

PUBLIC SERVICE LABOUR RELATIONS BOARD
BEFORE A PUBLIC INTEREST COMMISSION

BETWEEN:

TREASURY BOARD OF CANADA

(the “Employer”)

AND:

PUBLIC SERVICE ALLIANCE OF CANADA

(the “Bargaining Agent”)

(Technical Services (TC) Group)

BOARD:

Vincent L. Ready
Chairperson

Guy Lauzé
Member

Gary Cwitco
Member

FOR THE EMPLOYER:

Kevin Marchand, Josée Lefebvre
and Allan Pollock

FOR THE BARGAINING AGENT:

Gail Lem and Julie Chiasson

HEARING:

November 13, 14, 15 & 16, 2012
Ottawa, Ontario

DECISION:

January 11, 2013

(1) The Technical Services (TC) Group comprises positions that are primarily involved in the performance, inspection and leadership of skilled technical activities.

(2) On April 20, 2012, the Public Service Alliance of Canada (the Bargaining Agent) requested a Public Interest Commission to address outstanding issues in the process of collective bargaining with the Treasury Board Secretariat of Canada (the Employer).

(3) The current round of bargaining was initiated on February 22, 2011 when the Bargaining Agent filed notice to bargain pursuant to section 105 of the *Public Service Labour Relations Act* (the *Act* or *PSLRA*). The collective agreement had an expiry date of June 21, 2011.

(4) The parties exchanged bargaining proposals on April 29, 2011. During the ensuing eight months the parties convened eight separate bargaining sessions.

(5) As of December 31, 2010, the TC bargaining unit contained 10,845 employees, divided in the following occupational groups:

Occupational Group	No. of Employees
Drafting and Illustration (DD)	141
Engineering and Scientific Support (EG)	6,392
General Technical (GT)	2,464
Photography (PY)	9
Primary Products Inspection (PI)	301
Technical Inspection (TI)	1,538

Total	10,845
-------	--------

(6) The members of the bargaining unit are spread among 40 departments and agencies. Almost 70% of the employees in the unit are employed in the five major user departments: the Departments of National Defence, Agriculture and Agri-Food, Fisheries and Oceans, Environment and Transport.

(7) As of December 31, 2010, the TC Group was male dominant with a gender composition of 71.8% males and 28.2% females. The average age of employees in this group is 45.8 years which is slightly greater than the public service average age of 43.6 years. Similarly, the average years of service of employees of the TC Group, 13.2 years, exceeds the public service average of 11.2 years.

(8) Pursuant to Section 167 of the *Public Service Labour Relations Act* a Public Interest Commission (PIC) was established on June 28, 2012, to confer with the parties and endeavor to assist them to complete the current round of revisions to the collective agreement.

(9) The parties exchanged briefs on October 30, 2012, precisely two weeks in advance of the scheduled PIC.

(10) The PIC convened from November 13 to 15, 2012 at which time the parties were given a full opportunity to make representations. While doing so, the parties withdrew six items leaving the members to consider the remaining 30 issues.

(11) Following the formal representations, the PIC discussed and considered the evidence and submissions of the parties in light of the factors enumerated in section 175 of the *Act* as well the interests of the Canadian public.

(12) Section 175 of the *Act* reads as follows:

In the conduct of its proceedings and in making a report to the Chairperson, the Public Interest Commission must take into account the following factors, in addition to any other factors that it considers relevant:

- (a) the necessity of attracting competent persons to, and retaining them in, the public service in order to meet the needs of Canadians;
- (b) the necessity of offering compensation and other terms and conditions of employment in the public service that are comparable to those of employees in similar occupations in the private and public sectors, including any geographic, industrial or other variations that the Commission considers relevant;
- (c) the need to maintain appropriate relationships with respect to compensation and other terms and conditions of employment as between different classification levels within an occupation and as between occupations in the public service;
- (d) the need to establish compensation and other terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered; and
- (e) the state of the Canadian economy and the Government of Canada's fiscal circumstances.

(13) The PIC may also consider any other factor it considers relevant.

(14) The following constitutes the report of the Commission pursuant to Section 178(1) of the *Act* which states:

178(1) If the public interest commission consists of three members, the findings and recommendations of a majority of the members in respect of the matters in dispute are deemed to be those of the commission.

The Issues in Dispute and the PIC's Recommendations

(15) What follows is the analysis and recommendations of the Public Interest Commission. We note that the parties have asked us that the rationale for our recommendations be included in our decision. Where we have recommended that a provision be included in the collective agreement we have attempted to explain our reasons. Where we have recommended a provision not be included, we were either not persuaded that sufficient evidence justified inclusion or that this round was not the appropriate time for ground breaking proposals.

(16) We start by observing that the Commission's mandate is governed by the provisions of Section 175 of the *Public Service Labour Relations Act* which is set out above.

(17) The second factor guiding the Commission is the fact that the parties themselves have reached settlements covering approximately 80% of the core group represented by these parties which, in our view, has set a clear pattern which we will refer to as "the pattern".

(18) In our view the pattern includes the Employer proposals that are reproduced later in this report.

(19) The Commission recommends that all of these Employer proposals be included in the agreement.

(20) The Commission also observes that other negotiated settlements, arbitration awards and the recommendations of other Public Interest Commissions also included additional monetary items. These additional agreements and awards ranged from the inclusion of a new increment valued

at 3.45% for the Economics and Social Science Services Group (EC), to nothing for the Translation (TR), Air Traffic Control (AI), University Teaching (UT), Printing Operations Non-Supervisory (PR NS) and Electronics (EL) Groups. In addition, the parties agreed that a variety of specific, targeted adjustments were made in a number of bargaining units. The Commission has concluded that these adjustments form part of what we refer to as “the pattern.”

(21) The economic increases in “the pattern” are as follows:

Effective June 22, 2011	1.75%
Effective June 22, 2012	1.5%
Effective June 22, 2013	2.0%

(22) The Union proposed that an amendment be made to the language in the Pay Notes regarding a roll in of increases for the PI classification. The Commission recommends that this change not be included in the collective agreement.

(23) We have also evaluated all monetary proposals with consideration of the state of the Canadian economy. That said we now turn to the other issues in dispute.

(24) **Norway House and Percy Moore Hospitals On Call and Call Back**

With regard to the Union Proposals respecting employees at Norway House and Percy Moore Hospitals in Manitoba, we find there is sufficient evidence before us to recommend the inclusion of these proposals.

(25) In addition to the persuasive submission of the Alliance, Health Canada in its recommendation to Treasury Board essentially supports these proposals. As well, we have reviewed these proposals in the context of Section 175 (b) of the *Act* which requires us to examine external comparators. We note that

these comparators, which are the other hospitals in Manitoba, include these provisions.

(26) For these reasons we recommend the inclusion of this proposal prescribed by the Union as Appendix XX (p. 97 of the Union brief) respecting call back and on call provisions as well as the amendment to Appendix P proposed by the Union (p 178.) See paragraph 35 below.

(27) **Appendix P**

With respect to the other aspects of the Union's proposal in Appendix P, we note evidence from both parties indicated that a gap exists between Marine Inspectors and outside comparators. We will address this issue in the next paragraph. The Commission also identified that there are internal relationships between the terminable allowances currently paid to the Aviation and Marine Groups. In addition the evidence before us establishes an internal disparity between the TI, Aircraft Maintenance Engineers and AO (Pilot) classifications. These factors all fall within the mandate of Section 175 of the Act and allow this Commission to make recommendations that narrow, but do not completely close the gaps. These recommendations will go some way to reduce the disparity.

(28) The Commission therefore recommends the following amendments to Appendix P.

(29) Effective June 21, 2013 the monthly terminable allowances for Aviation be adjusted to the following amounts.

TI-5	\$493.84
TI-6	\$1098.34
TI-7	\$1213.66
TI-8	\$1213.66

(30) Terminable Allowances – Marine

In reviewing this proposal the Commission has taken note that both parties recognized that a disparity exists between the external comparators and the existing salary structure of the Marine Inspectors. Therefore the Commission has concluded that this falls within the mandate given us by Section 175(b) of the *Act* to increase the monthly allowances for this group effective June 21, 2013 as follows:

TI-5	\$973.84
TI-6	\$1526.50
TI-7	\$1219.66
TI-8	\$1219.66

(31) Terminable Allowances – Rail Safety

Based on the submissions before us, we have found there is insufficient justification to increase the allowance for this group of Inspectors either internally or externally. We therefore recommend no change in these allowances.

(32) Terminable Allowances – Measurement Canada

The Union proposes an allowance for this group of employees. It grounds its proposal on issues related to recruitment and retention of these employees. The Union also submitted a report produced by the department entitled *Measurement Canada, TI Retention Strategy* dated April 2010. As well, we heard additional information from an employee who provided hard evidence of how the shortages are having an impact in the workplace. The departmental report highlights the “the agency’s apparent difficulty in retaining both TI-03 recruits and our more experienced TI-04 staff”. We also recognized the need to maintain balance between the grades. The Commission therefore recommends

the inclusion of Terminable Allowances – Measurement Canada, effective June 21, 2013 in the following monthly amounts:

TI-4	\$251.00
TI-5	\$281.00
TI-6	\$317.00
TI-7	\$348.00

(33) **Terminable Allowances – Labour Programme – HRSDC**

In our view this group has a compelling case for an allowance on the grounds of external comparability under Section 175 of the *Act* as do the group in Measurement Canada, and for the same reasons. The Union's brief is compelling in that it discloses that Labour Affairs Officers (LAOs) are paid less than their provincial counterparts for work of a similar and, in some cases, identical nature.

(34) Our finding on this matter is buttressed by the findings of the M.C. Franklin-Sabourin report which was submitted in evidence. At page 7 it establishes, with the exception of one internal group, that the LAOs are behind their external counterparts by a considerable amount. We recommend that a monthly terminable allowance in the following amounts become effective June 21, 2013:

TI-5	\$281.00
------	----------

(35) **Terminable Allowance – Norway House and Percy Moore Hospitals**

As noted in paragraph 24 above, we recommend that the Union proposal be added to the Appendix, effective June 21, 2013 in the following monthly amounts:

EG-3	\$1353
EG-4	\$1421
EG-5	\$1480
EG-6	\$1539

(36) **Appendix P – Qualifications – Civil Aviation Safety Inspectors**

The Employer also made a proposal with respect to Appendix P regarding the Civil Aviation Safety Inspectors qualifications for receipt of the allowance. The Union agreed that the amendment should be made to the agreement. The Commission therefore recommends that the relevant paragraph include this change: “who has six (6) years or more of industry experience in the performance or supervision of aeronautical product manufacturing processes.” The parties agreed, however, to grandfather incumbents and agreed on the following language:

- 3. Notwithstanding any of the above provisions, an employee in Technical Services bargaining unit who was in receipt of the terminable allowance on the day prior to the date of signing of this Collective Agreement, shall continue to receive the terminable allowance until such time as the substantive position has been vacated or the terminable allowance ceases to be in effect, whichever comes first.**

(37) **Appendix C – MOA Concerning Fishery Officers Working on Mid-Shore/Off-Shore Surveillance**

With respect to the proposals from both the Union and the Employer to amend Appendix C, the Commission recommends that neither proposal be included in the collective agreement.

(38) **Appendix K – Diving Duty**

With respect to the two proposals from the Union to amend Appendix K, the Commission recommends that neither proposal be included in the collective agreement.

(39) **New Appendices**

With respect to the proposals from the Union to add new Appendices respecting height, dirty work, fisheries enforcement and armed boarding, the Commission recommends that these proposals not be included in the collective agreement.

(40) **Appendix R – Special Conditions Applicable to Certain Aircraft Maintenance Engineers**

Both parties suggested amendments to this Appendix. After discussion which clarified the issue the parties agreed to adopt the employer proposal with the amendment of striking the words “as crewpersons” from the first sentence of the proposal. The Commission therefore recommends the employer proposal as amended be included in the collective agreement.

(41) **Appendix T – Workforce Adjustment**

The Commission notes that an amendment to section 7.9.2 of this Appendix is included in the pattern described above. In addition the Union has made extensive proposals to amend the Appendix. Based on the bargaining history of the parties we cannot recommend the inclusion of these changes in this agreement. However, we believe these proposals should be dealt with at a common bargaining table and encourage the parties to establish the mechanism to expedite such negotiations.

(42) **Appendix X – Memorandum of Understanding Concerning Employees in the TI Group Employed by MSOC**

The Union proposed amendments to article 25.10 for this group of employees. The Commission recommends that the proposal not be included in the collective agreement.

(43) **Article 10.02 – Information**

The Employer has recommended changes to this clause. The Commission recommends the changes not be included in the collective agreement.

(44) **Article 17.05 - Discipline**

The Employer has recommended changes to this clause. The Commission recommends the changes not be included in the collective agreement.

(45) **Article 28.02 – Overtime**

The Union has recommended changes to this clause. The Commission recommends that the changes not be included in the collective agreement.

(46) **Article 30.01 – Standby**

The Union has recommended changes to this clause. The Commission recommends the changes not be included in the collective agreement.

(47) **Article 34 – Travelling Time**

34.09(a) – Travel Status Leave

The Union made a number of proposals to amend Article 34.09 to remove exclusions and increase the rate of accumulation of this leave. While we are not prepared to increase the rate at which employees accumulate compensatory leave nor remove the exclusions, we are persuaded that the intent of the Article is to compensate employees who, as a job requirement,

travel significant amounts. We find that employees in this bargaining unit do, in fact, travel significantly. We believe that increasing the maximum allowable time will compensate those employees who travel the most. The Commission recommends that the cap be increased to a total of 45 hours (6 days) based on an increase from 80 additional nights to 100.

(48) **34.04 – Travelling Time**

The Employer has recommended the addition of sub-clause (d) to Article 34.04. The Commission recommends the changes not be included in the collective agreement.

(49) **Article 41.01 – Injury-on-Duty Leave**

The Union has recommended changes to this clause. The Commission recommends the changes not be included in the collective agreement.

(50) **Article 45.02 – Leave Without Pay for the Care of Family**

The Employer has recommended changes to this clause. The Commission recommends the changes not be included in the collective agreement.

(51) **Article 62 – Dangerous Goods**

The Union has recommended changes to this clause. The Commission recommends the changes not be included in the collective agreement.

(52) **Article 65.07 – Pay Administration (Acting Pay)**

The Union proposed to change the current trigger for acting pay from three days to one. The Union provided evidence that a number of other collective agreements already include this provision. They further indicated that some departments have scheduled acting assignments in two-day intervals as an apparent attempt to avoid the associated payments. The Employer acknowledged that the change sought by the Union does exist in

other agreements. The Employer argued that where one day acting exists, it is because the nature of the work or the manner in which the work is scheduled makes it viable. The Employer believes the administration of the clause would be more difficult given the nature of this bargaining unit. The Commission is more persuaded by the Union argument and notes that the proposal does not break new ground. The Commission recommends the inclusion of this proposal in the collective agreement.

(53) **Article 67 – Duration**

The parties both proposed that Article 67 Duration be amended to the date of June 21, 2014 and the Commission recommends this change.

(54) **New Article – Parking for Employees with Disabilities**

The Union made a proposal that would have required the Employer to provide free parking for people with disabilities. The Commission would have included it in our recommendations but for the lack of first-hand knowledge. The Commission's perspective is that this requires a government/bargaining agent resolution. We strongly recommend that the parties meet at the highest possible level in a joint government-wide forum to find a resolution to this issue expeditiously.

(55) **New Article – Social Justice Fund**

The Union made a proposal to include the Social Justice Fund in the agreement. The Commission recommends that this not be included in the agreement.

(56) **Addition of Pay Increments (Step Increases)**

The Union in its wage proposal recommended the inclusion of an additional increment of 4 per cent effective April 1, 2013. The Union based this proposal on a pay study conducted jointly with the employer in 2008. According to the data, the weighted average of the job rate of the positions with

exact match was 13.28% behind at the 75th percentile and 4.06% behind at the 50th percentile.

(57) The Employer presented two more recent but smaller pay comparison studies which were conducted without input from the Union. One study showed that the wages in the group were 11.3% above at the 50th percentile of the comparators used in the study. The other dealt only with the TI classification.

(58) While the Commission recognized there are weaknesses in both studies, some evidence appears to be uncontested and that relates to the EG group within the bargaining unit. This group comprises approximately 60% of the bargaining unit.

(59) The Union demonstrated that the wages in this classification are consistently 3.28% behind those paid to employees at the Canadian Food Inspection Agency (CFIA). The Commission notes that the employees at CFIA in the EG classification used to be part of this bargaining unit and paid the same wages. Further, that since a reorganization separated the two groups those employed at CFIA have moved ahead of their colleagues in this bargaining unit.

(60) The Commission finds that there can be no stronger and compelling internal comparator. This falls squarely within the parameters set out in section 175(b) of the *Act*.

(61) The Commission recommends that a new increment of 3.28% be included at the top of all pay scales in the EG classification effective April 1, 2013.

(62) As stated at paragraphs 17 and 18 above wherein the Commission acknowledged that a pattern has been set by negotiations between these parties covering approximately 80% of the core group of the federal public service, what follows are the changes negotiated in the pattern which the Commission recommends be incorporated into the renewed collective agreement.

Article 64 – Severance Pay

Effective date of signing, paragraphs 64.01(b) and (d) are deleted from the collective agreement.

64.01 Under the following circumstances and subject to clause 64.02, an employee shall receive severance benefits calculated on the basis of the weekly rate of pay to which he or she is entitled for the classification prescribed in his or her certificate of appointment on the date of his or her termination of employment.

(a) **Layoff**

- (i) On the first layoff, ~~two (2) weeks' pay~~ for the first complete year of continuous employment, **two (2) weeks' pay, or three (3) weeks' pay for employees with ten (10) or more and less than twenty (20) years of continuous employment, or four (4) weeks' pay for employees with twenty (20) or more years of continuous employment, plus** ~~and~~ one (1) week's pay for each additional complete year of continuous employment and, in the case of a partial year of continuous employment, one (1) week's pay multiplied by the number of days of continuous employment divided by three hundred and sixty-five (365).
- (ii) On second or subsequent layoff one (1) week's pay for each complete year of continuous employment and, in the case of a partial year of continuous employment, one (1) week's pay multiplied by the number of days of

continuous employment divided by three hundred and sixty-five (365), less any period in respect of which the employee was granted severance pay under subparagraph (a)(i).

(b) **Resignation**

On resignation, subject to paragraph 64.01(d) and with ten (10) or more years of continuous employment, one-half (1/2) week's pay for each complete year of continuous employment up to a maximum of twenty-six (26) years with a maximum benefit of thirteen (13) weeks' pay.

(c) **Rejection on Probation**

On rejection on probation, when an employee has completed more than one (1) year of continuous employment and ceases to be employed by reason of rejection during a probationary period, one (1) week's pay.

(d) **Retirement**

- (i) On retirement, when an employee is entitled to an immediate annuity under the *Public Service Superannuation Act* or when the employee is entitled to an immediate annual allowance, under the *Public Service Superannuation Act*,

Or

- (ii) a part-time employee, who regularly works more than thirteen decimal five (13.5) but less than thirty (30) hours a week, and who, if he or she were a contributor under the *Public Service Superannuation Act*, would be entitled to an immediate annuity thereunder, or who would have been entitled to an immediate annual allowance if he or she were a contributor under the *Public Service Superannuation Act*,

a severance payment in respect of the employee's complete period of continuous employment, comprised of one (1) week's pay for each complete year of continuous employment and, in the case of a partial year of continuous employment, one (1) week's pay multiplied by the number of days of

continuous employment divided by three hundred and sixty-five (365), to a maximum of thirty (30) weeks' pay.

(e) **Death**

If an employee dies, there shall be paid to the employee's estate a severance payment in respect of the employee's complete period of continuous employment, comprised of one (1) week's pay for each complete year of continuous employment and, in the case of a partial year of continuous employment, one (1) week's pay multiplied by the number of days of continuous employment divided by three hundred and sixty-five (365), to a maximum of thirty (30) weeks' pay, regardless of any other benefit payable.

(f) **Termination for Cause for Reasons of Incapacity or Incompetence**

- (i) When an employee has completed more than one (1) year of continuous employment and ceases to be employed by reason of termination for cause for reasons of incapacity pursuant to paragraph 12(1)(e) of the *Financial Administration Act*, one (1) week's pay for each complete year of continuous employment with a maximum benefit of twenty-eight (28) weeks.
- (ii) When an employee has completed more than ten (10) years of continuous employment and ceases to be employed by reason of termination for cause for reasons of incompetence pursuant to paragraph 12(1)(d) of the *Financial Administration Act*, one (1) week's pay for each complete year of continuous employment with a maximum benefit of twenty-eight (28) weeks.

64.02

Severance benefits payable to an employee under this Article shall be reduced by any period of continuous employment in respect of which the employee was already granted any type of termination benefit. Under no circumstances shall the maximum severance pay provided under ~~clause 64.01~~ this article be pyramided.

For greater certainty, payments made pursuant to 64.04 to 64.07 or similar provisions in other collective agreements shall be considered as a termination benefit for the administration of clause 64.02.

64.03 Appointment to a Separate Agency

~~Notwithstanding paragraph 64.01(b), a~~ An employee who resigns to accept an appointment with an organization listed in Schedule V of the *Financial Administration Act* ~~shall~~ **may choose not to be paid all severance payments resulting from the application of 64.01(b) (prior to date of signing) or 64.04 to 64.07 (commencing on date of signing).** ~~pay provided that the appointing organization will accept the employee's Schedule I and IV of the *Financial Administration Act* service for its severance pay entitlement~~

64.04 Severance Termination

- (a) **Subject to 64.02 above, indeterminate employees on date of signing shall be entitled to severance termination benefits equal to one (1) week's pay for each complete year of continuous employment and, in the case of a partial year of continuous employment, one (1) week's pay multiplied by the number of days of continuous employment divided by three hundred and sixty-five (365), to a maximum of thirty (30) weeks.**
- (b) **Subject to 64.02 above, term employees on date of signing shall be entitled to severance termination benefits equal to one (1) week's pay for each complete year of continuous employment, to a maximum of thirty (30) weeks.**

64.05 Options

Terms of Payment

The amount to which an employee is entitled shall be paid, at the employee's discretion, either:

- (a) **as a single payment at the rate of pay of the employee's substantive position as of date of signing, or**
- (b) **as a single payment at the time of the employee's termination of employment from the core public administration, based on the rate of pay of the employee's substantive position at the date of termination of employment from the core public administration, or**

- (c) as a combination of (a) and (b), pursuant to 64.06 (c).

64.06 *Selection of Option*

- (a) The Employer will advise the employee of his or her years of continuous employment no later than three (3) months following the official date of signing of the collective agreement.
- (b) The employee shall advise the Employer of the term of payment option selected within six (6) months from the official date of signing of the collective agreement.
- (c) The employee who opts for the option described in 64.05 (c) must specify the number of complete weeks to be paid out pursuant to 64.05 (a) and the remainder shall be paid out pursuant to 64.05 (b).
- (d) An employee who does not make a selection under 64.06 (b) will be deemed to have chosen option 64.05 (b).

64.07 *Appointment from a Different Bargaining Unit*

This clause applies in a situation where an employee is appointed into a position in the TC bargaining unit from a position outside the TC bargaining unit where, at the date of appointment, provisions similar to those in 64.01 (b) and (d) are still in force, unless the appointment is only on an acting basis.

- (a) Subject to 64.02 above, on the date an indeterminate employee becomes subject to this Agreement after date of signing, he or she shall be entitled to severance termination benefits equal to one (1) week's pay for each complete year of continuous employment and, in the case of a partial year of continuous employment, one (1) week's pay multiplied by the number of days of continuous employment divided by three hundred and sixty-five (365), to a maximum of thirty (30) weeks, based on the employee's rate of pay of his substantive position on the day preceding the appointment.
- (b) Subject to 64.02 above, on the date a term employee becomes subject to this Agreement after date of signing, he or she shall be entitled to severance termination benefits equal to one (1) week's pay for each complete

year of continuous employment, to a maximum of thirty (30) weeks, based on the employee's rate of pay of his substantive position on the day preceding the appointment.

- (c) An employee entitled to severance termination benefits under paragraph (a) or (b) shall have the same choice of options outlined in 64.05, however the selection of which option must be made within three (3) months of being appointed to the bargaining unit.**
- (d) An employee who does not make a selection under 64.07 (c) will be deemed to have chosen option 64.05 (b).**

Article 38 – Vacation Leave With Pay

38.02

- (h) For the purpose of this clause only, all service within the public service, whether continuous or discontinuous, shall count toward vacation leave except where a person who, on leaving the public service, takes or has taken severance pay. However, the above exception shall not apply to an employee who receives severance pay on layoff and is reappointed to the public service within one (1) year following the date of layoff. **For greater certainty, severance termination benefits taken under clauses 64.04 to 64.07, or similar provisions in other collective agreements, do not reduce the calculation of service for employees who have not left the public service.****

Article 39 – Sick Leave With Pay

39.07

- a. Sick leave credits earned but unused by an employee during a previous period of employment in the public service shall be restored to an employee whose employment was terminated by reason of lay-off and who is reappointed in the public service within two (2) years from the date of lay-off.

- b. **Sick leave credits earned but unused by an employee during a previous period of employment in the public service shall be restored to an employee whose employment was terminated due to the end of a specified period of employment, and who is re-appointed in the core public administration within one (1) year from the end of the specified period of employment.**

Article 47 – Leave With Pay For Family-Related Responsibilities

47.01

For the purpose of this Article, family is defined as:

- a. spouse (or common-law partner resident with the employee);
- b. children (including foster children, **step-children** or children of the spouse or common-law partner);
- c. parents (including step-parents or foster parents); or
- d. any relative permanently residing in the employee's household or with whom the employee permanently resides.

47.02

The total leave with pay which may be granted under this Article shall not exceed thirty-seven decimal five (37.5) hours in a fiscal year.

47.03

Subject to clause 47.02, the Employer shall grant the employee leave with pay under the following circumstances:

- a. to take a family member for medical or dental appointments, or for appointments with school authorities or adoption agencies, if the supervisor was notified of the appointment as far in advance as possible;
- b. to provide for the immediate and temporary care of a sick member of the employee's family and to provide the employee with time to make alternative care arrangements where the illness is of a longer duration;
- c. to provide for the immediate and temporary care of an elderly member of the employee's family;
- d. for needs directly related to the birth or the adoption of the employee's child;

- e. **seven decimal five (7.5) hours out of the thirty-seven decimal five (37.5) hours stipulated in clause 47.02 above may be used:**
- i. **to attend school functions, if the supervisor was notified of the functions as far in advance as possible;**
 - ii. **to provide for the employee's child in the case of an unforeseeable closure of the school or daycare facility;**
 - iii. **to attend an appointment with a legal or paralegal representative for non-employment related matters, or with a financial or other professional representative, if the supervisor was notified of the appointment as far in advance as possible.**

47.04

Where, in respect of any period of compensatory leave, an employee is granted leave with pay for illness in the family under paragraph 47.03(b) above, on production of a medical certificate, the period of compensatory leave so displaced shall either be added to the compensatory leave period, if requested by the employee and approved by the Employer, or reinstated for use at a later date.

Article 51 – Bereavement Leave With Pay

51.01

When a member of the employee's family dies, an employee shall be entitled to a bereavement period of ~~five (5)~~ **seven (7)** consecutive calendar days. Such bereavement period, as determined by the employee, must include the day of the memorial commemorating the deceased, or must begin within two (2) days following the death. During such period, the employee shall be paid for those days which are not regularly scheduled days of rest for the employee. In addition, the employee may be granted up to three (3) days' leave with pay for the purpose of travel related to the death.

Appendix A – Rates of Pay and Pay Notes

Amend pay notes as follows:

1. **The pay increment period for indeterminate employees at levels XY -1 to XZ-99 is the anniversary date of such appointment. A pay increment shall be to the next rate in the scale of rates.**
2. **The pay increment period for term employees at levels XY -1 to XZ-99 is fifty-two (52) weeks. A pay increment shall be to the next rate in the scale of rates.**
3. **An employee appointed to a term position shall receive an increment after having reached fifty-two (52) weeks of cumulative service. For the purpose of defining when a determinate employee will be entitled to go to the next salary increment, “cumulative” means all service, whether continuous or discontinuous, within the core public administration at the same occupational group and level.**

Appendix T – Workforce Adjustment

7.9.2

However, an employee who has a severance termination benefit entitlement under the terms of paragraph 64.05(b) or (c) shall be paid this entitlement at the time of transfer.

(63) The Chair of this Commission has been advised that Mr. Cwitco concurs with this report and this thereby constitutes the report of the Commission pursuant to Section 178(1) of the Act.

(64) The Commission was asked by the parties to draft recommendations that would be based on the evidence and help the parties find a path to a negotiated

settlement. The Commission listened carefully to the parties and it was the intent of the Commission to prepare such a report. The recommendations contained in this report will not wholly satisfy either party, but given the compromises they entail, we believe they ought to form the basis of a negotiated settlement.

(65) We would be remiss if we didn't thank the spokespersons for each bargaining committee and their staff for the preparation of the bargaining briefs which were thoughtful and of great assistance to the board.

(66) All of which is respectfully submitted this 11th day of January 2013.

Vincent L. Ready
Chairperson

As indicated at paragraph 14 above, this report is issued pursuant to Section 178(1) of the *Act* because late in the Commission's deliberations Mr. Lauzé advised the majority of his intention to issue a partial dissent which, for convenience, is set out below:

**PARTIAL DISSENT AND RECOMMENDATIONS OF THE NOMINEE
FOR THE EMPLOYER**

**With respect to the Public Interest Commission Report concerning the
dispute between the Public Service Alliance of Canada and the Treasury
Board for the Technical Services Bargaining Unit**

The following are my dissents on the report

Appendix P

Technical Inspectors

Comparative salary data provided by both parties indicates that the members of the technical inspection group are, in the main, appropriately compensated in relation to outside comparators; the sole exception being the Marine inspectors at the TI-07 and TI- 08 levels. The best indicator of whether a compensation package is competitive is recruitment and retention and there is no evidence of significant problems in those areas. The fact that there are vacant positions does not necessarily translate into evidence of a staff shortage.

I recommend that the existing terminable allowances for this group remain unchanged except for the following comment on the Marine Inspectors.

Marine Inspectors

As noted above, the data provided by both parties supports the position that the Marine Inspectors at the TI-07 and TI-08 levels are underpaid in relation to their outside comparators

I recommended that an adjustment to the terminable allowances be limited to the TI-07 and TI-08 levels.

New Terminable Allowance for Technical Inspectors at Measurement Canada

The comparative data provided in the joint pay study indicates that the job rates provided by the Employer are statistically comparable to those of outside comparators at the 50th percentile. There is no evidence of a recruitment problem although the Bargaining Agent provided a management document, dated April 2010, that speaks of retention issues since 2005 where Measurement Canada resumed its recruitment efforts after approximately a 20 year hiatus. It is worth noting that the document includes 15 recommendations, and none of which deal with salary increases except for the conduct of an internal relativity and an external market comparability. The report includes 13 other recommendations aimed at addressing concerns that may have a detrimental effect on retention. Given that, and given the current government reduction exercises which are in progress, it is premature to provide a monetary increase. Measurement Canada should be allowed to pursue the other redress mechanisms in its report before the Government of Canada looks to direct financial compensation.

I recommend that no terminable allowance be provided to Technical Inspectors at Measurement Canada.

New Terminable Allowance for Labour Affairs Officers at Human Resources and Skills Development Development Canada

Data provided in both pay studies shows that the salaries provided by the Employer are statistically comparable to outside comparators. Further, a number of the comparators provided in the Bargaining Agent brief and the Franklin-Sabourin report include supervisors and officers with department-wide responsibility. In my view, the maximum salary of the TI-05 is comparable to provincial comparators.

I recommend that no terminable allowance be provided to the Labour Affairs Officer positions.

New Terminable Allowance for Technologists at Norway House and Percy Moore Hospitals

The Bargaining Agent made a presentation pertaining to staff shortfalls at these two locations. However, the contents of the report provided by Health Canada indicate management's belief that improvements to the extra duty remuneration (call-back and standby) would go a long way towards addressing the problem.

I do not recommend the monthly terminable allowances:

Appendix R Special Conditions Applicable to Certain Aircraft Maintenance Engineers

The management representative that could best speak to the issue of including the words "as crewpersons" was not present when the discussion occurred. The language proposed in the recommendation may have the effect of including a number of persons who were never supposed to be covered by this appendix.

It is recommended that the Employer language be adopted.

Article 34 Travelling Time

I do not agree with the recommendation to increase the maximum available Travel Status Leave from five (5) days to six (6) days as per clause 34.09(a) of the collective agreement. While I acknowledge that this change would impact a fairly small number of employees, it represents, nevertheless, a breakthrough for bargaining agents across the Core Public Administration.

I recommend that the existing language of Article 34 be retained.

Article 65 Pay Administration

I disagree with the recommendation to reduce the minimum qualifying period for acting pay, pursuant to clause 65.07 from three (3) days to one (1) day. The Employer argued that bargaining units that had a minimum qualifying period of one day, the nature of the work or the manner in which work is scheduled were the primary reasons. For example, in the case of the RO group, the operating level is the RO-03. The RO-04 level is limited almost exclusively to trainers or shift supervisors. Therefore, for the vast majority of the members of the RO bargaining unit, it is clear that a person is substantially performing the duties of the higher classification. The same is true for the MT occupational group. However, in the case of the TC bargaining unit, the Bargaining Agent has not provided any evidence to the effect that work is predominantly divided and classified in a similar fashion as the above-mentioned groups.

I recommend that Article 65 be renewed without change.

Appendix A Rates of Pay Addition of Pay Increments (Step Increases)

I disagree with the recommendation of an additional pay increment of 3.28% to the EG rates of pay. The recommendation is based heavily on salaries paid to employees of the Canadian Food Inspection Agency (CFIA) occupying positions classified in the EG Group. This is a concrete example of 'Leapfrogging' where this specific group seeks equivalency with CFIA employees without being prepared to make the same sacrifices to obtain the same benefit as the CFIA employees did. This recommendation also singles out one comparator from among the many.

The Act requires that all of the factors of section 175 be considered. Uncontradicted evidence provided by the Employer indicated that they have not experienced any problems attracting and retaining employees in the EG occupational group with the exception of the positions located at Norway House and Percy Moore hospitals discussed above. The joint pay study produced by the Bargaining Agent indicated that the compensation of the EG group was statistically comparable to outside comparators at the 50th percentile while the more recent study provided by the Employer indicated that existing EG salaries were statistically superior to the 50th percentile of the outside comparators for the lower levels and comparable for the higher levels. No evidence was provided to indicate that the compensation of the EG group was in any way inappropriate in relation to other classification groups. No evidence was provided to suggest that the compensation of the EG occupational group was somehow unfair or unreasonable in relation to the qualifications required. Finally, the state of the Canadian economy and the Government of Canada's fiscal circumstances are far from ideal and uncontested evidence shows that the economic recovery has not preceded as well as planned and the outlook for the future is more pessimistic now than at any time since this round of bargaining began. The recommendation

ignores four of the five factors and wrongly, in my view, singles out one outside comparator from among the many canvassed in the pay studies.

I recommend that no additional increment be included to the EG group rates of pay.

I would like to thank the parties for the professional manner in which they conducted themselves throughout the conciliation process.

Original signed by

Guy Lauze
Gatineau, Quebec