

SOURCE	Union		
EFF.	94	09	09
TERM.	97	03	31
No. OF EMPLOYEES	6		
NOMERE D'EMPLOYÉS	ll		

MEMORANDUM OF AGREEMENT

BETWEEN

FITZ-ENNIS CEMENT CARRIERS LIMITED
(Hereinafter referred to as "the Company")

AND

SEAFARERS' INTERNATIONAL UNION OF CANADA
(Hereinafter referred to as "the Union")

1. GENERAL PURPOSE OF THIS AGREEMENT

The general purpose of this agreement is to ensure for the company, the unlicensed employees and the Union the full benefits of orderly legal collective bargaining. To provide for the most reasonable operations of the Company's ship, the M/V Portland Carrier, under methods which will further, to the fullest extent possible, the safety and welfare of the said employees and economy of operation. It is recognized by this agreement to be the duty of the Union, the Company and said employees, to cooperate fully, individually and collectively for the advancement of these conditions.

2. RECOGNITION

The Company recognizes the Union as the sole representative for the purpose of collective bargaining, as per certification order of the CLRB dated September 6th, 1988, for all unlicensed personnel of FitzEnnis Cement Carriers Limited working aboard the vessel M/V Portland Carrier and hereinafter referred to as the vessel. The unlicensed personnel are hereinafter referred to as "employees" which word shall include the singular as well as the masculine and feminine.

3. CLAUSE PARAMOUNT

The parties to this agreement will not establish rules or enforce regulations which will, in any way, be contrary to or interfere with the effective implementation of all clauses of this agreement,

4. STATUTORY REQUIREMENTS

Nothing in this agreement shall be so construed as to effect the obligations of the signatories under the provisions of the Canada Shipping Act as amended or other government legislation or to impair in any manner whatsoever the authority of the Captain.

5. MAINTENANCE OF MEMBERSHIP AND EMPLOYMENT

(a) The Company agrees to deduct initiation fees and/or monthly Union dues and/or assessments as per Rand Formula in respect to all Union members covered by this Agreement in the amounts as established from time to time by the Union. All amounts required to be deducted by the Company by this Article shall be remitted to Union Headquarters in Montreal, Quebec within 30 days of the date of the payment of the wages from which the deduction is made.

(b) The Union shall indemnify the Company and hold it harmless against any and all suits, claims, demands and liabilities that shall arise out of or by reason of any action that shall be taken by the Company for the purpose of complying with the foregoing provisions of this article or in compliance with any notice which shall have been furnished to the Company under any such provision.

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(c) The right of any employee to employment with the company shall be conditional upon the employee being medically fit to perform his duties and the Company may, at any time, cause the employee to be medically examined at the Company's expense.

(d) The Union agrees that the Master or Chief Engineer of a vessel has the exclusive right to direct the crew, determine qualifications, hire, promote, transfer, lay off, suspend or discharge employees for cause.

(e) Refusal of any employee to work as directed or to obey lawful orders of his superior officers shall be grounds for discharge.

(f) Where the Captain or Chief Engineer decides to lay off, other than when the ship lays up, twenty four (24) hours written notice shall be given to the employee affected, stating therein the reason for such lay-off.

(g) It is agreed that during the period this Agreement is in effect, personnel to be hired shall be supplied on an alternating basis with the first employee being requested through the office of the Union closest to the location of the vessel and the next being obtained by the Company from whatever source they may choose provided they notify the Union immediately.

(h) All employees supplied by the Company shall, as a condition of employment, become members of the Union and shall make application for membership within thirty (30) days. If the Union refuses to accept such employee, a satisfactory written statement of reason must be supplied by the Union to the Company.

(i) Due to the operation of the Company, the Union agrees that employees dispatched from the Hiring hall to the Company vessel shall be residents of the Avalon Peninsula.

(j) The Union agrees that its hiring facilities shall be available as follows:

- 1) The Union Hall shall be open **Monday** through Friday from 09:00 hrs. to 17:00 hrs.
- 2) Shipping shall be conducted at all ports in accordance with the above stated hours, Monday through Friday.
- 3) Telephone numbers of the Union officials in each port shall be furnished to the Company in case of emergency calls for employment.
- 4) Outside the hours of 09:00 hrs. to 17:00 hrs. the Union Hall shall have an answering service available for incoming calls which are received.
- 5) The **Union hiring** facilities shall be closed on all Federal **and/or** applicable Provincial statutory holidays. Where such statutory holidays fall on a Saturday or Sunday, the Union Hiring Halls shall be closed on the following Monday or on the next juridical day should the following Monday be a statutory holiday.

(k) The Company shall endeavor to provide the Union with adequate advance notice of personnel requirements. In its turn, the Union shall supply the Company with the names and social insurance number of the dispatched individual within four (4) working hours of notification by the Company. Such individual shall be able to report for duty within twenty-four (24) hours of dispatch. Failing that the Company is free to hire from its own sources. In situations where the company requires personnel outside the normal working hours of the hiring hall, the company will use its best endeavors to contact the union representative, but if the union cannot supply the required personnel within 24 hours the company is at liberty to hire from its own sources.

(l) **When** presenting themselves for employment, members shall remit a Union dispatch slip and discharge book to the Captain or designated ship's officer. Members who are refused for employment must be immediately furnished in writing with a valid reason for such refusal. If a member is not accepted by the Company, as a result of, or because of an error committed by the company in placing a call for replacement, the said member shall be reimbursed for any and all reasonable transportation costs to and from the vessel, supported by receipts and shall receive one day's pay only if dispatched from a union hiring hall outside the province of Newfoundland.

(m) The Company agrees to pay to the Seafarers' International Union of Canada Hiring Hall Fund the sum of twenty-five (25) cents per job per payroll day effective April 1st, 1989. Such rate to be increased to thirty-five (35) cents effective April 1st, 1990; forty-five (45) cents effective April 1st, 1991; fifty (50) cents effective April 1st, 1992 and fifty-five (55) cents effective April 1st, 1993.

6. DISCHARGE

Employees shall have their employment terminated and their seniority forfeited for breaches of discipline and safe practices as listed in the "Safety/Loss Control Employees Handbook" including, but not limited to the following infractions:

- 1) Reporting for work or being onboard the vessel while under the influence of drugs or alcohol.
- 2) Being in possession of drugs or alcohol while onboard the vessel.
- 3) Theft from the Company or fellow workers.
- 4) Failure to carry out a lawful order of a superior.

7. MANAGEMENT RIGHTS

The Union recognizes that the Company shall have, at all times, complete freedom of action on all matters of corporate economy including the hiring, appointment and promotion of employees, dismissal for just cause and lay-off of employees due to shortage of work.

The Union further recognizes the right of the Company to operate and manage its business in all respects to maintain order and efficiency on its vessel and to determine the location of its vessel at all times, the types of charters and other business to be entered into, the scheduling of its vessel and its method of scheduling.

The Union further acknowledges that the Company has the right to make end alter from time to time rules and regulations to be observed by employees which rules and regulations shall not be inconsistent with the provisions of this agreements.

8. GRIEVANCE PROCEDURE

(a) The parties to this agreement are agreed that it is of the utmost importance to adjust complaints and grievances concerning the interpretation or alleged violation of the agreement as quickly as possible.

(b) No grievance shall be considered where the events giving rise to it occurred or originated more than two full working days before filing of the grievance.

(c) Grievances properly arising under this agreement shall be adjusted and settled as follows:

STEP No. 1 - The aggrieved employee shall present his grievance orally or in writing to their immediate supervisor (Mate/2nd Eng.). The employee shall have the assistance of the Union delegate if he so desires, provided that no disruption of the workplace would be caused thereby. The supervisor shall give his decision within two working days following the presentation of the grievance to him. If the supervisor's decision is not satisfactory to the employee concerned, then the grievance may be presented as follows.

STEP No. 2 - Within two working days after the decision is given at STEP No. 1, the aggrieved employee may, with or without the Union delegate, present the grievance (which shall be reduced to writing on a form supplied by the Union and approved by the Company) to the Master, who shall consider it in the presence of the person or persons presenting same and the supervisor. A decision will be rendered in writing within two working days following the presentation of the grievance to him. If a settlement satisfactory to the employee concerned is not reached, then the grievance may be presented as follows.

STEP No. 3 - Within fourteen days, or **as** soon as the vessels schedule permits, after the decision is given under **STEP** No. 2, the aggrieved employee or **Union** on behalf of the employee, **may** submit his grievance to the Management **of** the Company and the employee, accompanied by a Union representative, shall meet as promptly **as** possible with such persons **as** Management may desire, to consider the grievance. The Management of the Company will render its' decision in writing within five working days following such meeting.

(d) An employee who is discharged or suspended from work, should he wish to grieve, shall present his grievance in writing to the Union within four (4) working days of the events giving rise to the grievance. The Union shall then notify the Company within two (2) working days of receipt and the procedure as laid out in Step No. 3 shall then be entered into. It is understood that this shall not apply to probationary employees as noted in Article 12 (b).

(e) If final settlement of the grievance is not reached at **STEP** No. 3 and if the grievance is one which concerns the interpretation or alleged violation of the agreement, then the grievance may be referred in writing by either party to a **Board** of Arbitration as provided in Article 9 (Arbitration) below at any time within fifteen calendar days after the decision is given under **STEP** No. 3 and if no such written request for arbitration is received within the time limit, then it shall be deemed to have been abandoned.

(f) A failure of either party to strictly adhere to the **time** limits and other requirements of this Grievance Procedure **shall** in the **case** of the Union be considered an abandonment of the grievance or in the case of the Company an acceptance of the Union position,

9. ARBITRATION

Any grievance involving the interpretation or alleged violation of any provision of this agreement, which has been properly carried through all steps of the grievance procedure as outlined in Article 7 (Grievance Procedure) above, **and** which **has** not been settled **may** be submitted to an Arbitration Board. Matters involving any request for a modification of this agreement or which are not covered by this agreement shall not be subject to arbitration.

(a) The Arbitration Board shall consist of one (1) person appointed by the Company, one (1) person appointed by the Union and a third person to act as chairman chosen by the other two members of the board. This selection shall be made within ten (10) days after the request for arbitration **has** been made by either party to this agreement. In the event that the two appointed board members fail within the said ten (10) day period to agree upon the selection of the third board member, the matter **may** be referred by either party to the Federal Minister of Labor who shall select and designate the third board member to act as chairman,

(b) In the event the Arbitration Board is vacated by reason of death, incapacity or resignation or for any other reason, such vacancy shall be filled in the **same** manner **as** is provided herein for the establishment of the Board in the first instance.

(c) A statement of the dispute or question to be arbitrated shall be submitted, in writing, by both parties either jointly or separately to the arbitrators within seven (7) days of their appointment. The Arbitration **Board** shall convene within ten (10) days following the appointment of the arbitrator unless otherwise mutually agreed by the parties and shall render its decision **as soon** thereafter as possible.

(d) The decision of the Board shall be limited to the dispute or question contained in the statement or statements submitted to it by the parties. The decision of the Arbitration Board shall not change, add to, vary or disregard **any** conditions of this agreement. The decisions of the arbitrator which are made under the authority of this arbitration article shall be final and binding upon the Company, the Union and all persons concerned.

(e) The expenses, fees and cost of the Arbitrator shall be paid by the party to this Agreement found to be in default upon the Arbitrator's resolution of the grievance or, if the Arbitrator resolves the grievance in such a way that neither side shall be found wholly in the right, then the Arbitrator shall **also** establish the proper split of the expenses, fees **and** costs between the two parties in the proportion appropriate to the share of responsibility that each side had in the production of the grievance.

10. INTERRUPTION OF WORK

(a) It is agreed that there shall be no strikes, walkouts, slowdowns, stoppages of work, secondary boycotts or lockouts during the term of the agreement or negotiations for a new or extended term of the agreement. All disputes or grievances will be adjusted through the regular channels established in the Grievance Procedure (Article 7). Any violation of this clause shall entitle the Company to claim damages from the Union ~~or~~ the employees involved.

(b) It is agreed that in no case will the Union or Company require the employees to cross a lawful picket line where there is a real danger of physical violence without adequate safety measures being taken.

(c) Definition for the purpose of this section, a lawful picket line is a picket line established by another Union in a bona fide dispute over wages and/or conditions, and the persons involved ~~are~~ directly employed by the Company.

11. UNION OFFICERS BOARDING VESSELS

(a) The Company agrees to issue two (2) passes for the use of Union representatives for the purposes of consulting with its members aboard the vessel, M/V Portland Carrier. These representatives of the Union shall be allowed on board the vessel at the principal ports used by the vessel provided that they shall present their passes on boarding the vessel to the Captain or the Officers-in-Charge. Such representatives shall have the right to engage in negotiations with the Captain in respect of any dispute or grievance but shall not have the right to interfere in any way with the operations of the vessel.

(b) The Union shall submit to the Company the name and relevant particulars of the two bona fide Union members authorized by the Union to act as its representatives provided that the Company, upon receiving from these representatives a waiver in form satisfactory to the Company of any claim for any damage resulting from any accident ~~or~~ injury in or about Company property shall thereupon issue a pass to each representative enabling him to board the Company's ship in ports for the purpose herein provided. In the event that such privilege is withdrawn ~~from~~ the designated Union representative the Union will undertake to notify the Company to revoke their pass.

(c) The Union representative shall not violate any provision of this agreement or interfere with crew members ~~of~~ the ship or retard the work of the vessel subject to penalty and/or revocation of the pass granted herein, and payment of any damages resulting to the Company.

(d) The Company assumes no responsibility for securing passes to or through property owned or controlled by others, but the Company agrees to cooperate with the Union in endeavoring to secure such passes.

12. SENIORITY

(a) Seniority shall mean the length of continuous service that an employee has accumulated while employed on the M/V Portland Carrier.

(b) Employees with less than three (3) months continuous sea time on the M/V Portland Carrier will be considered to be on probation and if found to be unsuitable by the Company will **not** be retained in service. This paragraph explicitly and substantively removes the provision for "Just Cause" in the dismissal of a probationary employee and in no case shall the Union have the right to grieve the discharge of a probationary employee.

(c) A seniority list will be compiled by the company and will be revised annually. Such list will show names, positions and date of employment on the M/V Portland Carrier.

(d) A copy of the Seniority list shall be forwarded to the Union annually thirty days (30) days after it is compiled.

(e) An employee shall lose **his** seniority and his employment shall be terminated in the following circumstances:

- 1) Fails to report for duty.
- 2) Is absent for reason of illness or non work related injury for a period of three (3) months.
- 3) Fails to return **at** the appointed time from leave.
- 4) Quits ~~or~~ voluntarily resigns.
- 5) Discharged and is not reinstated through the grievance procedure.
- 6) Pursuant to the compulsory medical examination is certified as unable to perform the regular **and** normal duties of his position.
- 7) Is prevented by the operation of any law from carrying out any of the duties of his employment.

13. DUTIES

(a) In general all employees will be required **to** perform all and any duties that the Captain or officers may lawfully request.

(b) Cooks will be expected **to** perform all functions normally associated with the job of marine cook, which will include, but not be limited to:

The preparation, serving of regular meals, the preparation of night lunches, the cleaning of all mess rooms, galley, pantries, store rooms, linen lockers, refrigeration spaces, all department equipment and assistance with the loading of stores.

(c) CP's will be expected **to** perform all functions normally associated with unlicensed crew members duties onboard a vessel and these duties will not be limited by departmental classification.

14. GENERAL AND EMERGENCY DUTIES

(a) In addition to the duties specifically imposed by this document all employees shall perform competently the ordinary duties pertaining to their positions on the vessel.

(b) Any work necessary for the safety of the vessel, passengers, crew or cargo or for the saving of or rendering assistance to other vessels, lives, property or cargoes, shall be performed **at** any time on immediate call by all employees and **not** with standing any provisions of this agreement which might be construed to the contrary in no event shall any extra payment be expected or made for the work performed in connection with such emergency duties of which ~~the~~ Captain shall be the sole judge.

(c) The Captain may, whenever he deems it advisable, require any employee to participate in life boat or other emergency drills. Such drills will take place in accordance with government regulations and the Company's safety policies.

15. CLEANLINESS OF QUARTERS

The Company shall **see** that all quarters assigned for the use of the employees are suitably outfitted, lighted and ventilated insofar **as** is practical to do so. It will be the responsibility of the employees to keep them clean and tidy at all times, but the company shall cooperate to the fullest where their assistance is needed in keeping the living quarters clean and tidy. The Company **agrees to** fumigate all quarters whenever such fumigation is necessary to free them of vermin.

16. OTHER CONVENIENCES

The following items shall be supplied to the unlicensed personnel employed on board the vessel of the Company:

- 1) A suitable number of clean blankets for each employee;
- 2) An adequate supply of sheets, pillow cases, hand and bath towels, standard brand **face** soap and laundry **soap** or detergent.
- 3) An adequate supply of crockery;
- 4) The Company agrees to supply on the vessel one colored TV, a washing machine, an iron **and** ironing board and, where electrical capacity and space are available, an electric dryer **and**, where space presently permits, space for drying clothes will be made available.

The Company agrees to pay the cost of maintenance for these appliances necessitated by normal wear and tear. Any members willfully damaging or destroying linen, mattresses and/or any of the supplied equipment shall be held accountable for same.

- 5) Each employee will be issued with protective clothing as laid out in Attachment "A".

17. TRANSPORTATION COSTS

a) Travel costs to and from the vessel when joining or leaving the vessel on the Avalon Peninsula will be the employee's expense. Employee's will have to arrive on the vessel at a designated time, as specified in their joining instructions.

b) The company agrees to pay for, or equivalent to, public bus transportation for crew members residing outside the Avalon peninsula for recalls to **work** of less than 2 weeks.

c) The company shall provide for an employee necessary transportation expenses when the employee has to leave the vessel due to illness or injury with the exception of travel within the Avalon Peninsula. The employee has to **show** supporting evidence from a qualified physician which details the particulars of the illness or injury and attesting to the necessity to leave the vessel. The company reserves the right to designate a physician for this purpose.

18. SAFETY

The Company has a firm commitment to safety/loss control as outlined in its "Safety/loss Control Employees Handbook". All parties are to abide by the policies **and** guidelines laid down in this document and it shall become part of this agreement.

19. WAGES & HOURS OF WORK

(a) The employees will be paid on the basis days worked times "Consolidated Daily Rate". The "Consolidated Daily Rate" is laid out in Attachment "A" and covers all payments for basic wage, overtime, statutory holidays and vacation pay. All moneys will be forwarded by check and mail to the employees home address or bank. a monthly statement will be forwarded to the employee.

(b) The consolidated daily rate shall be increased on April 1st, of each year of the Collective Agreement by the percentage increase of the Federal CPI during the previous twelve month period ending on March 31st.

(c) The Company agrees to pay each employee dirty pay as outlined in Attachment "A" for each day the employee is requested to enter **and** sweep down the cargo holds while the discharge ventilation is in operation. The dirty pay is to be paid in the first week of December.

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(d) A regular work day shall consist of eight (8) hours to be worked as directed by the Master/Chief Engineer. It is agreed that overtime could be involved in ensuring the efficient operation of the vessel, employees shall be required to work such hours as are directed for no additional payments other than those allowed for in the "Consolidated Daily Rate".

20. TOUR OF DUTY

(a) The normal tour of duty will begin at the commencement of the shipping season on approximately the 1st. April and will end at the closure of the shipping season on approximately the 1st. December each year.

(b) Employees holding full-season positions may elect to take time off without pay subject to the following conditions:

- 1) The Employee must apply for time off during the first 30 days of the sailing season so that the leave schedule may be finalized before the 60th day of the season.
- 2) The employee must have worked at least 60 days in the current season prior to the commencement of the time off.
- 3) Time off will not be allowed for periods of less than 15 days

21. FRINGE BENEFITS

(a) The Company will provide Group Benefit Insurance including dental coverage as laid down in the Benefit Booklet, as amended from time to time, and supplied to all employees. This booklet will form part of the collective agreement. It is agreed that the Company and the employees will divide the costs of these premiums; 75% paid by the Company and 25% paid by the employee.

(b) Effective on April 1st, 1992, the Company shall deduct from the employees pay an amount equal to four percent (4%) of that employees basic pay and deposit the same into an RRSP of the employees choice. The Company will deposit an equal amount into that employees RRSP.


22. DURATION OF AGREEMENT

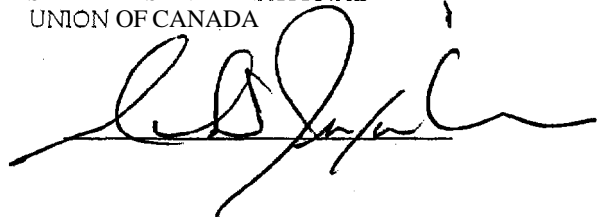
This agreement shall become effective as from September 9, 1994 and shall continue in full force and effect until March 31st, 1997, inclusive, and thereafter from year to year unless or until either party serves written notice on the other party to the contrary at least ninety (90) days prior to March 31st, 1997 or ninety (90) days prior to March 31st of any subsequent year.

Dated this 18th day of September in Concord, B.C., New Brunswick

FITZ-ENNIS CEMENT
CARRIERS LIMITED

SEAFARERS' INTERNATIONAL
UNION OF CANADA


Kenneth Hyman.



ATTACHMENT "A"
DATED: September 9, 1994

A) WAGES

COOK:

CONSOLIDATED DAILY RATE \$118.36/Day
(This rate includes: Base Pay, O/T Allowance,
Statutory Holidays Allowance, & Vacation Pay @ 4%)

GENERAL PURPOSE SEAMAN:

CONSOLIDATED DAILY RATE: \$101.49/Day
(This rate includes: Base Pay, O/T Allowance,
Statutory Holidays Allowance, & Vacation Pay @ 4%)

DIRTY PAY \$50.00/Day
(for cleaning cargo holds as per article 19 (c) only)

B) BENEFITS:

GROUP INSURANCE

CURRENT RATES (25% employees contribution):

Single: \$ 9.67/Month
Married: \$20.46/Month

RRSP CONTRIBUTIONS:

4% OF BASIC PAY (50% employees contribution):

Cook \$2.87/Day
Seaman \$2.46/Day

PROTECTIVE CLOTHING:

Cook One set of whites per season.

GP Seaman:

The Company agrees to pay to the GP seamen for the 1994 season a flat rate of \$60.00 and thereafter an allowance up to \$100.00 per season for coveralls and work boots upon presenting the receipts. The allowance is to be paid on May 15 or at the time of recall for work, whichever is later and applies only for crew members with seniority.

(Ward Hats, Ear Defenders, Work Cloves, etc. will be supplied on board and will be left on board as part of vessel's equipment.)