

## **Guild Response to Part III of the Employer's Brief—RATES OF PAY- Pages 23 to 42**

### **Employer Proposal**

- The Employer proposes annual economic increases of 1.5% (2011); 1.5% (2012), 1.5% (2012) and an additional 0.25% increase (2011) 0.5% increase (2013) for elimination of severance on resignation and retirement (“voluntary severance”).

### **Guild Response**

- The Guild has identified a number of issues facing this bargaining unit that require competitive compensation to recruit and retain Officers, including competition with the private sector, attrition rates and expansion of the Coast Guard's work.
- The Guild will not review these factors in this Reply but reiterates its position from its Brief that the nature and status of this bargaining unit and the expressed importance of its work to the Canadian government demands that this Board not follow the rigid, template approach of wage increases that is being proposed by this Employer.
- This Board is also mandated by the *PSLRA* to consider external comparators in its decision making process. In this regard, the Guild has provided in its Brief a chart illustrating that the federal government Ships' Officers, who are public servants working to protect Canada's coastlines, would require a 2.9% increase on average in order to simply keep pace with the private sector collective agreement awards for identical positions.
- For the shipping industry, fully trained Ships' Officers are in high demand. In examining the “recruitment and retention factor” in this industry and given today's demographics, the key comparator to ensure retention of highly trained and experienced Ships' Officers is the private sector.
- Unless the federal government maintains the longevity bonuses such as severance pay and other benefits which come from the federal government career in the Coast Guard, then the current 25% of the bargaining unit who are at or nearing retirement age will choose to leave the federal civil service in favour of taking their pension and commencing employment in the private sector where there are more attractive lay-day rates, salaries and wages.
- Unlike the rest of the federal public sector, these experienced and trained Officers need the negotiated severance benefits and adjustment to their other working conditions such as the lay-day factor together with industry wage increases, in order to justify continuing a career beyond the early retirement numbers.
- In addressing the factors set out in section 148 of the legislation, the Employer has focused its arguments primarily on only one of the five enumerated factors in the legislation, namely section 148(e) -“the state of the Canadian economy and the Government of Canada's fiscal circumstances”.
- The Guild, submits that its modest economic proposals are consistent with this government's fiscal policy, the factors provided in the legislation, and given the relatively small size of bargaining unit, cannot have any dramatic impact whatsoever or raise

concerns about the overall “affordability” of these proposals in this time of fiscal restraint.

- Accordingly, the legislation demands that this Board look at the external comparators many of which the Guild has provided and which support the Guild’s claim for wage and general compensation increases of 2.9% across the board.

## **Guild Response to Part IV of the Employer's Brief—OTHER ISSUES- Pages 44 to 80**

### **ARTICLE 10.04-CHECK OFF- Employer’s Brief -Pages 45 and 46**

#### **Employer Proposal**

- The Employer proposes that the Guild be responsible for managing the process for Officers who apply for religious exemption from paying membership dues and to inform the Employer accordingly.

#### **Guild Response**

- The Guild does not have resources to deal with this administrative task which has always been managed by the Employer who has more resources and more staff.
- The Employer provides no rationale or “demonstrated need” to support this change to the collective agreement for a section which has been in the collective agreement since its inception-as far as the Guild is aware.
- There is no suggestion that the Employer cannot continue with something that has clearly been done with administrative ease and efficiency for the past 30 years.
- The person who seeks the change in collective bargaining has the onus of establishing the demonstrated need to move from the status quo. In this instance, there is nothing “broken” surrounding the current provision of Article 10.04 and the Guild submits that the Employer’s proposal should not be awarded.
- The Guild proposes that Article 10.04 be renewed without changes.

### **ARTICLE 14.01-INFORMATION FOR OFFICERS - Employer's Brief -Page 49**

#### **Employer Proposal**

- The Employer proposes that to fulfill its obligation to provide employees with a copy of the collective agreement, employees may be given electronic access to the collective agreement.

#### **Guild Response**

- The Guild members are unique from most of the Employer's other bargaining unit members who are in offices and in front of computers on a regular basis.
- The Guild’s membership are primarily sea-going and have limited access to computers and/or internet. In fact, the internet access for those ships stationed to the Arctic has just recently been reduced.

- The Guild submits that the provision of paper copies of the collective agreement is a basic employer obligation and does not require an undue amount of resources to produce for this unique bargaining unit.
- The Guild proposes that Article 14.01 be renewed without changes.

## **ARTICLE 20 - VACATION LEAVE WITH PAY - Employer's Brief-Pages 50 to 52**

### **Employer Proposal**

- The Employer proposes to change the language under Article 20.02 to replace reference to “continuous employment” to “service” in sub-clauses (a) to (f) which relate to calculating vacation entitlement relative to years worked.
- As part of its severance proposal, the Employer also proposes to add a clarifying statement under Article 20.03.

### **Guild Response**

- The Guild is uncertain, even after reviewing the Employer's Brief, as to why the Employer proposes the new language of “service” in this Article. Accordingly, the Guild reserves its right to amend its position depending upon the explanation given by the Employer at the Interest Arbitration.
- In general however, the Guild submits that the terminology that is more consistently used throughout the Guild's collective agreement is “continuous employment” and this term is clearly defined in the “Directive on Terms and Conditions of Employment” issued by the Treasury Board.
- There have been no problems with this language in the past with this bargaining unit. The Employer does not reference circumstances that would show that there is any “demonstrated need” for this change. At the present time, all entitlements that have accumulated under the terms of the collective agreement are understood and have efficiently and effectively been processed using the current terminology namely– “continuous employment”.
- With no rationale or any evidence of “demonstrated need to alter the status quo”, the Guild submits that the Employer's proposal should not be awarded and that Article 14.01 should be renewed without changes.

## **ARTICLE 29 - SEVERANCE PAY- Employer's Brief- Pages 53 to 63**

### **Employer Proposal**

- The Employer proposes to delete Articles 29.03 and 29.04 which cease entitlement to severance pay on resignation or retirement, and to add its own Articles 29.08-29.13 which outline the options for employees to “cash out” their accumulated entitlements to date.
- The Employer also proposes to change conditions of lay off pay under Article 29.02.

## **Guild Response**

### There is no “Demonstrated Need” to Remove Severance Pay

- In bargaining, as in all contractual arrangements, there is a necessary give-and-take between parties. It cannot be all “take”.
- The severance pay benefits were negotiated as part of this “give-and-take” where unions gave up their past accumulated sick leave entitlements and other economic increases during the past decades of bargaining in exchange for these severance entitlements.
- It may very well be that this federal government has made severance pay the key issue that it wishes to focus on during this round of bargaining across the public federal public sector. However, there is no universal or mandatory requirement that any bargaining agent give up or agree with this demand simply because this government has now chosen to focus on it.
- This government could have, but chose not to, legislate a removal of the severance pay provisions for all public servants, which had been voluntarily negotiated in past collective agreements, though legislation similar to the *Expenditure Restraint Act*. Instead, the government left it open to the parties to negotiate the appropriate compromises in response to what is simply another Employer demand.
- Just as it is open to a bargaining agent such as the Guild to set its priorities and not “trade” or “negotiate away” the severance payments for the small economic increase offered by the Employer, it is equally open for this Board to not accede to the Employer’s demand that severance pay for this bargaining agent be removed.
- The Guild submits that the marine environment of the Coast Guard creates a unique and distinct sector of the federal public service and there is absolutely no “demonstrated need” to remove the severance entitlement from this bargaining unit.
- We urge this Board to follow the usual and long-established principles in interest arbitration and collective bargaining and to not defer to this government’s policy directive to take away something that it freely negotiated in the past in exchange for significant economic concessions that it could not achieve at the bargaining table.
- This government’s policy directive to remove severance entitlements does not equal free collective bargaining and there is simply no “demonstrated need” to consider the Employer’s proposal.

### There is a Recruitment and Retention Issue – No Change in Severance is Justified.

- The Guild disagrees with the Employer's assertion at page 36 of its Brief that there are no recruitment and retention problems for the Ships’ Officers group. In fact, the Guild submits that there is a serious retention/retirement problem in this bargaining unit.
- In addition to the submissions and comments already made by the Guild in its brief under its discussion of this factor (See the Guild’s Brief at pages 21 to 24 ) the Guild makes these further points in response to the Employer’s submissions on this issue.
- With respect to recruitment, it was acknowledged in 2008 by the Assistant Deputy

Commissioner for the Canadian Coast Guard in a speech to the 71st Annual International Joint Conference of the Canadian Shipowners and Lake Carriers Association that the government's – "Number one challenge is recruitment and retention". (See Tab 2 of the Guild's Reply Brief)

- In his speech the Assistant Deputy Commissioner (ADC) notes that the biggest challenge will be finding, recruiting and keeping skilled mariners-both license and unlicensed. The current demographics of the Coast Guard indicate that from 2008 to 2015, almost 60% of the sea-going personnel will be eligible to retire putting the Coast Guard in the position of potentially losing half of the sea-going employees at a time of great demand.
- The ADC also observes that the competitive global market will impact the Coast Guard's services. Coast Guard personnel are highly attractive to private sector employers and when combined with cumbersome public service recruitment rules and the reduction in the pool of qualified sea-going personnel, he notes that "Few people want to go to sea, and those who do, usually take the first decent opportunity available to them."
- The Guild submits that the concerns raised by the Assistant Deputy Commissioner in 2008 are now coming to pass as he predicted and the Coast Guard is heading towards a large retention problem that will be felt during the life of this collective agreement and in the next.
- One of the key collective agreement benefits that will keep Ships' Officers as federal civil servants patrolling our coastlines, is the severance pay entitlements that accrue and accumulate with longer service. If these benefits are removed then there will be little or no incentive for the more experienced Officers to retain their employment instead of moving to the more lucrative private sector.
- The demographic data provided by the Employer demonstrates that there is a large demographic "bulge" that is eligible to and just about to retire. The Guild submits that it is counterintuitive to award the Employer's proposal to remove severance entitlements for retirees.
- Regardless of the situation in other bargaining units, this is NOT the time to remove long standing service related incentives – like the severance pay provisions-from the Ships' Officers group.
- The Guild draws the Board's attention to the information provided at Tab C of the Employer's Brief. Looking at Table 3 on Page 6 of Tab C, the Guild analysis of this demographic data shows the following:

# of Employees with < 25 years of service	825
% of bargaining unit with < 25 yrs of service	74%
# of employees with 25 and more years of service	293

% of bargaining unit with 25 plus years of service:	26%
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- The Employer's analysis of recruitment and retention fails to take into account a significant number of Officers who are currently sitting at or close to early retirement. 26% of the Guild Officers in the bargaining unit have twenty-five (25) or more years of service and 16% have already reached the age of early retirement, 55 years old. In addition, looking at Table 3a at page 7 of Tab C of the Employer's Brief, approximately 10% of the bargaining unit is eligible to retire at a moment's notice. This also creates concerns on how this most senior and experienced group of Officers will be replaced. Many Guild Officers started their careers straight out of college, and so the age data makes it is clear that there is a large demographic "bulge" of Officers that is just about to retire.
- Given this demographic reality, it is completely counterintuitive to remove one of the key benefits that would create an incentive to encourage highly trained Officers to stay longer and to offer valuable experience, training and expertise. It can be taken as a given that once a person reaches early retirement age and is able to access an unreduced indexed pension, then something beyond their regular salary is required in order to keep them engaged in employment.
- Once again, the Guild submits that it is not appropriate to remove the severance entitlements given the number of members of the bargaining unit who are eligible to leave. It is not the time to take away longevity benefits and payments such as the severance pay for this bargaining unit.

### Equity and Fairness and Recent Settlements under the PSLRA

#### The Ships' Crews Settlement

- The Treasury Board and PSAC came to tentative agreements with the Ships' Crews group (SV Group-Operational Services) during an expedited bargaining process in 2010. As compensation for the cessation of severance accumulation on retirement and resignation, the SV Group received the Employer's standard economic increases of 1.75%, 1.5% and 2.0%. The Guild notes however that this agreement also included additional monetary gains beyond these general economic increases.
- The Ships' Crews received an additional 1.6% "wage harmonization" increase for 2013 as well as increases in meals and diving duty allowances. In this same SV group, the Firefighter classification also received an increase of 4.7% and the food service workers obtained a shift premium of \$2 for all hours between 16:00 and 8:00.
- As has been mentioned throughout the Guild's brief, it is time to address the inequity between the Officers and Crews who work side by side and are subject to the same working conditions. The Ships' Crews have enjoyed a superior lay-day factor benefit and this has been addressed elsewhere in the Guild's submissions. The Officers and Crews are also subject to the same working conditions for which Allowances are paid – such as the meals and diving duty allowances- which were just increased in this last round of bargaining for the Ships' Crews.

- The Guild submits that the principles of fairness and equity and internal comparability require that the Ships' Officers proposal in these areas also need to be awarded.

### Other Recent Settlements

- In addition to the Ships' Crews, there are other recent Treasury Board comparators where the Employer's standard proposal to offer slightly enhanced economic increases in exchange for the cessation of severance, also led to further economic enhancements to the collective agreement.
  - The tentative agreement for the Program and Administrative Services group (PA Group) provided for an additional increment of \$4,200 (or 5.5% increase to the maximum rate of pay) for Parole Officers and a new allowance of \$2,000 per annum was negotiated for the AS-02 Compensation Advisors.
  - The Education and Library Sciences Group (EB Group) group gained a transitional Market Allowance for 12 month teachers of the ED-EST classification group.
- The following are examples of other settlements reached for other comparable groups that lost severance in exchange for the standard economic increases but also received additional economic increases:
  - The Canada Revenue Agency (Audit, Financial and Scientific) group received relativity adjustments ranging from 2.7% to 5.7% for 2013.
  - The Law (LA group) received a 10% wage structure for 2013
  - The Health Services (SH Group) received rolling of terminable allowances into wages and a retention allowance for nurses in remote communities.
  - The Architecture, Engineering and Land Survey Group (NR Group) receiving rolling of terminable allowances in wages (2011-2012) and new economic increments for certain various survey classifications.
  - The Computer Science group received wage harmonization increases to Canada Revenue Agency CS rates: from \$103 (CS-3) to \$1,623 (CS-1) at the last step.
  - Various pay groups of the Ship Repair West Group (SR Group) received one time wage equalization payments; some pay groups were moved into higher pay groups and one pay group had the bottom increment removed and one new increment of 4% added at the top.
- It is important to note that the majority of these agreements that resulted in the elimination of voluntary severance pay included additional monetary gains beyond the Employer's standard economic increases. Of 27 collective agreements with Treasury Board, 15 bargaining units have received, either negotiated or through arbitral awards, some additional monetary compensation in exchange for severance pay.
- The Board must take this into account when considering the Employer's demands to remove severance in this collective agreement and the Guild's proposals to restore equity as between its bargaining unit internally, and as compared to the Ships' Crews' terms and conditions of employment.

## **ARTICLE 30 HOURS OF WORK AND OVERTIME – Employer’s Brief-Pages 64 to 66**

### **Employer Proposal**

- The Employer proposes to remove Article 30.05 which allows the application of the Appendix I work system to other operations upon mutual agreement with the Guild.

### **Guild Response**

- There is no demonstrated need for this change. The Employer has not provided any evidence or argument to show why this change is necessary.
- The current language in Article 30.05 has been in the collective agreement for over twenty-five (25) years. Appendix “I” pre-dated the introduction of Appendix “H” (the lay-day system) and was the dominant system in place. Today, there are few vessels on Appendix “I”, as they have largely switched over to the lay-day system.
- Appendix “I” has very different working conditions to the other Appendices. For example, Appendix “I” does not require a minimum of fourteen (14) days notice of a schedule change, nor does it attract the higher rate of pay as provided by Appendix “H”. In essence, Officers that would be moved unilaterally onto Appendix “I” operations would suffer a 12.75% financial penalty.
- Giving the Employer the ability to apply Appendix “I” without mutual agreement would cause a noticeable reduction to working terms and conditions. The Employer itself has noted in its Brief that the Guild has “a legitimate role in determining.... what should be the terms and conditions of employment for employees” and the Guild submits that a unilateral move to Appendix “I” would necessarily affect terms and conditions of employment.
- The current requirement of mutual agreement has served the parties well over the years. They have had a very successful history of being able to agree to changing the appropriate work systems through the collective bargaining process and reach agreement as to when it is appropriate or not to move to different operating systems for different vessels.
- This is a proposal that has been made unsuccessfully by the Employer in previous interest arbitration boards. In each instance, the Employer was unable to point to any demonstrated need for the change in the language requested or even any situation where the Guild had refused to agree or consent to a proposal by the Employer to apply Appendix “I” to other operations.
- The Guild submits that there is no demonstrated need for this Article to be deleted and proposes the language be renewed without changes.

## **ARTICLE 43.01 DURATION AND RENEWAL- Employer’s Brief pages 69 to 70**

### **Employer Proposal**

- The Employer proposes the addition of Article 43.03 providing parties with 150 days for implementation of the collective agreement.

## **Guild Response**

- At Tabs 8 and 9 of the Guild's Book of Authorities, there are two arbitration decisions which set out the generally accepted principle of Canadian arbitrators that all clauses of a collective agreement are retroactive to the effective date of the contract unless this would lead to impractical results.
- In its proposal, the Employer seeks to extend the length of time available for implementation of the collective agreement to a period of five months. This collective agreement has already expired and there is no justification to require the members of the bargaining unit to wait a further period of 150 days before seeing any benefit or compensation change.
- The Guild asks that this Board remains seized over implementation of the awarded terms of the collective agreement and further impose a reasonable timeframe for the changes to be given effect. The Guild further requests that if these changes are not made within the timeframe determined to be reasonable, then interest at the applicable judicial rate should be directed to be paid to the employees who have been denied their compensation increases unreasonably.

## **APPENDIX H - LAY DAY OPERATIONAL CREWING SYSTEM – Employer's Brief - Pages 71 to 73**

### **Employer Proposal**

- The Employer has proposed that the language of Appendix "H" and the lay-day factor entitlement be renewed at the 1:1 ratio.
- The Employer has provided a calculation of how many more lay-days would be accumulated by the 1.17 factor.

### **Guild Response**

- The Guild submits that the Employer's calculations, based upon the accumulation of lay-days in the last fiscal year, are of no assistance to the Board as it is clear that the Ships' Crews would also accumulate even more lay-days with their 1.17 factor.
- It should also be noted that lay-days can be accumulated for extra or overtime work and the total number of lay-days accumulated is a function of staffing or understaffing, overtime etc.
- The fact remains and the Guild submits that its own calculations demonstrate that there is a serious and unjustifiable inequity between the Ships' Officers and the Ships' Crews lay-day entitlements.
- The Employer in its own Brief described this difference between the Ship's Officers and the Ships' Crews as a "significant difference" and one which allowed the Ships' Crews to accumulate 'more time off'. (See Tab E of the Employer's Brief)

### **No "Ability to Pay" argument**

- The Guild notes that at no point does the Employer suggest that adjusting the lay-day factor for the Officers to the 1.17 factor enjoyed by the Ships' Crews would in any way

be unaffordable to the Employer. In fact, nowhere in the Employer's Brief is there any suggestion that the Employer does not have the 'Ability to Pay' the Guild's modest demands for changes to the allowances or modest wage increases.

#### Lay Days are Capped and Must be Taken as Leave

- In its rationale, the Employer references the provisions of the collective agreement which currently exist for the "cashing in" of excess lay-days. The Board should understand that lay-days are virtually always taken as compensatory leave.
- Only when an employee is terminated or permanently appointed to a position which is on a vessel not operating under the lay-day system will any accumulated lay-days be paid in cash.

(See Appendix H- definitions (e) of the Guild's Ships' Officer Collective Agreement at Tab 1 of Volume I of the Guild's Book of Collective Agreements)

- The parties have specified in a Memorandum of Understanding that an Officer can only accumulate 65 lay days before he/she must proceed on compensatory leave in order to "burn off" the excess lay-days (See pages 165 and 165 of the Guild's Ships' Officer Collective Agreement at Tab 1 of Volume I of the Guild's Book of Collective Agreements)
- The terms of this Memorandum of Understanding are clear that an Officer who reaches the 65 day limit must proceed on compensatory leave.

#### Bargaining History

- In terms of the Employer's submissions regarding past bargaining outcomes, the Guild submits that the time frame the Employer refers to is ancient history and dates back over twenty (20) years to a time when the nature of this bargaining unit was completely different.
- The collective agreement that expired on August 31, 1990 actually still contained different rates between West Coast and East Coast Officers and also contained the 1.17 lay-day factor which came out of a recommendation from a mediator named Pugh who recommended that a fair lay-day factor for those employees working on a lay-day system similar to the one introduced by the Coast Guard in 1984, would be a ratio of approximately 1:1.20 days.
- As the Guild has noted in its private sector comparators at page 13 of its Brief, the private sector now has ratios ranging from 1:1.52, 1:1.24 and in some instances as high as 1:1.65.
- In the negotiations that led to the 1991–1994 collective agreement, the regional rates of pay between West Coast and East Coast were eliminated at the same time as the 1.17 lay-day factor.
- Subsequent to those negotiations, Bill C -133 and Bill C-17 automatically renewed the 1991–1994 collective agreement with statutory economic increases imposed. However, no collective bargaining with respect to other terms and conditions of employment was permitted until the 1998 collective agreement.
- At the time of the 1991-1994 collective agreement, only a limited number of Officers

were on a lay-day system. Most Officers were instead working on the conventional system getting additional overtime on Saturdays and Sundays for the many weekends they would be out at sea.

- Over the next 7 to 8 years, there was no opportunity for the Guild to bargain a return to the 1.17 lay-day factor. However during this same timeframe, the Employer moved almost 40% of the workforce over to this lay-day crewing system.
- It was not until 1998 when the restrictions on bargaining were lifted that the lay-day ratio problem could be addressed in bargaining. It was in the 1998 round of bargaining that an additional vacation leave was introduced.
- During the timeframe of this statutory freeze of the 1.0 lay-day factor, it became apparent that the lay-day officers were unable to accumulate sufficient lay-day credits to maintain off-cycle pay or pay after vacation. This was remedied for a period of time with the 2.1 vacation factor.
- In 1999, the decision of the PSLRB in the Coughtry grievance, (see Tab 3 of the Guild's Reply Brief) referenced the fact that this 2.1 vacation leave factor addressed the "long-standing and festering problem" that the 1:1 lay-day ratio did not provide sufficient credits for an Officer to maintain their pay during a four week vacation period that was taken during an "on-duty" cycle. Since lay-days only accumulate during the "on-duty" cycle, an Officer would not have enough credits to cover both the "off-duty" cycle that followed and the vacation.
- The 2.1 vacation leave factor remedied this problem up until 2010 when it was removed from the collective agreement.
- Now that this vacation factor no longer exists, the "long festering problem" has returned again, with newer recruits in particular, being unable to accumulate necessary lay-days under the 1.0 lay day factor.
- Unlike the early 1990s, the majority of this bargaining unit is now on the lay-day system where Officers are now required to earn the pay for their "off-duty" time and potentially face unpaid leave time if they are unable to earn sufficient lay-day credits.
- The lay-day system has benefitted the Employer in terms of providing flexibility to its scheduling needs and further saves money by having a lower lay-day factor as compared to the industry standard and the private sector. Furthermore, it can be taken as a given that the Employer's decision to move an additional 40% of the bargaining unit on to the system is proof in and of itself that the Employer benefits more than the employees from this flexible scheduling system.
- The Guild submits that the Ships' Officers employed under Appendix H"" in this collective agreement remain at a significant inequitable disadvantage that can no longer be justified under any Interest Arbitration principles.

#### Comparability and Relativity

- As stated in the Guild's Brief, the fundamental reason the Officers should be awarded a 1.17 lay-day factor relates to the internal comparability factor as well as the need to establish compensation and conditions of employment that are fair and reasonable,

applying both external comparability and internal relativity principles.

- As elaborated in the Guild's Brief, there is simply no equitable principle can support the inequity resulting from the Ships' Crews ability to earn 28.56 more days per year than the Officers who supervise them or that an Officer under Appendix J who is performing less hardship work, is being compensated at rate almost 11% higher than the Appendix H Officers.

#### **APPENDIX I - AVERAGING SYSTEM FORTY –TWO (42) HOURS – Employer's Brief-Pages 74 and 75**

##### **Employer Proposal**

- The Employer proposes to delete paragraphs in Article 20 that were already deleted effective March 31 2010.
- The Employer proposes changes to Article 22 which involves changes to the calculation of and granting of sick leave with pay.

##### **Guild Response**

This language has not posed problems between the parties in the past and there are few boats remaining on this Appendix.

- The Guild submits that there is no demonstrated need for this Article to be deleted and proposes the language be renewed without changes.

#### **APPENDIX J-ON CALL SYSTEM-AVERAGE FORTY-SIX POINT SIX (46.6) HOURS- Employer's Brief- Page 76**

##### **Employer Proposal**

- The Employer proposes to delete a clause in Appendix "J" allowing Class 400 vessels to operate under a different work system upon mutual agreement.

##### **Guild Response**

- This language has not posed problems between the parties in the past and there are few boats remaining on this Appendix.
- The current requirement of mutual agreement has served the parties well over the years, having had a very successful history of being able to agree to changing the appropriate work systems through the collective bargaining process and reach agreement as to when it is appropriate or not to move to different operating systems for different vessels.
- This system has worked well in the past and there is no suggestion or rationale as to why it would not continue to work in the future. The Guild submits that there is no demonstrated need for this Article to be deleted and proposes the language be renewed without changes.

## **APPENDIX K-40 HOUR WORK WEEK SYSTEM- Employer's Brief- Pages 77 to 79**

### **Employer Proposal**

- The Employer proposes to remove the set range for the normal daily hours of work and the notice requirement for 48 hour for any change in scheduled starting time in Article 30 - Hours of Work and Overtime.

### **Guild Response**

- Guild members working under this Appendix work Monday to Fridays and as non-seafarers have working conditions that are distinct to other Guild members. They have work schedules and responsibilities that are similar to most other public servants and involve a degree of predictability to account for commitments such as child care.
- It is an accepted and standard provision in most Public Service Collective Agreements that employees work within a set standard time range involving daily starting times and finishing times
- The Employer cannot nor does it even attempt to point to other comparators to justify this unusually regressive demand.
- If the Employer were to start unilaterally changing work hours, major scheduling accommodations would be needed to account for the shift in the work conditions and in locations where there are Guild members working with non-Guild members. This would include locations where Guild members work with employees covered by the Ships' Crews agreement who have maintained the standard language in their recent collective agreement that the Employer is proposing to change for the Guild.
- The Guild submits that there is no demonstrated need for this change and requests that the language be renewed without changes.

## **MULTIPLE APPENDICES (ALLOWANCES) – Employer's Brief -Pages 80 to 84**

### **Employer Proposal**

- The Employer proposes that only allowances, as defined in Article 2 of the collective agreement "Definitions and Interpretations", are eligible to receive increases but submits that those allowances should be renewed without changes.

### **Guild Response**

#### Allowances

- The Employer states that it submitted its position on allowances to the Guild through Form 12 following the Guild's request for an arbitration board. It further states that the Guild had the opportunity to but did not respond via Form 13, so cannot refute the Employer's position on limiting the allowances.
- The Guild did not receive a Form 12 from the Employer following its request to the PSLRB for arbitration and therefore did not have an opportunity to reply to the Employer's position as suggested. Furthermore, Forms 12 and 13 relate to requests for requests for conciliation under section 161 of the PSLRA and not to a request for

arbitration as stated by the Employer.

- Instead, the Guild submitted the required Form 8 to request arbitration and, as part of this, proposed an increase to all allowances. In its Form 9 response to the Employer, the Guild reiterated that its proposals on allowances pursuant to Article 43 and rates of pay proposal of a 2.9% increase in all wages and allowances, remained outstanding. Therefore, the Guild reasserted its position that all of the allowances are, as is customary, to be increased, by the amount awarded for the general wage increases for each year of the collective agreement.
- As noted at page 7 of this Brief, the Ships' Crews group recently concluded a settlement that in addition to the standard economic increases of 1.75%, 1.5% and 2.0% also received:
  - An additional 1.6% wage harmonization increase for 2013; an increase in the meal allowance; and an increase in the diving duty allowance;
  - A 4.75% increase of for the firefighter classification; and
  - A shift premium of \$2 for food service workers.
- For the sake of clarity, the following are the items referred to under the collective agreement for which the Guild is seeking-as is customary and virtually universal-the standard increase which the Guild proposes should be 2.9%.

<b>Allowance</b>	<b>Eligibility Requirements</b>
Article 25: Meals and Quarters Allowance	Paid when an Officer is working on a vessel on which meals and/or quarters normally provided are not available and employer does not provide alternative meals and/or quarters.
Appendix E: Canadian Coast Guard Officer Cadets: Monthly Allowance	Monthly training allowance for Cadets .
Appendix E: Canadian Coast Guard Officer Cadets: Monthly Sea Training Allowance	Paid to Cadets on sea training in addition to the training allowance above.
Appendix G: Extra Responsibility Allowance	Paid in recognition of additional responsibilities to Officers assigned as Master/Commanding Officer or Chief Engineer on "C" Class Vessels and above, or as Master/Commanding Officer or Chief Engineer on DND Glen Class tugs and "S" Class Torpedo and Ship Ranging Vessels, or as DND Dockyard Pilot.
Appendix F: Rescue Specialist Allowances	Certified Rescue Specialist receives the allowance for each month certification is maintained and is assigned to sea going position where the Officer may be required to perform such duties.
Appendix F: Fisheries Enforcement Allowance	Completion of required training and assignment to a sea going position where the Officer may be required to participate in enforcement duties.

Appendix F: Armed Boarding Allowance	Assignment to selected Offshore Patrol Vessels of the Department of Fisheries and Oceans which carry special armaments for the purposes of enforcement duties and where the Officer may be required to participate in armed boarding activity.
Appendix F: Diving Duty Allowance	Required to perform diving duties and maintain diving equipment on vessels.
Appendix F: Nuclear Emergency Response Team	Officers working at CFB Esquimalt and CFB Halifax who are designated as members of Nuclear Emergency Response Team, who are trained, maintain their qualifications and assigned such duties.

- While this is not a rights arbitration, the Guild submits that all of the above allowances meet the definition of “allowance” for purposes of bargaining and are properly the subject matter of this Board’s jurisdiction. The Guild reiterates its position outlined in its Brief that it is a basic and widely accepted principle that economic increases are paid across the board and include allowances unless they are specifically exempted and this has been the standard practice with this bargaining unit.
- In fact, during the last collective agreement increases in allowances were awarded but the introduction of Bill C-10 or the *Expenditure Restraint Act (ERA)* not only rolled back wage increases but also froze some allowances. More specifically, the increases to the monthly allowances for 2009 and 2010 were not implemented nor were the increases to the Extra Responsibility Allowance scheduled for 2009 and 2010. The 2.0% wage increase effective April 1 2009 was reduced to 1.5% and the 2.0% wage increase effective January 1 2010 was reduced to 1.5%.
- Given the impact of the *ERA* on wages and allowances, it is high time for increases to wages and allowances to not only return to the norm but to also make up for the reduction and economic losses to the bargaining unit that were brought about by the unilateral imposition of this legislation.

### Canadian Coast Guard Officer Cadets Allowances

#### **Employer Proposal**

- The Employer submits that the current structure of allowances for the Cadets should remain the same since it is the Cadet curriculum that is the basis for their subsequent guarantee of employment following their years of training. The Employer submits that it is at the expense of the Employer and this access to a lucrative employment opportunity is sufficient to oppose any increase in the current allowance.

#### **Guild Response**

- In recent years, the demographic of Cadets entering the Coast Guard has changed significantly. Whereas Cadets would have previously entered the profession straight out of high school, today Cadets are an increasingly older demographic with individuals who may already have post secondary degrees or who have already started and are supporting families. It was previously common for Cadets to live on campus while at school and therefore have limited living expenses; however, with the change in

demographics, many Cadets are living off-campus, in particular those Cadets who have families.

- It must be remembered that Cadets do not receive a salary from the Employer other than their Allowance and these demographic shifts have meant that it is increasingly difficult for Cadets to live off the allowances that are provided by the Employer.
- The Guild submits that there is a need for the Cadet allowances to keep pace not only with the cost of living but also with this changing demographic.

### Special Allowances

#### **Employer Proposal**

- The Employer submits that no increase be awarded with respect to the Rescue Specialist Allowance, the Fisheries Enforcement Allowance, the Armed Boarding Allowance, the Diving Duty Allowance and the Nuclear Emergency Response Team Allowance.

#### **Guild Response**

- As indicated in its Brief, these allowances are not a big economic item for the Employer as they only apply to a small number of Officers in specific circumstances and have not kept pace with inflation let alone with roll backs under the *ERA*.
- The Employer has stated that the Ships' Officers receive a level of benefit that "globally" exceeds the level of benefit that Ships' Crews receive in the same circumstances. The Guild would point out that the current differences only apply to the Fisheries Enforcement Allowance and the Armed Boarding Allowance and are minimal at best. (\$43 dollars and \$25 dollars respectively)
- Despite these minimal differences, the increases being proposed by the Guild would still not create an extraordinary gap in entitlements between the two bargaining units, particularly given the importance of acknowledging and preserving hierarchy and accepted differences between classification levels.

### Extra Responsibility Allowance

#### **Employer Proposal**

- The Employer proposes that there is no justification to increase the amount of the "Extra Responsibility Allowance" and proposes that the current language be renewed without change.
- The Employer has argued that this allowance should not be increased because the level of responsibility for the above Officers has remained the same and the amount of increase being proposed by the Guild far exceeds what has been given to other bargaining agents for allowances in this round of bargaining.

#### **Guild Response**

- As mentioned in the Guild's Brief, this Allowance is paid in recognition of additional responsibilities to Officers assigned as Master/Commanding Officer or Chief Engineer on

“C” Class Vessels and above, or as Master/Commanding Officer or Chief Engineer on DND Glen Class tugs and “S” Class Torpedo and Ship Ranging Vessels, or as DND Dockyard Pilot.

- There is nothing in the collective agreement or any other principle that supports the Employer’s assertion that this allowance should only be increased if and when the amount of responsibility increases. The standard practice between these parties has been that this allowance increases in each year of a collective agreement just as any other allowance would.
- As noted in our Brief, the Guild submits that none of these allowances, as forms of compensation for additional duties and responsibilities, have kept pace with inflation and in fact, the *ERA* froze this particular allowance for 2009 and 2010.
- The relatively minor increases that the Guild is proposing are to compensate for the freezing of this entitlement and to ensure that allowances are keeping pace. The proposed increase does not raise significant concerns with regard to cost to the Employer and the state of the Canadian economy and is in accordance with s. 148 (d) of the *PSLRA* which speaks to the need to establish compensation that is fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the service.