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# United States Steel Corporation Gary Steel Works and United Steelworkers of America Local Union 1014

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BOARD OF ARBITRATION

Case USC-1890

October 15, 1964

UNITED STATES STEEL CORPORATION  
Gary Steel Works

and

Grievance No. A-60-157

UNITED STEELWORKERS OF AMERICA  
Local Union No. 1014

Subject: Incentive Administration.

Statement of the Grievance: "We, the undersigned, on behalf of all employees in the steel producing division effected, contend that the unilateral and arbitrary action by management of changing the determination of scrap heats and scrap ingots, violates the intent and spirit of both the incentive brochures and the January 4, 1960 labor agreement. This action by management has caused a decrease in our incentive earnings. We therefore request that management stop the present method of determining scrap product, and that we be compensated for all loss in earnings from July 17, 1960."

This grievance was filed in the Second Step of the grievance procedure October 25, 1960.

Contract Provisions Involved: Sections 2-B-3, 9-C-2, and 9-F-2 of the January 4, 1960 Agreement.

Statement of the Award: The grievance is denied.

BACKGROUND

Case USC-1890

This grievance from the Steel Producing Division of Gary Steel Works claims that Management wrongly changed the method for determining scrapped ingots under numerous incentives for Open Hearth and related operations around July 17, 1960, and that replacement of such incentives, therefore, was required under Section 9-C-2 of the January 4, 1960 Agreement. 1

Each of the various direct incentive applications involved (under Section III - Units of Production) contains the following relevant language: 2

"The equipment performance standards are based on the units of 100 tons prime product classified as to ordered aim analysis, type of heat, type of charge, block condition, type burner, carbon reduction practice, type fuel, silica versus Basic roof, furnace design, and furnace age. The weight per ingot is determined from the table of ingot weights based on ingot cross section and height. Ingot scrapped because of poor workmanship and returned to the open hearths for remelting shall be excluded from prime product if the order to scrap them is originated within the pay period in which the ingots are produced."

(Underscoring added.)

This definition has remained unchanged for years, but the Union holds that in 1960 the Company began applying it differently than in the past. The nature of the Union argument is best illustrated in the following excerpt from its brief: 3

"The grievants are contending that the Company has, by unilateral discretion, changed the system of determining which product is to be considered 'prime' and which is to be considered 'scrap.' The grievants also contend that this system is new and was introduced arbitrarily. They contend further that there is nothing new or changed insofar as their working conditions are concerned with specific reference to the equipment, processes, and manufacturing standards. The grievants also contend that the new system has precipitated an increase in the scrapping rate of ingots to the extent that their incentive earnings have been adversely affected, despite the fact that they continue to perform their jobs proficiently and maintain their past average performance.

"The grievants contend too that from 1950 to 1960, product which failed to meet the intended customer specification was diverted and classified 'prime' and incentive pay awarded. They contend that on or about July 17, 1960, the Company decided to classify this type of product as 'scrap' and make no incentive payments. The grievants contend that this is unfair, unjust, and a violation of the Basic Labor Agreement.

"The grievants contend also that the process of steel-making is complex and dependent, to a large degree, on conditions beyond their control. The grievants have taken exception to a statement made by the Company that the steel now scrapped is a result of poor workmanship.

"The Union, on behalf of the grievants, has contended that the practice of diverting heats of ingots, being a long-standing one, constitutes a local working condition, which for a number of years has been mutually understood and acquiesced in by the parties, and therefore cannot be changed unless by mutual agreement. The Union has supported, and still does, the grievants in their request that (a) the new system of determining 'prime' and 'scrap' product be stopped, or (b) the performance standards in the involved incentive applications be revised, adjusted, or developed so as to protect the past average earnings of the grievants."

The Company does not deny that the rate of deductions for scrapped ingots increased about July 17, 1960. The increase, and subsequent fluctuations, are revealed in the following table:

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Scrapped Ingot Deductions

(Percent of Total Production)

<u>Period</u>	<u>Percent Scrap Deducted</u>			
	<u>#1 O.H.</u>	<u>#3 O.H.</u>	<u>#4 O.H.</u>	<u>#5 O.H.</u>
1- 2-60 to 7-16-60	.16%	.31%	.17%	.05%
7-17-60 to 12-31-60	1.71	1.33	-- **	1.25
1- 1-61 to 7- 1-61	1.62	1.44	-- ***	1.11
7- 2-61 to 12-31-61	2.18	1.54	1.57	1.23
1- 1-62 to 6-30-62	2.12	1.34	1.37	1.40
7- 1-62 to 12-31-62	1.51	1.03	1.23	.96
1- 1-63 to 6-29-63	1.18	.82	1.05	.61
6-30-63 to 12-28-63	1.51	.94	1.69	.89
12-29-63 to 6-27-64	1.34	.85	1.31	.88

\* Figures for #2 O.H. are not shown, because it has been shut down throughout much of the intervening period since mid-1960.

\*\* No operations.

\*\*\* Data not available.

The Company notes that there has been no change in the prescribed formula for determining scrapped ingot deductions. The increase in proportion of scrapped ingots, it says, resulted largely from changed market conditions, growing out of the rather severe recession in the steel industry commencing in June of 1960. This engendered not only reduced orders, but also more stringent quality and delivery demands by customers. One principal effect was a substantial drying up of outlets which long had been available for diverting out-of-specification ingots. Up until mid-1960, it had been possible to divert many out-of-specification ingots to other orders; ingots which otherwise would have been scrapped were simply applied to orders under which they could be sold.

Diverted ingots always have been (and still are) treated as prime product for incentive purposes. To achieve such diversion, the Company often placed out-of-specification ingots in storage temporarily until an order became available for reapplying them. Under conditions up to 1960, it was reasonable to expect that such an opportunity would arise within a relatively short time. Even if some such ingots were not reapplied, but scrapped, they were not deductible from incentive calculations under the incentives, because not scrapped within the pay period in which produced.

In mid-1960 and thereafter, the orders available as outlets for such diversions were drastically reduced. Tie-plate product (traditionally a big area for diverting out-of specification heats) almost disappeared in the last half of 1960; it has remained at a greatly reduced level since. Other, lesser product areas for diversion also dried up because of a stiffening attitude by customers as to quality. Since the amount of out-of-specification steel which the Company was able to divert thus declined, it seemed to Management no longer practical to place such steel in storage.

Another effect of changed market conditions was reflected in the Gary practice of making "referrals." Up to mid-1960, the plant often "referred" to a customer, under appropriate circumstances, in an attempt to get him to accept out-of-specification steel. Over earlier years, and particularly in the post-strike months of early 1960, the plant had been rather successful in getting out-of-specification steels accepted under this arrangement.

With the 1960 drop in demand, however, the customers began to refuse acceptance of such steels, and Management decided that the effort to make referrals henceforth would be kept to a minimum. Since far fewer referrals now are being made, there is more scrapping of ingots at the open hearths than before.

While such changes in market conditions, and related adjustments in customer relations, were the principal cause for the increased proportion of scrapped ingots, the Company also took corrective action in June and July of 1960 to assure that scrap deductions actually were being made in accordance with the terms of the incentives. Apparently it was discovered that some Incentive Clerks had not been applying the scrap deduction provision as written, and some scrap was not being properly deducted up to that time. The tightening of internal procedures to eliminate such errors, according to the Company, accounted for a minor portion of the change here protested.

Finally, the Company stresses that actual earnings under the principal incentives involved make it very dubious that their basic integrity and effectiveness were impaired to any measurable extent. It sets forth the following earnings data for the First and Second Helper incentives:

Period	Index of Measured Performance				
	App. #613	App. #630	App. #615	App. #617	App. #627
	#1	#2	#3	#4	#5
	O.H.	O.H.	O.H.	O.H.	O.H.
1955	136%	123%	137%	137%	132%
1956	140	138	143	140	138
1957	142	145	143	144	137
1958	141	137	146	144	138
1959	137	138	136	139	134
1- 2-60 to 7-16-60	143	151	141	142	143
7-17-60 to 12-31-60	138	144	142	-- *	137
1- 1-61 to 7- 1-61	144	151	148	135	147
7- 2-61 to 12-30-61	141	-- *	146	145	147
12-31-61 to 6-30-62	139	-- *	146	139	151
7- 1-62 to 12-29-62	144	-- *	148	142	148
12-30-62 to 6-29-63	148	-- *	147	141	146
6-30-63 to 12-28-63	146	-- *	153	142	141
12-29-63 to 6-27-64	150	-- *	149	147	147

\* Not Operating.

While the Union seems to believe that the Company explanations do not account for all of the increased proportion of scrapped ingots, it does not cite any specific situations to illustrate the precise nature of any other complaint. Apparently the Union is troubled by the fact that an ingot can be treated as prime product in one instance (because diverted to other orders, after failing to meet ordered specifications), while a similar ingot may have to be treated as scrap because it cannot be diverted to other customer orders in another instance. Finally, the Union suggests that tighter customer requirements and adverse market conditions should be compensated for by incentive adjustments to protect the employees from loss of earnings.

FINDINGS

Much of the difficulty in analyzing this case traces to the fact that at least three separate factors contributed (each in uncertain degree) to the increased proportion of scrapped ingots after July 1, 1960. No one seems able to say just how much each of these separate factors actually may have contributed to the overall increase in proportion of scrapped ingots charged in calculating earnings.

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The principal causative factor seems to have been the 1960 change in market conditions (particularly the drying up of the tie-plate market) which made it difficult to divert out-of-specification material to other orders. Changed market conditions which adversely affect incentive earnings do not in themselves provide basis for adjustments in an incentive. The Board dealt with such a situation in Cases USC-580, -581 (Award No. 2), as follows:

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"...The Union witnesses recognized, moreover, that fluctuations in line speeds under the old incentives up to January 15, 1955, were related to such things as market conditions, customer requirements, grades of steel run, product mix, black spots, efforts to attain better results in ordered aim Rockwell hardness, and so forth.

"Earnings fluctuations related to such conditions are not unusual in the operation of incentives, and in themselves ordinarily do not require adjustment or revision of existing incentives under either Section 9-C-2 or 9-F-2 of the Agreement. Thus, the fact that the No. 2 Line incentive was not changed from time to time prior to 1955, to maintain a relatively constant level of earnings, is not controlling in passing on the merits of the present case."

A related problem arose because of the Company's change in practice of making referrals to customers to induce them to accept out-of-specification steels. This, of course, did not involve any change in definition of scrapped ingots under the various incentives, nor was there any change in practice as to interpretation of such definition. What occurred simply was that customer relations considerations led Management to conclude that it no longer was a sound practice to push customers to accept out-of-specification steel. It is probable that this change in customer relations policy contributed to the increase in proportion of scrapped ingots, although the evidence provides no basis for a precise determination on this score. But it should be clear that a local working condition does not arise under Section 2-B which would require Management to maintain any particular policy in dealing with its customers. The Board is not authorized, moreover, to substitute its judgment for that of Management on such a matter so as to require a change in customer relations policy; Section 9-F-2 of the 1960 Agreement was not designed to require incentive adjustments under such circumstances. The possibility of abuse in situations of this sort is remote: the loss of income to the Company in scrapping ingots which reasonably might be referred to a customer is at least as significant to Management as the related loss in incentive earnings might be to the employees.

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The final factor which may have contributed to filing of this grievance arose when erroneous calculations by some Incentive Clerks in applying the incentive definition were terminated. The Company asserts that such action represented simply a correction of errors in the administration of the incentive within the meaning of Section 9-H. There is nothing in the Union evidence to refute or undermine this explanation. No compensating adjustment in the incentive could be based on such corrective action.

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Finally, the evidence actually provides no solid basis to find a measurable adverse long-range impact upon earnings of grievants under criteria normally applied by the Board in dealing

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with Section 9-F-2 adjustments; incentive earnings after January 1, 1961 for the most part were at higher levels under the key incentives here involved than in past years going back to January 1, 1955.

Accordingly, there is no tangible basis in the evidence before the Board to support the view that the disputed incentives should be either replaced or adjusted.

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AWARD

The grievance is denied.

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BOARD OF ARBITRATION

  
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Sylvester Garrett, Chairman