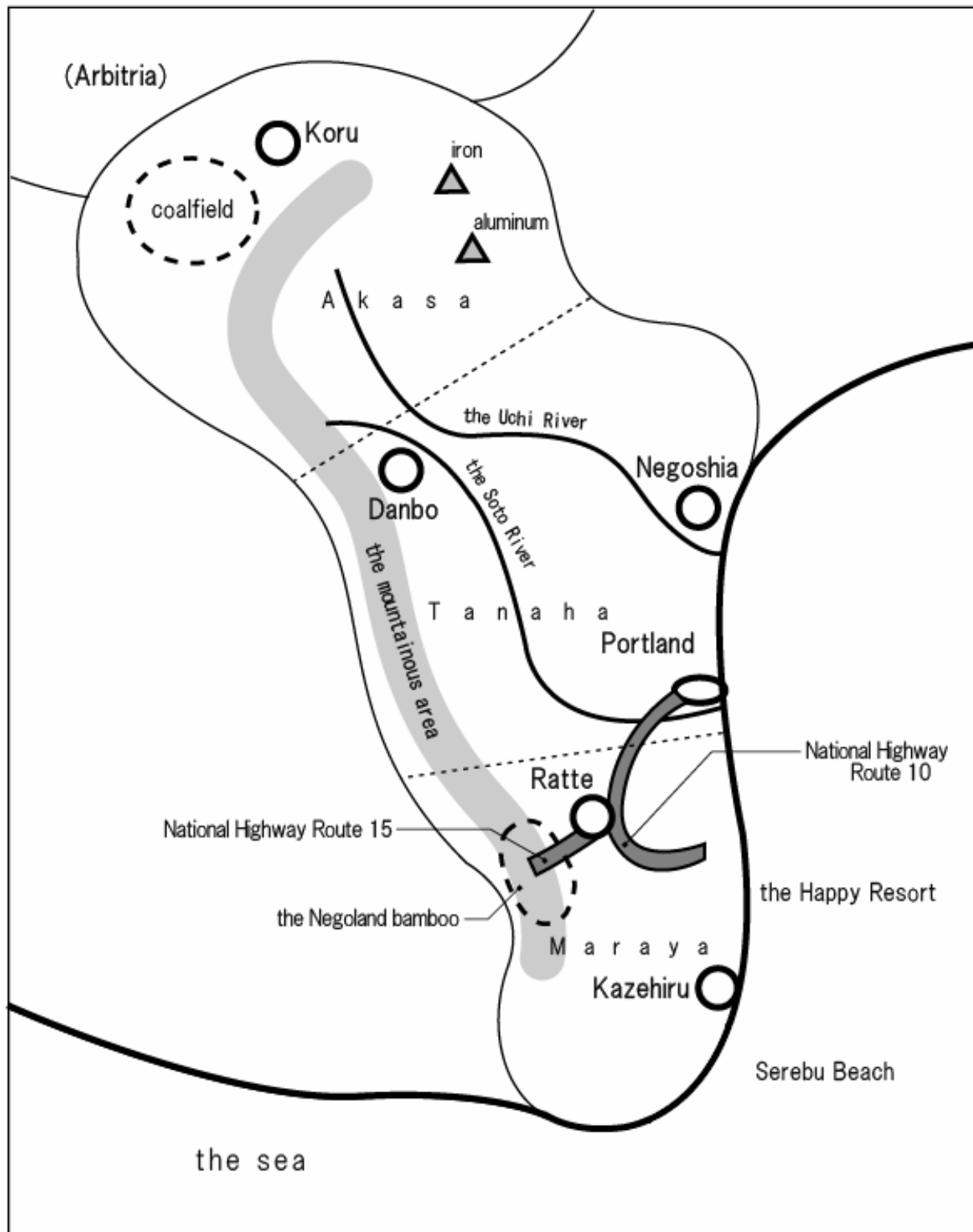
Furthermore, according to Red Corp., these basic plans in Attachment 14 are showing only the tentative ideas at the present, and if a commissioned company offers better ideas in relation to the volume of electric power, cost, etc., Red Corp. has the intention to modify these plans based on such ideas. The total budget for this project is seven million U.S. dollars.

42. An interview between Red Corp. and Blue Corporation has been scheduled for December 4th. In the next interview, headed by the President of Red Corp., all the Vice-Presidents are scheduled to attend. For the side of Blue Corporation, participation by the Vice-President, the Senior Managing Director for International Affairs, the Energy Department Director, etc. is scheduled. Red Corp. seems to have already finished interviewing the other leading companies, and depending on the outcome of the next interview with Blue Corporation which projects will be commissioned to which company is to be determined.

43. Unfortunately, in November, with the interview close at hand, there was an incident where a part of the floor at the convention center located in ZONE A of Happy Resort dropped during preparations for an international conference on the environment. Fortunately, nobody was injured, but equipment and materials worth 100 thousands U.S. dollars that had been placed by Red Corp. on the floor that dropped, were destroyed. Immediately, the staff of Blue Corporation rushed over, and investigated the cause with the staff of Red Corp. The staff of Red Corp. claimed that this was caused by Blue Corporation's negligent work, and the staff of Blue Corporation claimed that this was caused because Red Corp. placed equipment and materials which exceeded the weight limit, and furthermore, in a reckless manner.
44. In an attempt to resolve this issue, the Vice-President of environmental protection and national land development of Red Corp. and the Happy Resort on-site manager of Blue Corporation had a talk. The Vice-President of environmental protection and national land development of Red Corp. was also present at the site on that day. At the talk, the Vice-President, from the start, repeated the claim that the cause was the negligent work of Blue Corporation, and sought an apology and compensation from Blue Corporation. In response to this, the on-site manager of Blue Corporation claimed that there was no negligence at all, and thus the talks broke off.
45. There was a correspondence from Red Corp. to Blue Corporation asking to have the Happy Resort on-site manager present at the interview on December 4th. There was no detailed explanation such as to the reason, but it is certain that Red Corp. is considering settling the Happy Resort issue altogether on December 4th.

The End

Map of Negoland



Attachment 2

The Constitution of the Negoland

Chapter 1 General Rule

Article 1 This constitution is the supreme law of the Country, and any laws, regulations, orders and treaties against this constitution shall not be effective. The Head of State of the Country of Negoland is the King.

Article 2 Sovereignty shall reside in the citizens of the Country of Negoland

(omitted)

Chapter 2 The King

Article 5 The King as the Head of State shall exercise ruling power in compliance with the provisions of this Constitution.

Article 6 The Royal Succession shall be in compliance with the *Royal Succession Law*.

Article 7 In exercising ruling power, the King shall exercise legislative authority in accordance with the National Diet, administrative authority in accordance with the Cabinet and judicial authority in accordance with the Court of Justice.

Article 8 The King shall be able to issue Royal Decrees as far as they do not conflict with the applicable laws.

(omitted)

Chapter 3 The Rights and Duties of the People

Article 15 All People shall have fundamental human rights and shall be equal with no discrimination because of birth, sex, race ,or religion.

Article 16 All People shall be able to exercise their rights freely, as far as they do not infringe upon any rights and freedoms of others, do not run counter to the Constitution or do not offend public order and morality

Article 17 All People shall refrain from any abuse of the rights that are guaranteed by this Constitution.

Article 18 All People shall have the duty to uphold the State, the King and the democratic national policy with the King as the Head of State.

Article 19 All People shall have the duty to comply with the provisions of the laws and to exercise the right of voting.

(omitted)

Article 25 The property rights of all People shall not be infringed except in the event of carrying out actions in compliance with the regulation(s) of the law(s) concerned for public

facilities, the need for security, development of natural resources, city planning, environmental improvement and protection, or any other public interests.

Article 26 All People shall have the right to maintain a minimum standard of wholesome and cultured living.

Article 27 All People shall have the right to continue to live peaceful lives in an environment where their own health, safety and good quality of life are not threatened by any danger. If there is any plan or activity that may cause any material effect to the environment, specific environmental research shall be carried out prior to the implementation of such plan or activity.

(omitted)

Article 40 The aboriginal peoples of the region shall have the right to maintain their ethnic and local good customs, traditional knowledge and culture and take part in the harmonious and continuous management, protection and use of natural resources and the environment.

(omitted)

Chapter 4 The National Diet

Article 53 Any bill shall be enacted strictly subject to the advice and approval of the National Diet.

Article 54 Once a bill is approved, it shall be reported to the King by the National Diet Chairman for the King's approval. The bill can be enforced only after the King's approval and proclamation.

Article 55 In the event that the King does not agree with any bill, the bill shall be re-considered in the National Diet. If the bill again passes the Diet with 2/3 of the votes, the National Diet Chairman shall report to the King of the subject bill for the 2nd time. In the event the King still does not agree with the bill, the bill can be enacted by way of publication in the governmental gazette with the Prime Minister's signature.

Article 56 The National Diet members shall be selected by national election.

(omitted)

Chapter 5 The Cabinet

Article 80: The cabinet consists of the Prime Minister and the Ministers of State.

Article 81: The Prime Minister shall be appointed by the King, upon the recommendation of the Diet, from amongst the Diet Members

Article 82: The Ministers of State are to be nominated by the Prime Minister and appointed by the King.

Article 83: The National Diet is to carry out the following in addition to general administrative tasks.

- 1 Enforce the laws truthfully and assist the King on State Affairs.
- 2 Control diplomatic relations

- 3 Ratify treaties
- 4 Control the clerical work of governmental service staff
- 5 Prepare budgets and submit them to the National Diet
- 6 Establish government ordinances for the purpose of enforcing the provisions of this Constitution and the laws.

(omitted)

Chapter 10 Public Corporations

Article 116 Public Corporations are corporate bodies intended to be responsible for certain tasks for the stability and advancement of People's living and the development of the national economy out of the State Affairs. Public corporations are to be established in compliance with the law(s) concerned.

(omitted)

Article 118 The following tasks of public corporations are to be carried out by the Director-General, Vice President and Administration Officers of each public corporation. The execution of these activities requires approval from the King and Prime Minister:

1. Task(s) which cause any material effect on the State
2. Task(s) which cause any material effect on the People's living and national economy
3. Task(s) which cause any material effect on the management of any public corporation.
4. Task(s) set forth by the laws

(the rest is omitted)

Attachment 3

The System Regarding Investment in Negoland

○ The Investment Framework

The laws of Negoland concerning foreign investment provide the following regulations as a framework for foreign investors who make investments in Negoland:

- Joint Company

A stock company made up of one or more foreign investors and one or more domestic investors of Negoland. This is the prevailing type of stock company that is selected by many foreign investors. Investment is allowed in any form, including cash, facilities, intellectual property or know-how, but the foreign investors' holding shall be between 30 ~ 90%. When an investor desires to assign the stocks of the joint company to any 3rd party, the investor must provide the other investors of the subject joint company with first refusal rights. The minimum capital amount is set at 10,000 Negoland Dollars. There are no further material restrictions.

- Foreign Companies

This is a company formed with 100% foreign capital. There are certain restrictions on locations and the area of business for the foundation of a foreign company. Foundation of a foreign company requires approval from the Negoland National Economic Development Corporation. The minimum capital amount is set at 100,000 Negoland Dollars.

- Partnerships

A Partnership is established by way of signing a joint business agreement by and between one or more foreign investors and one or more domestic investors of the Negoland. No business entity with the status of an independent legal person is formed. There are no other specific restrictions.

○ Favorable treatment on the business income tax rate

A favorable treatment income tax rate of 20% is to be applied to the following investment businesses.

- An enterprise that conducts its business in a designated industrial area and exports over 50% of its products.
- An enterprise conducting its business with one or more of the main purposes that are designated by the Negoland National Economic Development Corporation. Currently, the designated business purposes are education, healthcare and agriculture & forestry.

A favorable treatment income tax rate of 10% is to be applied to the following business investments.

- Investments in districts that have social and economic hardship.
- Investments that contribute to any environmental protection.
- An business investment that is conducted on condition that the equity right or the entire asset is to be assigned to the State of Negoland with no indemnity, either on the termination of the business or 15 years from the commencement of the business, whichever is earlier (BOT business)

Attachment 4

The business results of Blue Corporation

(consolidated accounting basis: applying the amounts on a US\$ basis that are open on the Company's homepage)

(unit US\$1mill.)

	Business year, 2 years before last	Business year 1year before last	Previous business year
Sales	18,000	20,000	22,000
Net profit	20	30	40
Total assets	20,000	21,000	18,000

Sales breakdown

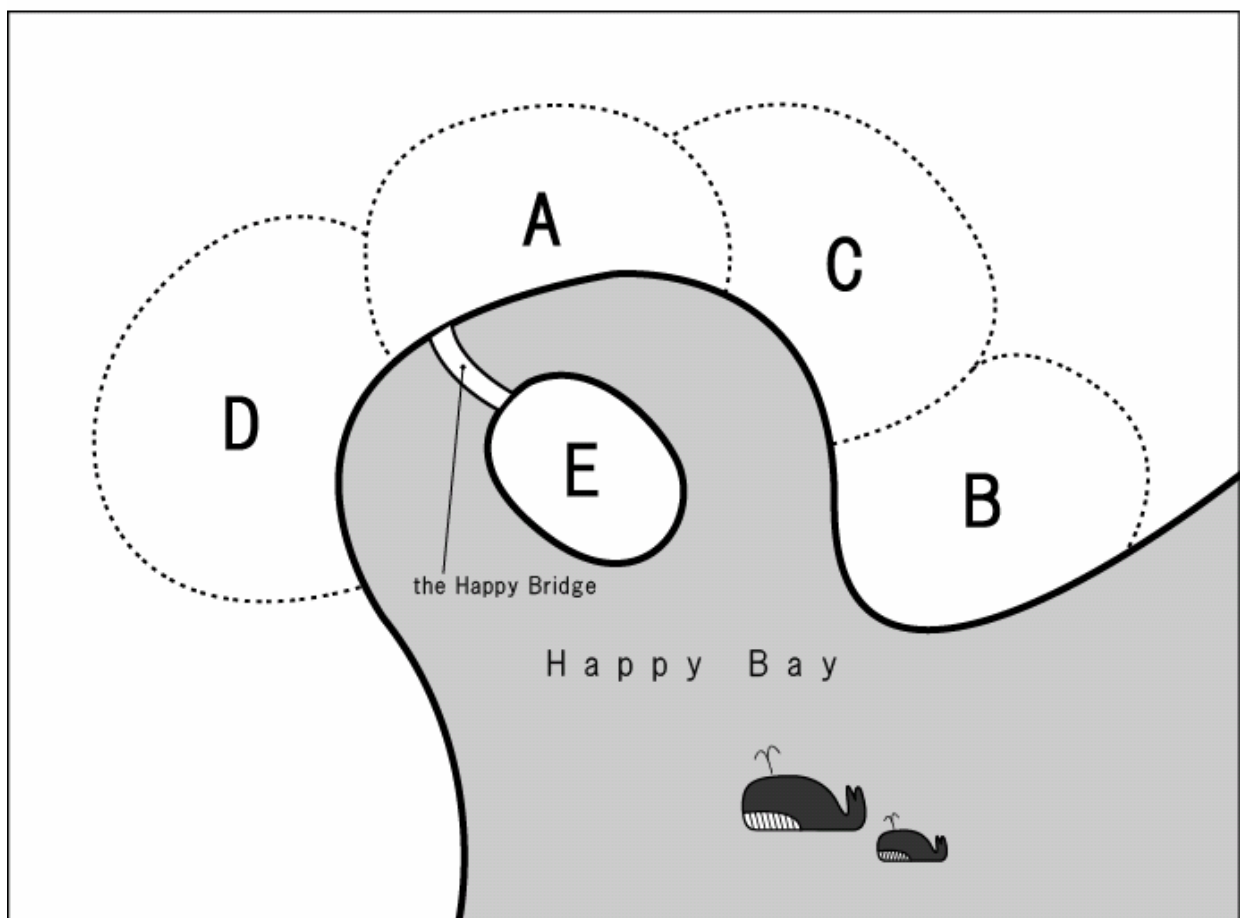
(US\$1million)

	Business year, 2 years before last	Business year 1year before last	Previous business year
Construction	12,000	12,000	13,000
Civil engineering	5,000	5,500	7,000
Development etc.	1,000	2,500	2,000

<Note>

- The recent business results of Blue Corporation have been steadily undergoing transition with expectations to achieve about the same sales and profit as that of last year.
- The proportion of the net profit/sales is quite normal for the same type of business conducted in the State of Arbitoria. The 80% of the sales is earned in the State of Arbitoria and the remaining 20% is earned in the foreign country

the Happy Resort



Attachment 6

An excerpt from the Agreement by and between the Red Company and the Blue Corporation

Article 1 Definitions

- 1.1 “Works” means the permanent and temporary works to be designed and executed in accordance with the Contract.
- 1.2 “Contract Price” means US\$200,000,000.00, which is payable to Blue for the design, execution and completion of the Works and the remedying of any defects in accordance with the provision of the Contract.
- 1.3 “Contract” means this contract and such further documents between Red and Blue as may be expressly incorporated in this contract.
- 1.4 “Parties” means Red and Blue.
- 1.5 “Time for Completion” means the time for completing the Works, which shall end on the third anniversary date of the date of the Contract.
- 1.6 “Contract Period” means the period from the date of the Contract to the 90 days after the expiry of the Time for Completion.
- 1.7 “Site” means the places where the Works are to be executed and any other places as may be specifically designated in the Contract as forming part of the Site.
- 1.8 “Construction Documents” means all drawings, calculations, computer software, samples, patterns, models, operation and maintenance manuals, and other manuals and information of a similar nature, to be submitted by Blue.

. . .

Article 3 Blue

- 3.1 The Works as completed by Blue shall be wholly in accordance with the Contract and fit for the purpose for which they are intended, as defined in the Contract. Blue shall design, execute and complete the Works within the Time for Completion, and shall remedy any defects within the Contract Period. Blue shall provide all superintendence, labor, materials, machines, and all other things, whether of a temporary or permanent nature, required in and for such design, execution, completion and remedying of

defects.

Blue shall take full responsibility for the adequacy, stability and safety of all Site operations, of all methods of construction and of all the Works, irrespective of any approval or consent by Red.

. . .

3.8 Red shall have made available to Blue, as soon as possible after the date of the Contract, all the data on hydrological and sub-surface conditions at the Site, and studies on environmental impact, which have been obtained by or on behalf of Red from investigations for the Works. Blue shall be responsible for interpreting all data. Blue shall be deemed to have inspected and examined the Site, its surroundings, the above data and other available information, and to have satisfied himself (so far as is practicable, taking account of cost and time) before the date of the Contract, as to:

- (a) the form and nature of the Site, including the sub-surface conditions,
- (b) the hydrological and climatic conditions,
- (c) the extent and nature of the work and nature of the work and materials necessary for the execution and completion of the Works, and the remedying of any defects, and
- (d) the means of access to the Site and the accommodation he may require.

. . .

3.11 Blue shall be deemed to be satisfied himself as to the correctness and sufficiency of the Contract Price. Unless otherwise stated in the Contract, the Contract Price shall cover all his obligations under the Contract and all things necessary for the proper design, execution and completion of the Works and the remedying of any defects.

. . .

3.16 Blue shall take all reasonable steps to protect the environment (both on and off the Site) and to limit damages and nuisance to people and property resulting from pollution, noise and other results of his operations. Blue shall ensure that air emissions, surface discharges and effluent from the Site during the Contract Period shall not exceed the value prescribed by law.

. . .

Article 4 Design

4.1 Blue shall carry out, and be responsible for, the design of the Works. Design shall be prepared by qualified designers who are engineers or other professionals who are competent to do such design. Blue holds himself and his designers as having the experience and capability necessary for the design.

. . .

4.3 The design, the Construction Documents, the execution and the completed Works shall comply with the Negoland's national specifications, technical standards, building, construction and environmental regulations, regulations applicable to the product being produced from the Works.

Article 5 Staff and Labour

5.1 Blue shall make his own arrangement for the engagement of all staff and labor, local or otherwise, and

for their payment, housing, feeding and transport.

• • •

Article 7 Delays

7.1 The whole of the Works shall be completed within the Time for Completion for the Works.

• • •

7.3 Blue may apply for an extension of the Time for Completion if he is or will be delayed either before or after the Time for Completion by any of the following causes:

- (a) any alteration and/or modification to Works,
- (b) a force majeure event,
- (c) a cause of delay giving an entitlement to extension of time under the provision of the Contract, unless Blue has not complied with such provision,
- (d) physical conditions or circumstances on the Site, which are exceptionally adverse and were not (by the base Date) foreseeable by a experienced contractor, or
- (e) any delay, impediment or prevention by Red.

If Blue intends to apply for an extension of the Time for Completion, Blue shall give written notice to Red of such intention as soon as possible.

7.4 When Red is applied for an extension of time, Red shall consult with Blue in an endeavor to reach agreement. If agreement is not achieved, Red shall determine the matter fairly, reasonably and in accordance with the Contract.

7.5 If Blue fails to comply with 7.1, Blue shall pay to Red the relevant sum stated in the US\$50,000.00 as liquidated damages for such default for every day which shall elapse between the relevant Time for Completion and the date stated in the Taking-Over Certificate. Red may, without prejudice to any other method of recovery, deduct the amount of such damages from any monies due, or to become due, to Blue. The payment or deduction of such damages shall not relieve Blue from his obligation to complete the Works, or from any other of his duties, obligations or responsibilities under the Contract.

• • •

Article 9 Taking Over

9.1 The Works shall be taken over by Red when they have been completed in accordance with the Contract and a Taking-Over Certificate for the Works has been issued.

• • •

Article 11 Defects Liability

11.1 In order that the Construction Documents and the Works shall be in the condition required by the

Contract at, or as soon as practicable after, the expiry of the Contract Period, Blue shall:

- (a) complete any work which is outstanding on the date stated in a Taking-Over Certificate, as soon as practicable after such date, and
- (b) execute all work of amendment, reconstruction, and remedying defects or damage, as may be instructed by Red during the Contract Period.

If any such defect appears or damage occurs, Red shall promptly notify the Contractor in writing.

11.2 All work referred to in 11.1(b) shall be executed by Blue at his own cost, if the necessity for such work is due to:

- (a) the design of the Works,
- (b) materials, or workmanship not being in accordance with the Contract, or
- (c) failure by Blue to comply with any of his other obligations.

If such necessity is due to any other cause, Red shall notify Blue accordingly and seek agreement to an adjustment to the Contract Price. If Red makes such a notice, Blue shall submit as soon as practicable:

- (a) a description of the proposed design and/or work to be performed and a programme for its execution, and
- (b) the Contractor's proposal for adjustment to the Contract Price, Time for Completion and/or modifications to the Contract.

Red shall, as soon as practicable after receipt of such proposals, respond with approval, rejection or comments.

. . .

Article 14 Contract Price and Payment

14.1 Red shall pay the Contract Price to Blue in accordance with the Schedule I.

14.2 The Contract Price shall not be adjusted for changes in the cost of labor, materials or other matters.

. . .

Article 16 Default

16.1 If Blue fails to carry out any of his obligations, or if Blue is not executing the Works in accordance with the Contract, Red may give notice to Blue requiring him to make good such failure and remedy the same within a specified reasonable time.

16.2 If Blue:

- (a) fails to comply with a notice under 16.1,
- (b) abandons or repudiates the Contract,
- (c) becomes bankrupt or insolvent, goes into liquidation, or if any act is done or event occurs which

(under any applicable law) has a similar effect to any of these acts or event, then Red may, after having given 14 days' notice to Blue, terminate employment of Blue under the Contract and expel him from the Site. Blue shall then deliver all Construction Documents, and other design documents made by or for him, to Red.

Red may upon such termination complete the Works himself and/or by any other contractor.

Article 18 Risks and Responsibility

18.1 Blue shall indemnify and hold harmless Red, Red's contractors, agents and employees from and against all claims, damages, losses and expenses arising out of or resulting from the Works, including professional services provided by Blue.

18.2 Blue shall take full responsibility for the care of Works from the date of the Contract until the date of issue of the Taking-Over Certificate, when responsibility shall pass to Red. If Red issues a Taking-Over Certificate for whole or any part of the Works, Blue shall cease to be responsible for whole or such part of the Work from the date of issue of such Taking-Over Certificate, when responsibility shall pass to Red.

18.3 The following are risks taken by Red:

- (a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
- (b) rebellion, revolution, insurrection, or military or usurped power, or civil war,
- • • , and
- (g) any operation of the forces of nature against which an experienced contractor could not reasonably have been expected to take precautions.

18.4 Blue shall give notice to Red of any risk listed in 18. 3 which is foreseen by, or is known to Blue.

When Red is given such a notice, Red shall consult with Blue in an endeavor to reach agreement on:

- (a) any extension of time to which Blue is entitled under 7.3, and
- (b) the amount of such Cost, which shall be added to the Contract Price.

If agreement is not achieved, Red shall determine the matter fairly, reasonably and in accordance with the Contract.

• • •

Article 20 Force Majeure

20.1 Neither Party shall be liable to fulfill its obligations hereunder, or for delays in performance, due to causes beyond its reasonable control, including, but not limited to, acts of God, acts or omissions of civil or military authority, fires, strikes, floods, epidemics, riots or acts of war.

20.2 Upon occurrence of an event considered by Blue to constitute force majeure and which may affect performance of his obligations, Blue shall promptly notify Red, and shall endeavour to continue to perform his obligations as far as reasonably practicable. Blue shall also notify Red of any proposals, including any reasonable alternative means for performance, but shall not effect such proposals without

the consent of Red.

• • •

Article 22 General Provisions

22.1 All questions arising out of or under the Contract shall be governed by and construed in accordance with UNIDROIT Principles of International Commercial Contracts (1994 version).

22.2 Any dispute, controversy or difference arising out of or in relation to or in connection with this Agreement or for the breach thereof, shall be settled by arbitration in Tokyo, Japan, pursuant to the UNCITRAL Arbitration Rules and by three (3) arbitrators. The arbitration award shall be final and binding on both parties.

22.3 The Contract is intended by the parties as the final expression and the complete and exclusive statement of the terms of the agreement between the Parties with respect to the Works.

22.4 No modification of the Contract shall be binding on the Parties unless made in writing and signed on behalf of the party against which the enforcement of such modification is sought.

Attachment 7

Chart 1	July	August	September	October	November	December	Total
Forecast of cumulative visitors	70,000	70,000	70,000	50,000	40,000	30,000	330,000
Profit per person (expenses deducted, US\$)	40	40	40	30	20	20	190
Sales profit (US\$1,000)	2,800	2,800	2,800	1,500	800	600	11,300

Chart 2	July	August	September	October	November	December	Total
Forecast of cumulative visitors	90,000	90,000	80,000	60,000	50,000	40,000	410,000
Profit per person (expenses deducted, US\$)	50	50	50	50	40	40	280
Sales Profit(US\$1,000)	4,500	4,500	4,000	3,000	2,000	1,600	19,600

Chart 3	July	August	September	October	November	December	Total
Forecast of cumulative visitors	100,000	100,000	90,000	70,000	60,000	50,000	470,000
Profit per person (expenses deducted, US\$)	60	60	60	50	40	40	310
Sales profit(US\$1,000)	6,000	6,000	5,400	3,500	2,400	2,000	25,300

Chart 4	July	August	September	October	November	December	Total
Forecast of cumulative visitors	80,000	80,000	80,000	60,000	50,000	40,000	390,000
Profit per person(expenses deducted, US\$)	55	55	55	40	30	30	265
Sales profit (US\$1,000)	4,400	4,400	4,400	2,400	1,500	1,200	18,300

Chart 5	July	August	September	October	November	December	Total
Forecast of cumulative visitors	60,000	70,000	90,000	60,000	50,000	40,000	370,000
Profit per person(expenses deducted, US\$)	45	45	60	50	40	40	280
Sales profit(US\$1,000)	2,700	3,150	5,400	3,000	2,000	1,600	17,850

- * *The sales amount is calculated by multiplying the number of the visitors by the profit per person.*
- * *The number of the visitors is cumulative (when a visitor stays for 2 days, it is counted as 2 visitors)*

Attachment 8

To: The Residents of Maraya Province

(CC : The Red Corp.)

Please accept our sincere gratitude for your agreement to the felling of the Negoland bamboo for the Happy Resort Development Project. Our Company hereby promises to start the reinforcement work of the National Highway #15 at our cost as soon as possible

Sincerely,

(Signature)

Blue Corporation

On-Site Manager

Attachment 9

Memorandum

Red Corp. and Blue Corporation hereby enter into this agreement on the procurement of the Negoland bamboo in the Maraya province for the Happy Resort Development Project as stated below.

- The felling work of the Negoland bamboo is to be consigned to the residents of Maraya province by Red Corp..
- Blue Corporation is to present the details of the necessary amount of bamboo in writing to Red Corp.
- The felled Negoland bamboo is to be transported to Ratte by the residents of Maraya, who are hired by Red Corp., and handed over to Blue Corporation in Ratte.
- Red Corp. is to arrange the truck(s) to transport the bamboos to Ratte.

Red Corp.
(Signature)
On-Site Manager

Blue Corporation
(Signature)
On-Site Manager

Attachment 10

(Date)

To: The On-Site Manager for
Red Corp.

Dear Sir/Madam:

We regret to have seen the situation that was caused to the National Road #15. In these circumstances, at the request from your government, we are working hard to resume the National Road #15 as soon as possible.

Unfortunately however, the procurement of the Negoland bamboo will be delayed for approximately 3 months due to the blockade of National Road #15. We will, of course, try our best to keep the planned work schedule but the completion of the construction work of ZONE B of Happy Resort will most probably be delayed for 2 months or so. Therefore, we would like to ask for your consideration for an extension of the Time for Completion for 2 months under Article 7 Paragraph 3 of the subject Agreement.

Sincerely,

(Signature)

On-Site Manager
Blue Corporation

Attachment 11

(Date)

To: The On-Site Manager
Blue Corporation

Dear Sir/Madam,

We regret to have to inform you that we are not able to agree with the extension of the Time for Completion of ZONE B that was requested by your letter dated XX(Month) XX(Day). The Happy Resort is a very important project for the State of Negoland and it must be completed prior to this coming July that is the beginning of the tourist season. In light of the above, we ask for you to endeavor to keep the construction work on schedule by all means.

In your letter, you referred to Article 7 Paragraph 3 of the Agreement but the situation that was caused to National Road #15 would not have been caused if your company had completed the reinforcement work in 1 month as promised. Therefore, the Article 7 Paragraph 3 of the Agreement is not applicable to the subject situation.

Sincerely,

(Signature)

The On-Site Manager
Red Corp.

NOTICE OF ARBITRATION AND STATEMENT OF CLAIM

(Date)

1. The exhibits of the parties

The Petitioner:

Name : The Negoland National Economic Development Corporation

The Secretary General • • • • •

Address : * * * * * , the State of Negoland

The attorney in fact of the Petitioner

The Respondent :

Name : Blue Corporation

President and Managing Director

Address : * * * * * , the State of Arbitoria

2. The arbitration clause or arbitration agreement referred to

The arbitration clause or arbitration agreement referred to is Article 22-2 of the Agreement signed by the Petitioner and Respondent on April, XXXX. The Article reads, "Any dispute, controversy or difference arising out of or in relation to or in connection with this Agreement or for the breach thereof, shall be settled by arbitration in Tokyo, Japan, pursuant to the UNCITRAL Arbitration Rules and by three (3) arbitrators. The arbitration award shall be final and binding on both parties."

3. The Agreement in dispute or the Agreement related to the dispute

The Agreement in dispute or the Agreement related to the dispute is the Agreement signed by the Petitioner and Respondent on April, XXXX.

4. An overview and the subject amount of the claim

- (1) An agreement was made by and between the Petitioner and Respondent on the Happy Resort development business in the State of Negoland.
- (2) Blue Corporation is responsible for the construction of the Happy Bridge under the Agreement.
- (3) The Happy Bridge built by Blue Corporation was not suitable to bear traffic and the government ordered not to use the bridge for 2 months, during July and August.
- (4) Due to the situation in which the Happy Bridge could not be used, the number of visitors to Happy Resort was below the plan and the total amount of sales was less than planned. This decrease in the sales profit was caused by the non-fulfillment of the duties of Blue Corporation, the builder of the defective bridge, which was ordered not to be used.
- (5) The decrease in the sales profit was 8,610,000 Negoland dollars.
- (6) Due to the above, Blue Corporation is obliged to pay damages to us in the amount of 8,610,000 Negoland dollars.

5. The claimed remedy

The following was claimed at the arbitration:

- (1) The Respondent should pay the Petitioner 8,610,000 Negoland dollars and interest at the rate of X% on the amount for the period from the date of the filing for the arbitration to the date of completion of the payment.
- (2) The arbitration charges, remuneration to the arbitrator and all the fees necessary for the arbitration should be borne by the respondent.

6. The notice of the selection of the arbitrator that is set forth in Article 7-1 of the UNCITRAL arbitration Rules

The Petitioner will select ☐ ☒ ☐ ☆ as the arbitrator.

7. The facts that are the grounds for the claim.

< omitted >

8. The evidence

< omitted >

As stated above, we hereby file this Petition for Arbitration.

The Attorney in Fact for the Petitioner

STATEMENT OF DEFENCE

date)

1. The exhibits of the parties

The Petitioner:

Name : The Negoland National Economic Development Corporation

The Secretary General • • • • •

Address : * * * * * , the State of Negoland

The attorney in fact of the Petitioner

The Respondent :

Name : Blue Corporation

President and Managing Director

Address : * * * * * , the State of Arbitoria

2. The contents of the statement of defense

The following is claimed in this arbitration:

- (1) The petitioner's claim should be dismissed.
- (2) The charge of arbitration, remuneration to the arbitrator and all the fees necessary for the arbitration should be borne by the petitioner.

3. The reasons for the defense

- ① Blue Corporation built the Happy Bridge following the terms of the Agreement.
- ② Blue Corporation did not know the cause of the heavy swinging of the Happy Bridge and Blue Corporation was not responsible for the absence of awareness of the cause.
- ③ Therefore, Blue Corporation is not responsible for the ban on the use of the Happy Bridge.

4. The facts as the grounds for the defense

< omitted >

5. The counter claim

The Respondent hereby claims for judgment that the Petitioner should pay the respondent US\$5million and interest on that amount at the rate of X% for the period from the date of the filing of the arbitration to the date of completion of the payment.

6. The contents of the counter claim

- (1) Due to the landslide on National Highway #15, the Respondent had difficulty in the completion of the construction of ZONE B by the time set forth in the Agreement.
- (2) For the above reason, the Respondent asked the petitioner for extension of the period of the construction work in accordance with Article 7 Paragraph 3 of the Agreement.
- (3) Initially, the Petitioner refused to extend the period of the construction work but promised to pay

the additional construction fee to the respondent upon knowing King Nego IV's intention.

(4) The Respondent completed the construction work within the term set forth in the Agreement and asked the Petitioner to pay US\$5million as the additional construction fee.

(5) In spite of the Respondent's request for the payment, the Petitioner has not yet paid the US\$5million.

7. The evidence

< omitted >

8. The notice of the selection of the arbitrator that is set forth in Article 7-1 of the UNCITRAL arbitration Rules

The Petitioner will select ☆△■○ as the arbitrator.

As stated above, we hereby file this Statement of Defense

The Attorney in fact for the Respondent

□◆○△ Attorney at Law

Ditto △○◆○

Ditto ○*□*

Negoland Basic Plans for Electricity Developments

	(1)	(2)	(3)	(4)	(5)
Location	Koru	Danbo	Negoshia	Portland	Kazehiru
Type	Coal thermal	Hydroelectric	Waste-generated	Oil-generated	Wind-generated
Power volume (1,000 megawatts)	2,000	3,000	1,000	2,500	1,500
Construction period (years)	4	5	3	3	2
Construction cost (million U.S. dollars)	5	5	2	7	4
Operation cost (U.S. dollars/KWH)	0.06	0.04	0.1	0.09	0.05
Notes	That the coals from coalfield in Koru can be used is an advantage. But it is far from urban areas and access is inconvenient.	Abundant water from the Soto River can be used, but impact on Soto River marine ecosystem needs attention.	Undertaking of power generation using new technology in urban areas. It is a power generation method with environmental consideration.	Advantages: adjacent to industrial area; close to the port where crude oil tankers arrive.	Kazehiru is a place thought to be ideal for wind-power generation for a long time. Environmentally friendly power generation method.