

**Electrospace Corporation of Puerto Rico and Union Internacional de Automoviles, Aerospacio e Implementos Agrícolas, UAW, Petitioner. Case 24-RC-4194**

April 2, 1971

**DECISION ON REVIEW AND ORDER**

BY CHAIRMAN MILLER AND MEMBERS BROWN  
AND KENNEDY

On November 3, 1970, the Regional Director for Region 24 issued a decision in the above-entitled proceeding in which he found that the contract between the Intervenor<sup>1</sup> and the Employer is not a bar to the petition and, accordingly, directed an election. Thereafter, the Intervenor, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, filed with the National Labor Relations Board a timely Request for Review of the Regional Director's Decision, contending that his contract-bar finding was erroneous.

The Board by telegraphic order dated January 6, 1971, granted the Request for Review.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the Board has delegated its powers in connection with this case to a three-member panel.

The Board has considered the entire record in this case with respect to the issues under review and makes the following findings:

The Petitioner seeks a unit of production and maintenance employees at the Employer's plant at Humacao, Puerto Rico, which began operations in June 1969. The Intervenor contends that the Employer's Humacao operation is an accretion to the existing unit at its plant at Naguabo, Puerto Rico, and, therefore, that the instant petition is barred by its current contract.<sup>2</sup> The Regional Director, however, in agreement with the Petitioner, concluded that the Humacao plant is a separate appropriate unit and that the contract is not a bar. We disagree.

The facts are for the most part not in dispute. In 1961, the Employer opened its first plant at Naguabo, Puerto Rico, and began production of electronic communications equipment for military and civilian use. Sometime thereafter, the Company recognized the Intervenor as the collective-bargaining representative of its production and maintenance employees<sup>3</sup> and the current contract, entered into in September 1968, is effective until September 1971. That contract

contains a recognition clause, a union-security clause, and a provision recognizing the Intervenor as representative of all employees at new plants or locations "until such time as another organization is certified as the bargaining representative" of those employees.

In June 1969, because of the need for additional space to accommodate a growth in operations, the Employer opened a new plant at Humacao, just 6.5 miles from the Naguabo plant. The operations at the latter plant relating to the production of electronic communications equipment for civilian use—along with 50 to 60 employees working on this line—were transferred to Humacao.<sup>4</sup> From the beginning of operations at Humacao up until the time of the hearing, a period of approximately 16 months, the Intervenor's contract with the Employer was applied to Humacao employees and the Intervenor acted as the collective-bargaining representative of production and maintenance employees at both Naguabo and Humacao.

For the most part, Humacao is operated as a separate plant. It has its own plant manager who interviews, hires, and discharges employees, and there is no interchange of supervisory personnel between the two plants.

However, the Humacao plant is dependent to a substantial degree on the Naguabo plant. With respect to administrative matters, the Company has only one general manager, one quality control manager, and one materials control manager. Personnel records for both plants are kept at Naguabo and the Naguabo office issues all checks and pays all bills. Further, all official correspondence is carried on through the Naguabo office and Naguabo does all of the bookkeeping, although a separate account is maintained for each plant.

Similarly, Humacao is dependent upon Naguabo for certain operational services which are performed by Naguabo employees for both plants. Specifically, all tool making, heavy machinery maintenance, and mechanical stacking is done by Naguabo employees and the cost of these services is then charged to Humacao's account. In addition, unit employees are, on occasion, temporarily transferred between the two plants as their skills may be needed. Such temporary transfers are, however, kept to a minimum.

During the entire 16-month period of operations at Humacao, the working conditions of Humacao employees have been identical to those of Naguabo employees. Employees at both plants work the same hours and receive the same wages and benefits. Seniority is accumulated on a two-plant basis for

<sup>1</sup> Sindicato Amalgamado de Puerto Rico was permitted to intervene at the hearing on the basis of its current contract with the Employer

<sup>2</sup> The Employer has taken no position

<sup>3</sup> The record does not indicate when the Intervenor was first recognized

as representative of the Naguabo employees

<sup>4</sup> The record indicates that at the time of the hearing, the Humacao plant employed approximately 100 workers and Naguabo employed approximately 300

employees transferring to new locations. The same skills are required at both plants and about 90% of the job classifications are the same; the difference being that the Naguabo plant has some additional classifications.

As noted by the Regional Director, at the time of the hearing Naguabo's products were destined primarily for military use, while the Humacao plant serviced only the civilian market. It appears, however, that this product distinction will be short-lived since the Employer testified at the hearing that it was in the process of planning a transfer of a portion of Naguabo's military operation to Humacao. This move is to be accomplished on a gradual basis within the next few months and, in conjunction with the move, 20 Naguabo employees currently working on the military production lines which are to be moved to Humacao will be permanently transferred to Humacao to continue this work.

Contrary to the Regional Director, we are convinced by the foregoing facts that the Humacao plant constitutes a relocation and expansion of a portion of the Naguabo facilities and, accordingly, is an accretion to the Naguabo plant.

As stated in *General Extrusion*, 121 NLRB 1165, at pages 1167-68:

. . . a mere relocation of operations accompanied by a transfer of a considerable proportion of the employees to another plant, without an accompanying change in the character of the jobs and the functions of employees in the contract unit, does not remove a contract as a bar.

In the instant case, the Employer simply moved the

portion of its operation producing civilian goods to another nearby building together with 50 to 60 of the employees who had been performing this work. The latter were transferred without any changes in their jobs and without any changes in wages, benefits, seniority, or any other conditions of employment. These transferred employees also produced the same products and utilized the same skills as they had at the old location.

Further, based on the testimony of the Employer at the time of the hearing, a similar transfer of a portion of the Naguabo operation to Humacao is currently in the planning stages and this move will involve the transfer of an additional 20 Naguabo employees to Humacao under exactly the same circumstances as the original transfer in 1969 of 50 to 60 Naguabo employees. Finally, we note that the Humacao plant is still dependent upon the Naguabo plant for certain administrative and operational services and that, although not extensive, there is some employee interchange.

Accordingly, we conclude that, since the Humacao plant constitutes an accretion to the Naguabo operation, the Intervenor's 1968 contract with the Employer is a bar to the instant petition which will, accordingly, be dismissed.

#### ORDER

It is hereby ordered that the petition be, and it hereby is, dismissed.