Guideline 3: Consultation and Collaboration

Human Resources Development Canada
Labour Program

Développement des ressources humaines Canada
Programme du travail

Canada

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INTRODUCTION

This Guideline is intended to help employers, employee representatives, and other interested parties understand the requirements of the *Employment Equity Act* and *Regulations* relating to consultation and collaboration with employee representatives. Please note that in this Guideline **"employee representatives"** is used to refer to both representatives of unionized and non-unionized employees.

Guidelines provide general direction and practical pointers which reflect best practices. They are not, however, a template: readers should consider the specific circumstances of their own organizations as they use the Guidelines. Other documents to consult include the *Act* and *Regulations*, and documents available from the Canadian Human Rights Commission (CHRC) relating to the audit process.

PART A: LEGAL FRAMEWORK

Employee representatives include both unionized and non-unionized employees.

All employers covered by the *Employment Equity Act* are required to consult with employee representatives about specific matters related to the implementation of employment equity.

This means that they must invite employee representatives to provide their views concerning:

- assistance that the representatives could provide to facilitate the implementation of employment equity; and
- assistance that the representatives could provide in the communication to employees of matters related to employment equity; and
- the preparation, implementation and revision of the employer's employment equity plan. [*Act*, s. 15(1)]

The bargaining agent has an obligation to participate in these consultations. [*Act,* s. 15(2)]

There is a further requirement that employers and employee representatives collaborate in the preparation, implementation, and revision of the employer's employment equity plan. [*Act*, s. 15(3)]

The legislation clarifies that consultation and collaboration under the Act are not forms of co-management. This means that ultimately decision-making power rests with the employer, as well as full responsibility for implementing the legislative requirements. [*Act*, s. 15(4)]

Definition Of Employee Representatives

"Employee representatives" means persons who have been designated by employees to act as their representatives; it also means bargaining agents, where bargaining agents represent the employees. [*Act.* s. 3]

Seniority And Consultation

Seniority rights acquired as a result of provisions in a collective agreement, or acquired as a result of established practices of an employer, are protected under the *Employment Equity Act*. They are deemed not to be employment barriers within the meaning of the *Act*.

Seniority rights respecting layoff and recall are protected absolutely. [*Act*, s. 8(1)] Other seniority rights are protected unless they are found to constitute a discriminatory practice under the *Canadian Human Rights Act*. [*Act,* s. 8(2*)*]

There is also a consultation requirement regarding seniority rights. Where it appears that a seniority provision in a collective agreement has an adverse impact on designated group members, the employer and bargaining agent are required to consult on measures that may be taken to minimize the adverse impact. [*Act*, s. 8(3)]

Enforcement Of Consultation and Collaboration Requirements

Section 25 of the *Act* sets out those situations which may result in a finding of non-compliance and which may ultimately therefore be the subject of a direction by the Canadian Human Rights Commission (CHRC) or an order of the Employment Equity Review Tribunal.

An employer who has failed to consult with employee representatives as required by section 15 of the *Act* can be found in non-compliance. It could therefore be subject to a direction by the CHRC or an order by the Employment Equity Review Tribunal.

There is no power to make a finding of non-compliance regarding consultations under section 8(3) of the *Act* (relating to adverse impact of seniority provisions). In addition, there is no power to make a finding of non-compliance regarding the collaboration requirement under section 15(3).

PART B: PRACTICAL APPLICATION

Purpose Of Consultation And Collaboration

Consultation and collaboration ensure that all workplace partners play an active role in the implementation of employment equity.

It is widely accepted that workplace initiatives and innovations developed and supported by both management and employee representatives have a better chance of succeeding than unilateral employer initiatives. In general, it is the policy of the federal government to encourage labour-management cooperation in the workplace.

The involvement of employee representatives, including bargaining agents, in employment equity policies and procedures should result in the development of policies and implementation of programs that will be effective in achieving employment equity goals in the workplace.

Effective consultation and collaboration require the willing participation of all parties in the workplace. There must be a genuine desire to work cooperatively present on all sides.

However, the *Act* is clear that final responsibility for compliance with the law rests with the employer. Although employers are strongly encouraged to do everything possible to maximize consultation and collaboration with employee representatives, where this proves infeasible, the employer has the duty to proceed on its own.

Scope of Collaboration and Consultation

The legislation specifies that employers must consult with employee representatives in the preparation, implementation and revision of the employment equity plan. The employer obligations in relation to these matters are set out in section10 (preparation of the plan), section 12 (implementation of the plan), and section 13 (revision of plan) of the *Act*.

Therefore it is advisable that there be involvement by employee representatives at each stage of the employment equity process, including:

- the communication to employees of the commitment to implement employment equity in the workplace;
- the workforce survey;
- the employment systems review,
- the preparation of the employment equity plan;
- the implementation of the employment equity plan;
- the monitoring of progress in implementing the employment equity plan; and
- the review and revision of the employment equity plan.

The greater the degree of collaboration with employee representatives, the greater the likelihood of success in implementing and sustaining employment equity principles, policies and objectives.

Assistance Provided by Employee Representatives

The legislation requires employers to consult with employee representatives regarding two types of assistance that may be provided by the representatives:

- assistance in communicating with employees on

matters related to employment equity, and

- assistance in facilitating the implementation of employment equity.

Assistance in communication : Effective communication with employees and employee representatives regarding employment equity is key to the success of the program. This communication should take place on a continuous basis through ongoing education and training. It cannot be just a one-time event if attitudes are to be fundamentally changed.

*Please refer to **Guideline 2: Communications** for further information on communication strategies.*

Assistance in communications on employment equity from employee representatives should be sought at all phases in the implementation of employment equity, and especially in the initial phases. It is during the initial phases that information and the shaping of attitudes is particularly critical.

There are a number of ways that employee representatives can provide assistance to their employers during the communication process. They can:

- provide valuable input to company magazines, as well as company or employee newsletters;
- identify issues which management may not be aware of;
- participate in setting up joint labour-management information sessions;
- participate in regular staff meetings at various levels throughout the organization;
- help to ensure that designated group members are aware of training programs, other targetted measures, and procedures for obtaining reasonable accommodation; and

provide assistance to employees completing the workforce survey questionnaires.

Assistance in implementing employment equity: Though this type of assistance is important throughout the process, it is critical during the initial phases of the employment equity process. Employers are encouraged to enlist the participation of employee representatives during the workforce survey itself, as well as the process leading up to it, including the development of the communications strategy.

*Please refer to **Guideline 2: Communications** for further information regarding the development of a communications strategy.*

Educating employees about employment equity and influencing attitudes positively prior to the actual survey is essential to ensure the best possible response rate. This will be greatly facilitated by collaboration with employee representatives, who can themselves undertake much of the actual work and organizing. Where fellow employees are seen to support employment equity and work toward its effective implementation, employee acceptance of employment equity initiatives can be enhanced.

Enforcement

Consultation

If an employer fails to consult with employee representatives as required by the *Act*, it can be found in non-compliance by a compliance officer from the Canadian Human Rights Commission (CHRC) during an audit. The compliance officer can then seek an undertaking to bring the employer into compliance. If such an undertaking cannot be negotiated by the employer and the compliance officer, the CHRC can then issue a direction to the employer to take specified action. Ultimately an Employment Equity Review Tribunal could hear the matter and issue a court-enforceable order, if the non-compliance were not remedied.

Collaboration

Although the *Act* requires that employers collaborate with employee representatives, employers cannot be subject to a direction from the CHRC nor an order from the Employment Equity Review Tribunal.

The rationale for the lack of enforcement of the collaboration obligation is two-fold:

1. Only employers may be the subject of orders by the Employment Equity Review Tribunal, not employee representatives; and to enforce against only one party would not be fair. Collaboration is a mutual obligation.

2. Collaboration requires working together towards a common goal. There has to be genuine good faith and good will. Unless these qualities are present, there may be little value to the process. It is well known that attitudes cannot be legislated. Real collaboration should be based on a mutual willingness to cooperate.

While employers cannot be held responsible if employee representatives fail to collaborate with them in the preparation, implementation and revision of the employment equity plan, the employer is still expected to make all reasonable efforts to collaborate, from their side. Employers can and should do whatever is in their power to facilitate the active involvement of employee representatives in the employment equity process. If they have made all such efforts, and the employee representative fails to respond, the employer will not be held responsible.

The current law sends a strong message to all parties that labour-management cooperation is essential to the success of employment equity in the workplace, and it calls upon employers and employee representatives to address complex issues in a spirit of cooperation and collaboration.

Providing Information to Employee Representatives

To be effective, consultation and collaboration necessitates an open dialogue and sharing of information between employer and employee representatives. This can usually be achieved through the establishment of a joint labour-management mechanism or committee to facilitate the planning and

implementation of the employment equity plan. In the absence of such a mechanism employers will have to share information so that employee representatives can collaborate in an effective manner.

For example, in order to collaborate in the preparation of the employment equity plan, employee representatives should know what barriers were identified during the employment systems review. In order to collaborate in the implementation of the employment equity plan, they should know what the plan contains as well as the analysis that formed the basis of the plan. In order to collaborate in monitoring employment equity progress, they should have information about what goals have been set and who is accountable for achieving them. Without this information, meaningful collaboration would not likely be possible.

Therefore, it is recommended that employers provide employee representatives with whatever information is reasonably necessary to allow them meaningful and effective participation in the consultation and collaboration processes, while ensuring the confidentiality requirements are met.

This information should include items such as:

- employer policies and practices regarding recruitment, retention, promotion, transfers, and terms and conditions of employment;
- collective agreements in place;
- wage and salary rates, where appropriate, benefits, and classification systems;
- measures in the employment equity plan and timetables for their implementation; and
- results of the workforce survey, workforce analysis, and employment systems review.

Consultation Regarding Adverse Impact Of Seniority Provisions In Collective Agreements

With respect to the unionized portion of the workplace, the *Act* provides two levels of protection for seniority rights. Seniority rights related to layoff and recall are fully protected. Other seniority rights are deemed not to be barriers unless they constitute a discriminatory practice under the *Canadian Human Rights Act.*

To date, there exists very little jurisprudence on the issue of seniority as a discriminatory practice. The Supreme Court of Canada decision in Central Okanagan School District No. 23 v. Renaud[1] is an important decision relating to seniority and the duty of a union to cooperate with an employer in finding solutions to accommodate employees. Renaud stands for the proposition that a union is jointly liable regarding the obligation to make reasonable accommodation, in a situation of adverse effect discrimination. It is not possible to contract out of statutory obligations through the collective bargaining process. A collective agreement which stands in the way of reasonable accommodation must give way to the duty to accommodate, and the union, as well as the employer, can be held to account. In other words, a collective agreement is no defence to failure to accommodate, where a discriminatory practice is alleged.

Though the *Act* protects seniority provisions in a collective agreement to some extent, it also recognizes that in the application and operation of such provisions, barriers may arise. Where seniority provisions in a collective agreement, including layoff and recall, have an adverse impact on designated group members, there is a further obligation on employers and employee

1 [1992] 2 S.C.R. 970. The Renaud case involved a unionized custodian who required accommodation for religious reasons. He was a Seventh-day Adventist who could not work from sundown Friday until sundown Saturday. Therefore he needed to work a shift from Sunday to Thursday. This accommodation involved an exception to the collective agreement, however, and required union consent. Consent was withheld and the union threatened to launch a grievance. Finally, the employer terminated Renaud for failure to complete his regular Friday night shift. Renaud filed a complaint of discrimination. The court found that the union had a shared duty with the employer to accommodate, and was jointly liable for adverse effect discrimination.

representatives to consult with each other in order to identify strategies that will minimize that adverse impact.

The intent behind this provision is to encourage employers and employee representatives to work together in order to balance the various interests at stake. Each situation will be different and will require a unique and innovative approach.

Like the collaboration provision in section 15(3), this obligation may not be the subject of a Tribunal order. The rationale is also the same in this instance: true collaboration and cooperation cannot be legislated. Furthermore, only employers are subject to Tribunal orders, and to enforce only against one party would not be fair. Therefore the requirement to consult in section 8(3) was included in the legislation to send a strong signal to employers and employee representatives that they must work together in good faith to find practical solutions to complex issues on a case-by-case basis.

Similarly, where under-representation has existed in a particular organization for a long time, moving designated group members up in the organizational hierarchy may be difficult. They may not have acquired the necessary seniority.

Such situations require innovative solutions by employers and employee representatives working together.

Employer and employee representatives are required to consult with each other in order to identify options which could minimize any adverse impact resulting from seniority provisions in a collective agreement.

Implicit in this requirement, and explicit in the *Act,* is the need to determine whether seniority rights are in fact having an adverse impact on designated group members. Where an adverse impact occurs, it is at this point that the obligation to consult arises. One mechanism for consultation could be the establishment of a joint labour-management committee that is responsible for employment equity issues. However, employers are encouraged to build on any mechanism currently in place. For example, if joint labour-management committees currently exist in

the workplace, employment equity issues could be put on the appropriate committee's agenda.

The requirement to consult will be especially important in hiring hall situations, where the actual employer has little control over which employee is sent to it by the union hiring hall. Designated groups may be underrepresented in union membership lists or have less seniority. In such situations, the hiring hall and employer are required to consult in order to find solutions which will tend to increase membership and opportunities of designated group members in the union, without violating the principle of seniority.

Consultation And Collaboration Process

The legislation does not specify what type of process must be established for consultation and collaboration. Employers are, however, encouraged to build upon successful labour-management structures which already exist or introduce a new structure which will allow them to meet their responsibilities under the *Act*. Options could include:

*The term **"joint labour-management structures"** applies to workplaces that are non-unionized, unionized or partially unionized. The term **"labour"** includes all employees whether unionized or not.*

- a joint labour-management committee;
- a number of joint labour-management sub-committees;
- a joint labour-management working group;
- a task force; or
- a combination of these structures depending upon the employer size, geographical distribution and number of bargaining units

Other structures which have proven to be effective in some workplaces include:

- task forces devoted to exploring specific aspects of employment equity;
- regional employment equity committees;

- focus groups; and
- employee surveys and other means whereby employees are encouraged to volunteer their views.

Employers are encouraged to put in place some form of structure (e.g. joint labour-management committee, working group, advisory group) which ensures that all workplace partners have input into the employment equity process.

This structure should act as a forum for constructive, focused discussion of employment equity issues.

Laying The Groundwork

The employer should move as quickly as possible to determine a structure which will operate effectively in the workplace. Where part or all of the workplace is unionized, decisions regarding the structure should be made in consultation with bargaining agents. Bargaining agents would be responsible for choosing their committee representatives. Where part or all of the workplace is not unionized, non-unionized employees should be provided with an opportunity to volunteer their views and choose their representatives.

*See **Part C, Examples Of Labour-Management Structures**, where a number of options regarding methods for selecting employee representatives are discussed under "**Obtaining Employee Representation".***

Decision Making and General Agreement

The *Act* clearly states that the obligations to consult and collaborate are not forms of co-management. This means that final decision-making on employment equity policies and practices rests with the employer, who is also liable if employment equity obligations under the *Act* are not fulfilled.

As a practical matter, however, there are other considerations. Although the employer retains the right to make the final decision in all matters and is only bound to seek the views of employee representatives, it is recommended that advice and input from employee representatives be respected and considered.

Ideally, all major decisions related to the implementation of employment equity in the workplace should have the full support of employers and employee representatives. This is the best way to ensure buy-in by all parties in the workplace and the ultimate success of the employment equity program in the workplace.

Record-Keeping And Reporting

Under section 18(6) of the *Act*, the employer is required to include in its annual reports information on the implementation of employment equity in general and consultation with employee representative in particular. An account of the work of a committee or other type of forum used for consultation and collaboration would help satisfy this reporting requirement.

Record-keeping on consultation and collaboration is not required under the legislation. However, in order to facilitate the preparation of annual reports and compliance audits by the Canadian Human Rights Commission, the employer may wish to maintain clear and accurate records of the committee's activities. These records could include, for example, agenda items, attendance register, minutes and records of decision.

Reporting On Consultation And Collaboration

Under the new *Act*, employer reports filed with the Minister of Labour must now contain narrative descriptions of certain activities carried on by the employer, in addition to statistical information. One such

For further information about the narrative report and criteria that should be included, please refer to ***Guideline 11: Employment Equity Report.***

narrative description relates to consultations with employee representatives which have taken place during the calendar year relating to the implementation of employment equity.

Employee representatives should have the opportunity to review the narrative description to be filed with the Minister of Labour concerning the activities of the Committee, prior to its filing. In this way, employee representatives will have the opportunity to provide input and recommend changes.

This process can be documented in the narrative description itself. A statement in the narrative description that it has been reviewed by the Committee members will add weight and credibility to the substance of the report, and therefore will be of benefit to the employer.

PART C: INFORMATION DOCUMENTS

This section provides examples of different models of joint labour-management structures responsible for implementing employment equity in the workplace. Employers and employee representatives can jointly establish fora where information is shared and mechanisms are developed to ensure that all employees are aware of the objective of employment equity.

It also provides examples of joint-labour management initiatives currently being undertaken by three federal jurisdiction employers and their unions in implementing employment equity.

MODELS OF JOINT LABOUR-MANAGEMENT STRUCTURES

Joint Labour-Management Committee

One possible structure that would meet the requirements of the *Act* is a joint labour-management committee. Such a committee would normally have a minimum of four members, and not be so large as to be unwieldy. At least half the members should be employee representatives. In order to increase a feeling of inclusion by employee representatives, and thus their commitment to a constructive collaboration, consideration should be given to having the committee co-chaired by an employer and an employee representative.

Unionized workplaces

Where part or all of the workplace is unionized, each union should be invited to participate as a full member in a joint labour-management committee.

In larger workplaces where there are multiple bargaining agents, and possibly also non-unionized employees, there could be a separate committee for each union as well as a committee for non-unionized employees. In this case, a coordinating committee could also be established, consisting of representatives from each of the sub-committees, to oversee the process and provide a forum for the sharing of information on the consultation and collaboration process. The coordinating committee, could, with the agreement of the members, fulfil the consultation and collaboration requirements under the *Act*.

In smaller workplaces with multiple bargaining agents, it may not be necessary to have a coordinating committee, so long as each of the bargaining agents can be represented on the labour-management committee.

The committee composition should be adequately representative of:

- the unionized and non-unionized portions of the workplace;
- all designated groups; and
- occupational groups within the workplace.

Committee selection criteria for consideration by the parties (employer and employee representatives) should include familiarity with employment equity issues and the organization's structure and human resource policies.

The committee members should be provided with an orientation and appropriate training on the intent and the requirements of the *Employment Equity Act* as well as other appropriate training as required.

Resource Persons

If there is a need, for reasons of inclusiveness or expertise, to invite individuals from outside the workplace to sit on the committee, this is permissible. Such a step might be contemplated, for instance, by an organization seeking the input of community representatives from a designated group that is significantly under-represented in the workplace. External representatives may be full committee members or *ex officio* members.

Consultation With Designated Group Members

It has already been noted that wherever possible, the committee should include individuals who are members of the designated groups. However, this may not always be possible.

In order to accurately reflect the needs, views, and experiences of designated group members, which employment equity seeks to assist, it is advisable for all employee representatives, whether unionized or non-unionized, to consult with the members of designated groups that they represent in carrying out their responsibilities under the *Act.*

Obtaining Employee Representation

Where seats are assigned to **non-unionized** employees, the options available could include the following:

1. **Selection by unit** If the workplace is small, a seat may be assigned to each unit or branch and then unit meetings held to select a representative.
2. **Invitation for volunteers** A **communication** may be distributed inviting employees to volunteer for the committee. If the number of volunteers more or less matches the number of available seats, a **second communication** may be distributed providing employees with the names of the volunteers and naming a contact person for anyone who has concerns. If the number of volunteers does exceed the number of seats, employees can be invited to indicate whom they would prefer to have sitting on the committee.
3. **Nomination** Employees may be invited to nominate possible representatives and -- where the nominated individuals are receptive -- vote for their preferred candidates.

Where seats are assigned to **unions,** those unions should be given the opportunity to designate their representative on the committee, but should keep in mind the principles of inclusiveness outlined in the previous section.

Other alternatives may also be available. Employers are encouraged to build on or use any existing

structures that have proven to be effective. Whatever approach is chosen, however, it must not simply be a case of selection by the employer, as the *Act* clearly requires designation by employees.

The Functioning Of The Committee

The ways the committee will operate will, of course, depend a great deal on organization size and culture. Still, there are a number of ways that employers and employee representatives can maximize the committee's effectiveness:

1. Members of the committee will benefit from training on employment equity and on interest-based, non-adversarial collaboration. The intention of the consultation and collaboration process under the *Act* is to work cooperatively towards shared goals, not to struggle over contradictory objectives.
2. The development of succinct terms of reference for the committee, which define its primary purposes and lay out how the committee plans to function is imperative to the success of the committee.
3. The development of a general action plan for the committee outlining key activities and deadlines is also important if employment equity is to be implemented effectively and efficiently.

It is recommended that certain basic principles, outlined below, be followed:

1. There should be good faith and good will on both sides. The process should not be subverted for other issues, which have nothing to do with employment equity. Most importantly, the process must not be simply a technical exercise to fulfil the requirements of the law.
2. Committee members should be provided with a full opportunity to:
    - identify and understand the issues;
    - review and consider proposals before the committee;
    - formulate an informed response to proposals before the committee; and
    - present alternative or additional proposals to the committee for consideration.
3. The employer should give effective consideration to all proposals, advice, suggestions and other comments provided by employee representatives during the consultation and collaboration process.

The employer should advise employee representatives of any intention not to address their concerns. The employer should also give reasons for not doing so, and should provide employee representatives with a further opportunity to respond to these reasons.

Employee Participation On Committee

In order for the committee process to be meaningful, it must form part of the work-related duties of the employee representatives on the committee. This means:

- Committee meetings should take place during working hours, not after work or on days off.
- Employee representatives should receive their normal pay for time spent at committee meetings, and must be allowed work time with pay to perform their duties as a member of the committee, including preparation for meetings (such as the development of proposals).
- Where meetings exceed normal working hours, employee representatives should be paid at regular overtime rates.
- Designated group members should be granted reasonable time away from their regular duties, with pay, in order to participate in consultations with employee representatives.

EXAMPLES OF JOINT LABOUR-MANAGEMENT INITIATIVES

I. Saskatchewan Transportation Company

The Saskatchewan Transportation Company (STC) has 323 employees who work in Saskatchewan in the company's two core businesses: passenger bus service and freight express delivery.

The STC established a Joint Union/Management Employment Equity Committee which began to hold its meetings August of 1993. The committee's mandate is to develop an employment equity plan for STC for approval by the Saskatchewan Human Rights Commission and to meet compliance with Federal Regulations. Further, the committee is committed to the development, implementation and monitoring of employment equity initiatives. The committee continues to meet on a quarterly basis to explore new ways to promote employment equity in the workforce.

Quote from STC

"To achieve the goals of employment equity, this plan has outlined the initiatives to be implemented by Saskatchewan Transportation Company, the Amalgamated Transit Union Local 1374 and the Joint Union/Management Employment Equity Committee. Although we realize that this will be an evolving document, we accept our responsibility to work together to provide a work environment that promotes the employment and advancement of persons of Aboriginal ancestry, members of visible minorities, persons with disabilities and women."

Saskatchewan Transportation Company

Joint Employment Equity Committee: Terms Of Reference

The Saskatchewan Transportation Company and the Amalgamated Transit Union agree that the development of an Employment Equity Program is necessary and, therefore, mutually agree to the following:

1. A joint union-management Employment Equity Committee will be established to design, oversee the implementation of, and monitor the Employment Equity Plan.
    - The committee will consist of 6 members and will have equal representation from both the union and management.
    - There will be two Co-Chairpersons; one representing the Union, and one representing the Company. Each will assume the chairperson's role at alternate meetings.
    - Each side will appoint their own representatives. When choosing members, preference should be given to people who have an interest in employment Equity. The Committee should strive to be a representational committee of both the target groups and of the corporate structure.
2. Member substitutions may be made by the respective sides during collective bargaining negotiations if it is believed to be in the best interests of the Employment Equity Program.
3. The committee will meet at least four times a year and at any other times deemed necessary by the committee members.
4. The committee may invite resource people from various outreach agencies to provide assistance tot he committee whenever required.
5. Committee meetings will be held during regular working hours. The Company will grant leaves of absence with pay for members to attend the meetings.
6. The committee will make recommendations for an Employment Equity Plan which will be submitted to the Human Rights Commission only after approval of both the Union and the Company. Interim initiatives will be undertaken with the Saskatchewan Executive Board Member for the Amalgamated Transit Union and the Director of Human Resources for the Company.
7. The Company will be responsible for implementation of any approved actions.

II.Seaspan International Ltd

Seaspan International Ltd and its wholly owned

subsidiary Vancouver Shipyards Co. Ltd. are in the business of marine transportation, operating a fleet of tugs and barges on the west coast

Seaspan is a highly unionized employer, having a total of fourteen different unions/bargaining units representing approximately 90 percent of the work force. Of these unionized employees, some 97 percent are covered by collective agreements which have union hiring hall provisions, i.e., the unions operate a manpower dispatch system, thus leaving the employer with little actual control over hirings.

Quote from Seaspan International

"Yet, despite these limitations on our ability to do our own hiring, an analysis of our report indicates that the representative composition of our work force, with regard to aboriginal peoples (1.64%), persons with disabilities (5.64%) and visible minorities (7.08%) is relatively good when compared to available Census data."

In a continuing attempt to further the goals of the employment equity program, Seaspan has negotiated the following Letter of Understanding re: employment equity with their hiring hall Unions and have subsequently had follow-up discussions with the unions in a joint attempt to achieve improvement where possible:

Letter of Understanding

"In view of the new Federal Legislation re: the requirement to conform to the Government's Employment Equity Program, the Company and the Union affirm their intent to further the aims of employment equity in the work place. When real or artificial barriers to the advancement of said aims become apparent, the Parties will consult. If it is determined that the practices or conditions imposed though the Collective Agreement in fact produce an impediment, the Parties, on mutual agreement, will either set aside or amend the Agreement to correct the situation and ultimately reach compliance with all government guidelines and subsequent law in this respect. "

III.NewTel Communications

NewTel Communications Inc., an employer in the telecommunications carriers industry, operates in Newfoundland with a workforce of 1,484 employees.

During the collective bargaining process which concluded in November 1996, NewTel Communications and the Communications, Energy and Paperworkers Union extended a mandate to form a joint union-management employment equity committee. This proposal was formalized and stated in a Letter of Intent contained in the subsequent collective agreement.

NEWTEL COMMUNICATIONS

Letter Of Intent

I 996 09 26

Mr. Phil Briffett

President, Local 410, C.E.P.

330A Portugal Cove Place

St. John's, NF A1A 4Y5

Dear Sir:

Subject: **EMPLOYMENT EQUITY**

The Company and the Union continue to recognize the need to achieve equality in the workplace so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability, and both parties agree that equal opportunity in employment means more than treating persons in the same way, but also requires special measures and the accommodation of differences.

To this end, the Company will meet annually with the Union, on matters pertaining to Employment Equity. This meeting will provide the Union with an opportunity to present its views concerning:

(a) any assistance the Union could provide to the Company in order to facilitate the implementation of employment equity in the workplace and the communication to employees of matters relating to employment equity; and

(b) the preparation, implementation and revision of the Company's employment equity plan.

Yours truly,

_____

G.H. Erl

Vice-President & Corporate Secretary