

bargaining unit covered by the contract, not just those from the group obligated to become union members by reason of the contract.

We find that all employees of the Employer at its store at 166 E. Compton Boulevard, Compton, California, excluding the store manager, the assistant store manager, salesfloor supervisors, the personnel supervisor, the office supervisor, the stockroom supervisor, learners, seasonal employees, and supervisors as defined in the Act constitute a unit appropriate for the purposes of an election under Section 9 (e) (1) of the Act.

[Text of Direction of Election omitted from publication.]

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BULL INSULAR LINE, INC. ET AL. *and* INTERNATIONAL LONGSHOREMEN'S ASSOCIATION DISTRICT COUNCIL OF THE PORTS OF PUERTO RICO (ILA)<sup>1</sup> Petitioner

PUERTO RICO MARINE CORP. ET AL. *and* UNION DE TRABAJADORES DE ABORDO Y MUELLE DE PONCE INDEPENDIENTE, Petitioner

EASTERN SUGAR ASSOCIATES (A TRUST), Petitioner *and* LOCAL UNION NO. 1745, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION (ILA)

PUERTO RICO DRY DOCK AND MARINE TERMINAL, INC.<sup>2</sup> *and* CONFEDERACION GENERAL DE TRABAJADORES DE PUERTO RICO (AUTENTICA), Petitioner

BULL INSULAR LINE, INC. ET AL. *and* UNION DE EMPLEADOS DE MUELLES DE PUERTO RICO, Petitioner

BULL INSULAR LINE, INC., Petitioner *and* INTERNATIONAL LONGSHOREMEN'S ASSOCIATION DISTRICT COUNCIL OF PORTS OF P. R.

MENDEZ & CIA., INC. *and* UNION DE EMPLEADOS DE MUELLES DE PUERTO RICO, Petitioner

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<sup>1</sup>The Board officially notices that on September 23, 1953, the ILA was expelled from the American Federation of Labor. The ILA, as hereinafter appears, will therefore be designated as ILA only. The original order consolidating these cases included No 24-RC-198. However, as the petitioner in that case, Union de Construccion Reparacion, Mantenimiento y Trabajos Portuarios de Punta Santiago, P R. (Ind) was out of compliance, the petition was dismissed Case No. 24-RC-200, Bull Insular Line and Union de Empleados de Muelles, was withdrawn and Nos. 24-RC-359 and 24-RM-12, as indicated herein, were added to the consolidated group.

<sup>2</sup>The present name of this Employer appears as amended at the hearing. It was formerly known as the Abarca Dry Dock Corporation.

PUERTO RICO STEAMSHIP ASSOCIATION ET ALS. *and* UNION DE TRABAJADORES DE MUELLES Y RAMAS ANEXAS DE PUERTO RICO (Independent) (UTM), Petitioner

PUERTO RICO STEAMSHIP ASSOCIATION, Petitioner *and* INTERNATIONAL LONGSHOREMEN'S ASSOCIATION

PUERTO RICO STEAMSHIP ASSOCIATION, Petitioner *and* INTERNATIONAL LONGSHOREMEN'S ASSOCIATION. Cases Nos. 24-RC-197, 24-RC-248, 24-RM-8, 24-RC-225, 24-RC-359, 24-RM-12, 24-RC-246, 24-RC-663,<sup>3</sup> 24-RM-21, and 24-RM-22. January 5, 1954

## DECISION AND DIRECTIONS OF ELECTIONS

Upon petitions duly filed under Section 9 (c) of the National Labor Relations Act, a consolidated hearing in the original above-entitled cases was held before George L. Weasler, hearing officer. The hearing officer's rulings are free from prejudicial error and are hereby affirmed.

### Motion for Intervention

This proceeding was initiated by petitions filed in 1951 by the ILA, District Councils of Puerto Rico, which was then affiliated with the American Federation of Labor. Several other unions interested in representing employees working on the waterfront of the Island of Puerto Rico filed additional petitions and motions for intervention. After hearings were held in the fall of 1951, the record was ordered reopened for additional evidence on the unit issue. Further hearings were held in February 1953. Because of outstanding orders in unfair labor practice cases<sup>4</sup> involving the ILA, resolution of the present proceedings has been delayed.

Following the expulsion of the ILA from the AFL in September 1953, it appears that several locals on the Island of Puerto Rico withdrew from the ILA. On December 3, 1953, the Union De Trabajadores De Muelles Y Ramas Anexas De Puerto Rico (Independent) hereinafter referred to as UTM, filed a motion (with affidavit of service) to intervene in these proceedings, alleging that it was the successor to ILA. In its motion, the UTM stated that because the existing bargaining agreement will expire December 31, 1953, an immediate election should be ordered to avoid industrial strife. The Board is also administratively advised that there has been substantial com-

<sup>3</sup> The petition in this case was filed November 23, 1953, and in the following two cases on December 7, 1953.

<sup>4</sup> No. 24-CC-11--ILA District Council of P. R. etc., et als., and El Mundo Broadcasting Co ; No. 24-CC-14--ILA etc , et als , and Lykes Lines Agency; No 24-CB-13--Local 1664 ILA etc., et als., and Puerto Rico Steamship Association.

pliance with its outstanding orders, so as to warrant directing an election.

The UTM, whose card showing is dated subsequent to the hearing, desires to be placed on the ballot for the same units as petitioned for by the ILA in the cases herein indicated. The rule is well established that a labor organization which seeks to intervene in a representation proceeding before the Board must present a showing of interest dated as of or before the hearing.<sup>5</sup> However, the Board has permitted two exceptions to this rule: (1) Where the representation proceeding was delayed by the filing of unfair labor practice charges and the original petitioner was, by its own practices, in part responsible for such delay;<sup>6</sup> and (2) where a labor organization claims to be the authorized successor of the contracting labor organization.<sup>7</sup> The same principles apply to a petition brought by an employer.

We find, on the basis of this record and the complaint cases mentioned above of which we take official notice herein, that the ILA, by its own unfair labor practices and its failure to comply with the Board's decisions, caused the delay in the issuance of the decision in the cases originally brought in 1951.<sup>8</sup> Moreover, as a result of the alleged schism which has developed in the ILA and the card showing of the UTM, we find that the latter has made a colorable claim to be the successor in interest of the ILA. Accordingly, we shall, under the foregoing circumstances, permit the intervention of the UTM and include its name on the ballot in all cases where the ILA is a party to the proceeding.<sup>9</sup>

Upon the entire record in these cases the Board finds:

1. The Employers are engaged in commerce within the meaning of the Act.
2. The labor organizations involved claim to represent certain employees of the Employers.
3. Questions affecting commerce exist concerning the representation of employees of the Employers within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.
4. The appropriate units:

#### The Contention of the Parties: Case No. 24-RC-197

At the original hearing the Petitioner, International Longshoremen's Association, hereinafter called the ILA, sought a unit of stevedores and related classifications involving some 46 employers, including steamship companies, sugar mills,

<sup>5</sup> United Boat Service Corporation, 55 NLRB 671.

<sup>6</sup> International Harvester Company, Canton Works, 91 NLRB 487.

<sup>7</sup> A Siegel & Sons, Inc., 94 NLRB 471.

<sup>8</sup> International Harvester Company, *supra*.

<sup>9</sup> As indicated in the caption, the UTM and the principal employers, the Puerto Rico Steamship Association, filed petitions in Cases Nos 24-RC-663, 24-RM-21, and 24-RM-22. Inasmuch as our disposition on the motion to intervene would also constitute in effect a ruling on these petitions, the latter are hereby consolidated with the instant proceeding.

and others. At the reopened hearing and also in its brief, the ILA took several alternative positions.<sup>10</sup>

The Employers designated in this petition include all shipping companies doing any stevedoring work in the main ports of the Island, members of the Puerto Rico Steamship Association, steamship agents and subagents, lighterage companies, docking companies, including several fertilizer companies operating their own docks, and sugar mills and manufacturers (called centrals). Several of the employers appeared for the sole purpose of objecting to the inclusion of their names in the petition on the ground that there was no basis for involving them in a multiemployer unit;<sup>11</sup> others urged that their bargaining had always been on a single-plant basis; still others stated that while they had followed the practice of adopting the master contract between the ILA and the Association, they never participated in any joint bargaining with the Association. Several employers sent no representatives to the hearing. The Puerto Rico Steamship Association agreed that the only appropriate unit was one limited to the employer members of the Association, including all ports where these members operate.

The petitioning Unions in the other consolidated cases urged that the proposed ILA unit was much too broad, contending that either a portwide or an individual employer unit was appropriate. Upon request, the right to intervene was granted to the following Unions: (1) Union No. 4 de Trabajadores de la Industria del Abone, on the ground of an existing contract with the Armour Fertilizer Works;<sup>12</sup> (2) Union de Trabajadores de Muelles y Almacenes de Punta Santiago, (Ind) because of a showing of interest in the employees of the Eastern Sugar Associates;<sup>13</sup> (3) Union de Trabajadores de Abordo y Muelle de Ponce, (Ind), which is also the petitioner in No. 24-RC-248;<sup>14</sup> (4) Union Independiente de Muelles de Guanica, because of its interest in the employees of the Ochoa Fertilizer Company.<sup>15</sup>

<sup>10</sup> The alternative unit contentions are stated and considered *infra*.

<sup>11</sup> Several of these employers moved to dismiss the petition as to them. Inasmuch as the elections hereinafter directed do not involve the employees of these employers, there is no necessity of passing on this motion.

<sup>12</sup> Both the Union and Armour Fertilizer Works objected to the inclusion of this Employer in the unit. Inasmuch as the election directed herein does not involve this employer, there is no need of considering the contentions of the parties in this intervention.

<sup>13</sup> This Union is the Intervenor in Case No. 24-RM-8, and its position will be discussed *infra* in connection with that petition.

<sup>14</sup> This Union is the Petitioner in Case No. 24-RC-248, and its contentions will be discussed in connection with that petition.

<sup>15</sup> This Union appeared in Case No. 24-RC-197 on the ground of a showing of interest in the employees of the Ochoa Fertilizer Company, one of the Employers included in the petition. No evidence was introduced in support of any unit contention, and it appears that the Union intervened only in order to object to the all inclusive unit claimed by the ILA. We shall therefore not pass on the unit contention of this Intervenor.

### The Bargaining History of ILA

Since the establishment of the ILA in 1938, the Board has, on several occasions, considered the bargaining history of waterfront labor organizations on the Island of Puerto Rico.<sup>16</sup> There is no need of reviewing that history here. Suffice it to say that since that date, the ILA has sought at various times to represent stevedores and other classifications of workers related to stevedoring on an islandwide basis.<sup>17</sup>

Up to 1949, the Board recognized the appropriateness of portwide units and denied requests for an islandwide unit upon the ground there was no basis for a finding that such a broad unit was appropriate. Accordingly, the Board directed elections for units of various classifications at individual ports of the Island.<sup>18</sup> Beginning with 1949, however, the Board found an islandwide unit of guards appropriate.<sup>19</sup> Subsequently, in October 1950, the Association executed separate islandwide contracts covering stevedores represented by Councils No. 1 and No. 2 of the ILA, effective from January 1, 1950, to December 31, 1951. Apart from the fact that they covered different categories of employees, both contracts were substantially identical in terms. On March 6, 1952, following a strike, the Association and the ILA extended the 1950 contract to December 31, 1953. The unit recognized in this current contract covers stevedores and related classifications (except dock checkers and clerks of the Bull Insular Line and its affiliates at San Juan) 'and any other workers engaged in the manual operations of loading and unloading of vessels and classification of cargo in the various ports of Puerto Rico, who are employees of the member companies of the Puerto Rico Steamship Association, excluding watchmen, guards, foremen, professional, administrative and executive employees, office clerical employees, and all supervisors as defined in the Act.'<sup>20</sup>

### Appropriateness of the ILA Units

The history of collective bargaining culminating in an islandwide contract with members of the Association is urged by the ILA in support of its contention for a unit covering all stevedores and related classifications employed by the various Employers, including the sugar mill companies, herein represented. As it is clear from the record that there is no his-

<sup>16</sup> 56 NLRB 189; 58 NLRB 1301; 74 NLRB 55; 89 NLRB 452 (units for port of San Juan); 63 NLRB 154; (Guanica); 71 NLRB 38 (Humacao); 90 NLRB 1877 (Jobos, Aguire); 103 NLRB 1217.

<sup>17</sup> See cases in footnote 16, *supra*.

<sup>18</sup> See cases in footnote 16, *supra*.

<sup>19</sup> 81 NLRB 1034. The parties in that case agreed to the scope of the unit and no other union sought to represent the guards on a narrower basis.

<sup>20</sup> See Local 1664 (Dock Division) ILA District Council No. 1, etc., et als., 103 NLRB 1217, Intermediate Report, Findings of Fact

tory of collective bargaining in which all these Employers have participated and that there is no agreement among all such Employers to be bound by joint bargaining negotiations in the future, we find that this unit contention is without merit. The several alternative positions of the ILA will, accordingly, be considered.

As its first alternative unit position, the ILA states that it will accept a unit of all job classifications for men engaged in loading or unloading ships throughout the Island and employed by companies other than sugar mill employers, both within and without the Association. In essence, this unit contention differs from the original islandwide unit contention only in that it would exclude sugar mill employers. This unit sought is otherwise the same and would include the employers of steamship companies both within and without the Association, on an islandwide basis. As a second alternative unit, the ILA suggests a unit of all stevedores and related classifications of all employers doing business at a given port. Finally, the ILA would accept a unit limited to members of the Association on an islandwide basis.

With respect to the first two alternative unit contentions, it is to be observed that, while the geographical scope of each unit contention may be supported either by bargaining history or Board policy, in the absence of an agreement by the parties, there is no basis in the record for a multiemployer unit which is not limited to members of the Association and to companies which have participated in the joint negotiations conducted by the Association; accordingly, we find that these unit contentions are without merit.<sup>21</sup> The third alternative unit contention stands in somewhat different light. As noted above, this unit contention has the support of recent bargaining history between the ILA and the Association in that the latter has contracted with the ILA on an islandwide basis coextensive with the operations of the member companies.<sup>22</sup> It therefore appears that an Association unit, islandwide in scope, might be appropriate in accordance with the ILA's alternative unit contention noted above.<sup>23</sup> On the other hand, because of the comparative brevity of islandwide bargaining history,<sup>24</sup> the earlier bargaining history on a port-by-port basis, and the fact that several unions are seeking units on that basis,<sup>25</sup> we find that the islandwide

<sup>21</sup> Associated Shoe Industries of Southern Massachusetts, Inc , 81 NLRB 224; Whiz Fish Products Company, 94 NLRB 1303; John F. Humphrey, etc., et al, 100 NLRB 571; cf. Western Association of Engineers, Architects and Surveyors, 101 NLRB 64.

<sup>22</sup> The last contract was executed in March 1952 and will expire in December 1953.

<sup>23</sup> The ILA seeks an election for purposes of certification in its contract unit. See General Box Company, 82 NLRB 678. The ILA does not raise its contract as a bar to these proceedings.

<sup>24</sup> We note that the islandwide contract had been in effect less than a year at the time of the filing of the first petition in these proceedings.

<sup>25</sup> See Cases Nos 24-RC-248 and 24-RC-359 considered herein.

unit is not necessarily the only appropriate unit;<sup>26</sup> accordingly we shall defer our unit determination pending a consideration of the other petitions for units limited to individual ports.

#### Appropriateness of the Individual Port Units

Case No. 24-RC-248-Puerto Rico Marine Corp. et al. (Ponce, P. R.): The Petitioner, Union de Trabajadores de Abordo y Muelle de Ponce Independiente, herein called the Ponce Independent, seeks an association unit of stevedores limited to the port of Ponce. The ILA urges that these employees should be part of the islandwide unit under the present contract with the Association.<sup>27</sup> The Employers, of whom there are eight, take no position on the unit issue.

The evidence shows that in August 1951, while the 1950 contract between the ILA and the Association was still in force, the Petitioner was organized because of dissatisfaction of its members with the administration of the ILA contract. The Petitioner now seeks a self-determination election to win from the ILA those employees at the port of Ponce who are still members of the latter organization. The Petitioner argues that its members have no community of interest with employees in other ports as they are subject different local conditions.

As indicated above, either a unit limited to a single port or an islandwide unit may be appropriate. In view of the several factors supporting either unit, including the diverse nature of the bargaining history for the port of Ponce, and the brevity of the most recent islandwide history including this port, we shall make no final unit determination at this time, but shall be guided in part by the desires of these employees as expressed in the election hereinafter directed. If a majority of the employees vote for the Petitioner they will be deemed to have indicated their desire to be represented in a unit limited to the port of Ponce; if they vote for the ILA or UTM, and their choice of bargaining representative is the same as that selected by the employees in the associationwide group, they will be taken to have indicated their desire to join the employees in that group. However, if a majority of the employees at the Ponce port vote for the ILA or UTM and their choice of bargaining representative is not the choice of the bargaining representative for the associationwide group, they will be taken to have indicated their desire to constitute a separate unit.

<sup>26</sup>The Van Iderstine Company, 95 NLRB 966; Koppers Company, Inc., 81 NLRB 1186.

<sup>27</sup>Prior to the islandwide contract of 1950, the operations of the Ponce pier were under the control of the Ponce Municipal Government, which bargained with labor organizations representing these employees. Although it is not clearly brought out in the record, we conclude that such bargaining between that government and such labor organizations was limited to the port of Ponce in conformity with the jurisdictional limitations of the Ponce Municipal Government.

Case No. 24-RM-8--Eastern Sugar Associates: In this case, Eastern Sugar Associates,<sup>28</sup> which is a trust and not a member of the Association, filed this petition to resolve conflicting claims of several unions on the one hand, and the ILA on the other, for stevedores and related classifications employed at the port of Humacao (Punta Santiago).

Two labor organizations were permitted to intervene. Union de Construccion, Reparacion, Mantenimiento y Trabajos Portuarios de Punta Santiago, herein called Union de Construccion, claims to represent a unit of the repair and maintenance employees, personnel on motor launches, captains, tally clerks, etc., and workers engaged in unloading of sugar from Vieques Island. The other labor organization, Union de Trabajadores del Muelle y Almacenes de Punta Santiago, Humaco, herein called Union de Humacao is requesting a unit of warehouse stevedores, unloaders, and related classifications. The ILA wishes all the employees of the Employer working at this port to be included in one unit.<sup>29</sup> The Employer was in agreement as to the appropriateness of the separate units sought by the Intervenors, stating that even when the Intervenors were affiliated with the ILA, from which they seceded in 1951, it carried on separate negotiations with each of these Intervenors.

As a single employerwide unit of the two groups as sought by the ILA locals or because of the separate bargaining history, the separate units as sought by the other Intervenors may be appropriate, we shall make no final unit determination at this time, but shall be guided in part by the desires of these employees as expressed in the elections hereinafter directed.<sup>30</sup> If a majority in each requested unit vote for the ILA, or the UTM, they will be deemed to have expressed a desire to be represented in one combined unit;<sup>31</sup> if the majority in either group vote for their present bargaining representative, they will be deemed to have expressed a desire to remain in a separate unit.

Case No. 24-RC-225-Puerto Rico Dry Dock and Marine Terminal, Inc.: In this case, the Petitioner, Confederacion General de Trabajadores de Puerto Rico (Autentica), seeks a unit which was described in the record as covering a group of employees engaged in cleaning, painting, carpentry, mechanical, and electrical work for this individual Employer, formerly known as the Abarca Dry Dock Corporation, operating at San Juan. Although this Employer is a member of the Association, the record does not clearly establish that the particular

<sup>28</sup> This Employer is primarily engaged in the manufacture of sugar and molasses and has no direct interest in the principal business of the members of the Association

<sup>29</sup> In the past, bargaining negotiations were carried on by the Intervenors and another union, not here involved, as it has not seceded from the ILA. This union represents the employees of the Eastern Lighterage Company, a subsidiary of the Employer.

<sup>30</sup> Asociacion Cooperativa Lafayette, 94 NLRB 911.

<sup>31</sup> Such combined unit will be limited to the employees of the Employer, Eastern Sugar Associates.

employees herein sought are covered by the current ILA islandwide contract.<sup>32</sup> In any event, the history of the islandwide bargaining is of too recent origin, to be controlling, as indicated above.

We therefore find that, in the absence of evidence warranting a finding that this Employer has bargained for these employees through the Association, or that islandwide bargaining is necessarily controlling, they may be properly represented in a single-employer unit which is presumptively appropriate.<sup>33</sup> However, because the ILA seeks to represent them as part of its association unit, they may also be included in such unit. We shall therefore make no final unit determination at this time, but shall be guided in part by the desires of these employees as expressed in the election hereinafter directed. If a majority of these employees vote for the Petitioner, they will be deemed to have indicated their desire to be represented in a separate single-employer unit; if the majority vote for the ILA or UTM, and their choice of bargaining representative is the same as that selected by the employees in the associationwide group, they will be taken to have indicated their desire to join the employees in that group. However, if a majority of the employees vote for the ILA or UTM and their choice of bargaining representative is not the choice of the bargaining representative for the associationwide group, they will be taken to have indicated their desire to constitute a separate unit.

Case No. 24-RC-359<sup>34</sup> -- Bull Insular Line Inc., et als. Case No. 24-RM-12--Bull Insular Line, Inc: In Case No. 24-RC-359, the Petitioner, Union de Empleados de Muelles de Puerto Rico, hereinafter referred to as UDEM, petitions for a unit of clerks, or checkers, as they are sometimes called, and maintenance personnel employed by the Bull Insular Line, Inc., its affiliated companies, and all other Employers, operating at the port of San Juan. In Case No. 24-RM-12, the Bull Insular Line, Inc., is petitioning for the same unit on the ground that both the ILA and UDEM are claiming to represent the same employees.

<sup>32</sup> The Employer's representative testified that these employees were covered by the current contract of the Association and the ILA, while the Petitioner denied that they were so covered. The spokesman for the Association was of the opinion that since this Employer began his operations after the 1950 contract, these particular employees were not included in that contract, but that the Employer probably ratified the 1952 association agreement.

<sup>33</sup> Jacob Schmidt Brewing Company, 93 NLRB 738. There is no contention, nor is there any basis for contending that the pattern of multiemployer bargaining for dissimilar types of employees should control the scope of the unit of employees sought herein. See Joseph E. Seagram & Sons, Inc., 101 NLRB 101; Miller & Miller Motor Freight Lines, 101 NLRB 581; Lownsbury Chevrolet Company, 101 NLRB 1752.

<sup>34</sup> At the original hearing, the UDEM filed this identical petition under No. 24-RC-200, which was withdrawn prior to the reopened hearing. Thereafter, the petitions herein indicated were substituted for No. 24-RC-200. No evidence appears in the record as to the reason for this change. Although no formal motion was made to incorporate the evidence in No. 24-RC-200, as the evidence in the present petition, it is clear from the testimony that this was the intent of the Petitioner in the latter case. Accordingly, such evidence has been officially noted and considered herein.

The record shows that for many years the UDEM has represented the checkers and maintenance workers of the Bull Insular line and its affiliated companies, and more recently, the UDEM has added to this group three other association members.<sup>35</sup> The current contract covering all the foregoing employees expires in December 1953.<sup>36</sup> The ILA has represented the same classifications of employees of all other Employers at San Juan and other ports, and now has an islandwide contract with the Association, covering such workers, this contract expiring at the same time as the contract covering stevedores.<sup>37</sup> In the present petition, the UDEM is thus seeking to broaden its unit by including these workers presently represented by the ILA at San Juan, and the ILA is seeking to broaden its unit by taking into the islandwide unit those employees presently represented by the UDEM at this port. The Employers in Case No. 24-RC-359 take no position on the unit issue. In Case No. 24-RM-12, as indicated, the Bull Insular Line, Inc., is bringing this petition because of the conflicting claims of the two unions.

As noted above, the Board has frequently held that a unit coextensive with the operations of employers at a given port is appropriate. We have also indicated in Case No. 24-RC-197, *supra*, that an association islandwide unit may also be appropriate. In view of this policy and because the ILA's islandwide bargaining history is comparatively brief, we find that a unit for checkers limited to the port of San Juan may be appropriate. We shall therefore make no final unit determination at this time, but shall be guided in part by the desires of these employees as expressed in the elections hereinafter directed. If a majority of the employees in these groups represented by the ILA or UDEM, respectively, vote for the ILA or UTM and their choice of bargaining representative is the same as that selected by the employees in the associationwide group, they will be taken to have indicated their desire to join the employees in that group. However, if a majority of the employees vote for the ILA or UTM and their choice of bargaining representative is not the choice of the bargaining representative for the associationwide group, they will be taken to have indicated their desire to constitute a separate unit. If a majority vote for the UDEM, they will be taken to have indicated their desire to be represented by the latter in a unit limited to employer members of the Association operating at the port of San Juan.

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<sup>35</sup> Puerto Rico Coal Company, Puerto Rico Lighterage Company, and Mendez & Company, Inc.

<sup>36</sup> The latest contract including the above-named additions was in force only a short time before the filing of the first petitions in these cases, which filing occurred within a year after the execution of the islandwide contract. See footnote 24, *supra*.

<sup>37</sup> For many years it has been the practice to have checkers and maintenance employees covered in one contract and stevedores in another. The ILA currently has two contracts with the Association, one covering checkers and the other stevedores and related classifications

Case No. 24-RC-246--Mendez & Cia, Inc.: This is a petition by the UDEM (Petitioner in Case No. 24-RC-359, *supra*) for a unit of warehouse checkers, laborers, and truckdrivers of this Employer, doing business at San Juan. The Employer agrees that these employees should be a separate unit. The position of the ILA is not clear.<sup>38</sup>

The evidence indicates that the warehouse operation of this Employer is entirely separate and distinct from its shipping operations. The employees work in a warehouse separated from the other buildings, and they are under separate supervision and management. Their working conditions are also different from those of other employees. Although the Employer is a member of the Association, its membership covers only its shipping operations and not its warehousing. The Employer has contracts with the ILA covering stevedores and with the UDEM covering checkers in its shipping operations. The particular employees involved in this petition have no history of collective bargaining.

We find on the basis of the record that the employees sought herein are an identifiable homogeneous group of warehouse workers of the type whom the Board has frequently found constitute an appropriate unit.<sup>39</sup> Because the islandwide association contract does not cover these categories of employees and because this Employer has not authorized the Association to bargain for them, we find there is no basis for including them in the ILA's islandwide association contract. Accordingly, we find that these employees may best be represented for purposes of collective bargaining in a single-employer unit.<sup>40</sup>

We find that all warehouse checkers, laborers, and truckdrivers working for Mendez & Cia, Inc., at its cold storage and general warehouse in San Juan, excluding all office and clerical employees, administrative and professional employees, guards, watchmen, and all supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act (Case No. 24-RC-246).

We shall direct elections in the unit found above and in the following voting groups. The Regional Director is instructed to issue a certification of representatives consistent herewith to the bargaining agent or agents selected for such unit or units, which the Board, under the circumstances, finds to be

<sup>38</sup> The evidence concerning the intent of the ILA concerning these employees is conflicting. The ILA stated that it is not interested in representing warehouse checkers as opposed to delivery checkers. On the other hand, the ILA has contracts covering stevedores with this Employer. The evidence shows that these warehouse checkers have no history of collective bargaining and that these categories were not included in the ILA's islandwide association contract.

<sup>39</sup> *Sterchi Bros. Stores, Inc.*, 100 NLRB 70. Cf. *Wilmington Terminal Warehouse Company*, et al., 68 NLRB 299.

<sup>40</sup> We are, however, placing the name of the ILA on the ballot for a single-employer unit in the election we are directing for the UDEM. See footnote 41, *infra*.

appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

Group 1--All stevedores on shore and aboard ships, waterboys, winchmen, sewers, hatchtenders, motormen, fingerlift operators, coopers, mechanics, blacksmiths, carpenters, electricians, mechanic helpers, blacksmith helpers, carpenter helpers and electrician helpers, laborers, and all other workers, delivery and receiving checkers, tallymen, all employees engaged in the manual operation of loading and unloading ships and the classification of cargo, maintenance of equipment, piers, and warehouses in all the ports on the Island of Puerto Rico wherever the members of the Puerto Rico Steamship Association are doing business including further stevedores, waterboys, sewers, stationary crane operators, and lightermen on the piers and aboard lighters in the open ports, excluding all office and office clerical employees, professional and administrative employees, guards, watchmen, and all supervisors as defined in the Act; and excluding the employees enumerated in the unit found appropriate and in all other voting groups. (Case No. 24-RC-197.)

Group 2--All stevedores on shore and aboard ships, waterboys, winchmen, sewers, hatchtenders, motormen, fingerlift operators, coopers, mechanics, blacksmiths, carpenters, electricians, mechanics helpers, carpenter helpers, blacksmith helpers and electrician helpers, laborers and all employees engaged in the manual operation of loading and unloading ships, maintenance of equipment, piers, and warehouses working at the port of Ponce for employer members of the Puerto Rico Steamship Association or those employers who are not members of such Association but have participated in collective bargaining conducted by the Association, excluding delivery and receiving checkers, tallymen, office and clerical employees, guards, professional and administrative employees, watchmen, and all supervisors as defined in the Act. (Case No. 24-RC-248.)

Group 3--All paymasters, timekeepers, acting chief delivery clerks, delivery clerks, receiving clerks, utility clerks, cargo inspectors, tally clerks, gatemen, mechanics, assistant mechanics, blacksmiths and blacksmith helpers, carpenters and carpenter helpers, sailmakers and sailmaker helpers, gasoline expenders, laborers, weighmasters, crib inspectors, clerks, senior clerks, inventory store clerks, storekeepers, heavy crane operators, lightermen, firemen, crane operators, pilot and launch operators, dockhands, oilers, barge seamen, janitors, electricians and assistant electricians, welders, painters, lethmen, refrigerator operators, messengers, receiving and delivery clerks of raw sugar to the boat, and masons working at the port of San Juan for employer members of the Puerto Rico Steamship Association or those Employers who are not members of such Association but have participated in collective bargaining conducted by the Association, but excluding executive and professional employees,

watchmen, guards, and all supervisors as defined in the Act. (Cases Nos. 24-RC-359 and 24-RM-12.)

Group 4--All employees engaged in cleaning, painting, carpentry, mechanical, and electrical work employed by the Puerto Rico Dry Dock and Marine Terminal, Inc., at its drydock in San Juan, Puerto Rico, excluding all other employees, executive, administrative, and professional employees, office and clerical employees, guards, watchmen, and all supervisors as defined in the Act. (Case No. 24-RC-225.)

Group 5--All repair and maintenance employees, including welders, cutters, carpenters, masons, helpers, and laborers, personnel on motor launches, captains, tally clerks on board, bag sewers on board, and workers on the unloading of sugar cane from Vieques Island and presently handling the shipment of molasses to the ship's side, employed by the Eastern Sugar Associates at Punta Santiago port, but excluding all other employees, executive, administrative, clerical, and office employees, guards, watchmen, and all supervisors as defined in the Act. (Case No. 24-RM-8.)

Group 6--All warehouse stevedores and unloaders, workers in the unloading of sugar at the piers, workers in transferring of sugar in the warehouses, workers in the loading and unloading of material, in the cleaning of warehouses, scrubbing and washing of warehouses, sewing, checkers of sugar bags, tallymen in the warehouse, loading and unloading of trucks, winchmen on the docks, transfer table in wharf and warehouses, waterboys in the warehouse and wharf employed by the Eastern Sugar Associates at Punta Santiago Port, but excluding all other employees, office and clerical employees, professional employees, guards, watchmen, and all supervisors as defined in the Act. (Case No. 24-RM-8.)

[Text of Direction of Elections omitted from publication.]

Chairman Farmer took no part in the consideration of the above Decision and Direction of Elections.

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UNITED MARINE DIVISION, LOCAL 333, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION (INDEPENDENT); INTERNATIONAL LONGSHOREMEN'S ASSOCIATION (INDEPENDENT); AND NEW YORK DISTRICT COUNCIL OF THE INTERNATIONAL LONGSHOREMEN'S ASSOCIATION (INDEPENDENT)<sup>1</sup> and NEW YORK SHIPPING ASSOCIATION. Case No. 2-CC-246. January 6, 1954

### DECISION AND ORDER

On August 14, 1953, Trial Examiner Arthur Leff issued his Intermediate Report in the above-entitled proceeding, finding

<sup>1</sup>The names of the Respondents have been changed to reflect the disaffiliation of the Respondent International from the American Federation of Labor.