

TASMANIAN INDUSTRIAL COMMISSION
Industrial Relations Act 1984

T No. 5939 of 1995

IN THE MATTER OF an application by the
Australian Workers' Union, Tasmania
Branch to vary the Ferro Alloys Award

re Clause 1 - Title and Clause 2 - Scope

COMMISSIONER WATLING

HOBART, 11 December 1995

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER WATLING: I'll take appearances please.

MR J. GLISSON: If the commission pleases, JOHN GLISSON appearing for the Australian Workers' Union, Tasmania Branch. Thank you, sir.

COMMISSIONER WATLING: Good, thank you.

5 **MR M.K. HILL:** If the commission pleases, HILL, M.K., and I appear on behalf of the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union.

COMMISSIONER WATLING: Thank you very much.

10 **MR S.P. KNOTT:** If the commission pleases, KNOTT, S.P., appearing on behalf of Australian Mines and Metals Association Incorporated and on behalf of the Tasmanian Electro Metallurgical Company Pty Limited.

COMMISSIONER WATLING: Good, thank you very much. Just before we get started, we might just turn off the record and look at some preliminary matters.

OFF RECORD

15 COMMISSIONER WATLING: Mr Glisson, now I understand that you want to make a couple of amendments to your application before we get under way.

20 MR GLISSON: Yes, sir. I'd like to vary the title of the Ferro-Alloys Award to delete the term Ferro-Alloys Award and insert in lieu thereof the TEMCO Enterprise Award. In clause 2, the Scope, we'd seek to replace the existing scope with: This award is established in respect of the business of producing electrically smelted alloys and manganese products by Tasmanian Electro Metallurgical Company Pty Limited at its Bell Bay plant, Bell Bay, Tasmania.

And I would also seek to vary my application in respect to clause 6, Parties and Persons Bound, by deleting the AWU-FIME Amalgamated Union and inserting in lieu thereof the Australian Workers' Union, Tasmania Branch.

25 COMMISSIONER WATLING: Good thank you. Any opposition to the amendment of the application?

MR KNOTT: The last one took us by surprise, but we have no objection to any of those amendments, sir.

COMMISSIONER WATLING: Right. So you're used to being shell shocked.

30 MR KNOTT: Yes.

MR GLISSON: Thanks, for that. Sir, the last one is I hope somewhat of a formality. It seems to be an oversight on behalf of our office not to have already corrected that in a number of awards and I will be undertaking to go back to the office to rectify it as soon as I'm finished here at the commission today.

35 The current award - the Ferro-Alloys Award - is basically an industry award but only one employer engaged in that industry. It's an award that's been in place for many years and in fact since this commission was constituted as such in 1984 it's been an award of this commission, as I say, with only one employer engaged under this award, and prior to that it was certainly for a good number of years an award of the Industrial
40 Boards system that occupied the jurisdiction prior to the existing Industrial Relations Act coming into force.

5 The parties to the award have all been notified of the intention to vary the award and the reasons why we are seeking to truly reflect that this is an enterprise award rather than an industry award, so that certain changes which may not necessarily be industry standards but would improve the efficiency and productivity of the enterprise can be introduced, and hopefully we can improve the efficiency and the operation of this award.

10 We believe the request, or the application, does not offend the public interest test - in fact quite the reverse. We think it will assist in making the award more efficient and more productive and therefore complement the public interest test rather than offend it. We don't see it offends any of the principles of the commission and it moves more in the direction of the - that the commission seems to be moving in and creating enterprise awards rather than agreements hanging off industry awards or common rule awards.

15 I think that covers the areas that I need to explain. As I say, all the parties have been made aware of it. It has been discussed. There has been no opposition expressed to the variations even though they've been today slightly modified. The intent still remains the same and there's been no opposition from any of the parties expressed to the variation we seek. I would ask the commission to vary the award accordingly.

COMMISSIONER WATLING: Good. Mr Hill.

20 MR HILL: Just briefly, Mr Commissioner, I support the submissions made by Mr Glisson particularly his reference to the fact that this award has for many years only covered a single employer, mainly TEMCO BHP, and for that reason it's evolved into an enterprise award in reality and the procedures today merely seek to formalise that situation.

25 As Mr Glisson has also said, and I'd like to repeat it, although other unions represented may not be represented here today, we have had discussions collectively on the job and all unions at those meetings on the job endorse this proposal and I would request that you ratify and endorse the application, sir.

30 MR GLISSON: Sir, sorry to speak again, but can I just make one comment. I spoke to Mr Becker over the weekend over an entirely different matter. He did ask me to apologise that he may be unable to attend this morning. He's got a dispute on the bridge, as I understand it, and would try to get here but has no problem with the application, but did apologise about may not being able to attend this morning.

COMMISSIONER WATLING: Good, thank you.

35 MR GLISSON: Thanks for that.

COMMISSIONER WATLING: Mr Knott.

40 MR KNOTT: Thank you, Mr Commissioner. The company has also been involved with discussions with the respective trade union representatives at TEMCO and has expressed the view that it would not oppose an enterprise award provided there were no disadvantages to the company.

45 In those discussions it was generally agreed that the change to an enterprise award was an administrative change in many respects because it was already deemed by most people as an enterprise award. In fact the company has been granted rights under section 66(1) as a private employer - as the only private employer subject to the TEMCO Award.

COMMISSIONER WATLING: So it's more or less formalising that which the company believes in existence now.

5 MR KNOTT: In many respects, sir, given the rights it's been granted under section 66(1) it is the only private sector employer subject to the award. So that is the only enterprise in this state that is subject to those provisions.

10 In regard to the company, I'm required just to put a few words on transcript in respect of the industry which it does operate in and they, like many other companies - and unfortunately we saw the demise of Tioxide in the last week - but it's a reality in the metalliferous mining and processing industry that all companies are in a very highly competitive market place and the aim is to be up there with the world's best producers of, in this case, ferro alloys. And the two workplace agreements that have been put in place before this commission have been put in place with the intention of emphasising the greater contribution required by both the company and employees in respect of endeavouring to reduce production costs, eliminate waste, improve customer service, 15 increase the productivity and efficiency of the company and these processes must continue as part of an overall strategy to make the TEMCO operation a viable one in such a market place.

20 And the company, you may have read recently, sir, is considering major capital projects during 1996, one of which would be to expand its operation to include the production of medium carbon ferro manganese, and the other would be to provide for increased production in - of ferro manganese alloy through the construction of an additional furnace. And it's quite a significant capital project in the George Town area.

25 In relation to both of these products, obviously with any capital expenditure of a company that we'll be required to ensure that the facilities are put in place in a manner that provides an effective return on the capital to be invested and so as part of these feasibility studies with the projects, there will be an assessment of the technologies required, the best practice methods needed to be internationally viable in a competitive market, and there may well be consideration for these new exercises to look at the industrial relations regulation arrangements to support a greenfields 30 approach to any new work that's up there that may occur, sir.

Ultimately what the company is - what it would like from any award, be it an industry award, enterprise award or workplace agreement, that all those arrangements need to facilitate the working of different working arrangements, new technologies and really getting out there and looking at the best way of getting the work undertaken.

35 So at some point in time it may be appropriate for discussions on the existing award or the workplace agreements to examine some of the clauses that are there to see whether or not there is merit in putting the enterprise agreement or workplace agreement arrangements into the award, or modifying them somewhat, and have regard for past experience and what is ahead of the company and the employees into 40 the future.

In brief, sir, the company does not oppose the application by the AWU for an enterprise award to clarify that particular issue. The matters that Mr Glisson has raised regarding public interest and the Industrial Relations Act provisions are matters of fact and we would not oppose those either. So I've nothing further to add, if the 45 commission pleases.

COMMISSIONER WATLING: Good. Thank you. Any further submissions?

MR GLISSON: No, sir.

5 COMMISSIONER WATLING: No further submissions. Right, well I can indicate to the parties the award will be varied to enable the scope and the title to be altered to truly reflect the nature of the award and I'll hand down a written decision and an order in due course. And the operative date - no-one has addressed me on it and I don't see that anything really is at stake, but it will be from the date of my - the first full pay period on or after the date of my decision which hopefully will be this week sometime. Thank you.

HEARING CONCLUDED