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United States Steel Corporation Sheet and Tin Operations Irvin Works and United Steelworkers of America Local Union 2227

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BOARD OF ARBITRATION

Case Nos. USS-5281-S;
-5372-S

March 14, 1966

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
SHEET AND TIN OPERATIONS
Irvin Works

and

Grievance Nos. A-62-43
SI-65-88

UNITED STEELWORKERS OF AMERICA
Local Union No. 2227

Subject: Incentive Administration

Statement of the Grievances: Grievance A-62-43 (USS-5281-S)

"The undersigned employees request that Revision #1 - Change No. 1 - Incentive Application #630 be revised to provide fair and equitable incentive earnings. Adjustment of earnings to be retroactive."

This grievance was filed in the First Step of the grievance procedure March 15, 1962.

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Grievance SI-65-88 (USS-5372-S)

"Incentive Application No. 630 be revised.

"Revision #1, Change #32 to Incentive Application No. 630 has been installed effective 5-23-65, retroactive to 1-21-62. This change does not accord equitable earnings."

This grievance was filed in the First Step of the grievance procedure July 19, 1965.

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

Statement of the Award: The grievances are dismissed.

BACKGROUND

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In these two grievances, employees manning No. 2 Electrolytic Tinning Line at Irvin Works challenge the administration of Incentive Application No. 630, under Section 9-C of the January 4, 1960 Agreement. 1

Grievance No. A-62-43 (USS-5281-S) was filed on March 15, 1962, and grieved Change No. 1 to Revision No. 1 of the Incentive as not being fair and equitable. Change No. 1 had been installed unilaterally by the Company on January 21, 1962, providing an upward adjustment of 6% to the standards of Revision No. 1, retroactive to June 11, 1961, the date of original installation of Revision No. 1. 2

Revision No. 1 had been grieved for similar reasons in Grievance No. A-61-165, filed on July 28, 1961, which was pending in the grievance procedure when Change No. 1 was installed. This prior grievance was appealed to the Board, and docketed as Case USC-1471. The Board issued its first Award in that case on June 11, 1963, extending interim period earnings up to January 21, 1962, and returning 9-C-3-d and 9-C-4 issues to the parties. 3

The parties failed to resolve these remaining issues, and the case was returned to the Board for further proceedings. The following Supplemental Award was filed on March 2, 1965: 4

"The grievance is sustained to the extent that the disputed incentive failed to meet the earnings protection requirements of Section 9-C-4 by 8%. Grievants are entitled to be made whole for loss of earnings retroactively on the basis that the average Index of Measured

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"Performance should have been 8% higher than actually yielded. In addition, the disputed incentive shall be modified to provide an 8% greater earnings opportunity (IMP) for the future."

While this case was pending in the grievance procedure and before the Board, the parties held Grievance A-62-43 in abeyance after the Company had taken the following position in First Step:

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"There are no violations of the Labor Agreement involved in this request.

"Management notes without threat of jeopardizing any subsequent Company Position that the subject matter is currently under consideration in pending case A-61-165 which refers to the equity of Revision #1 to Incentive Application #630 Tin Finishing.

"This statement is based on the fact that Change #1 to Revision #1 was adopted retroactively to the original date of installation of Revision #1, and consequently becomes a part of A-61-165."

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and had given the following decision:

"Management is willing to recognize without prejudice any rights of the grievants to which they may be entitled as a result of grievance A-61-165."

To comply with the Board's Supplemental Award, the Company issued Change No. 32, effective May 23, 1965, and retroactive to January 21, 1962. On June 11, 1965, the Union filed Grievance SI-65-88 (USS-5372-S) claiming that Change No. 32 did not "accord equitable earnings" and requesting that Revision No. 1, Change No. 32, "be revised to provide equitable earnings and to be retroactive to January 21, 1962." Although Change No. 32 increased standard time values by a factor of 1.08, the Union claimed in this new grievance that this adjustment still did not comply with the mandate of Section 9-C-4 of the Basic Agreement, since after the effective date of Change No. 32, earnings remained unsatisfactory until November of 1965 at which time the Company had completed mechanical improvements to the line. 6

The Company argues in this case that the Board's Supplemental Award disposed of all questions of incentive administration connected with Revision No. 1 and Change No. 1 under Section 9-C-4 of the Basic Agreement, and that Change No. 32 was engineered by the Company to comply with the Board's adjudication. Therefore, the issues raised in Grievance No. A-62-43 involving Change No. 1 were fully considered by the Board's Award on Grievance A-61-165 which increased earnings, already boosted 6% by Change No. 1, by an additional 8%. 7

The Company also took the position that Grievance SI-65-88 was improperly filed since it did not question compliance with the Board's Supplemental Award but again opened up questions of substantive incentive administration which already had been fully answered by the Board. Change No. 32 was installed, the Company argues, in response to the Supplemental Award of the Board and, therefore, could not be grieved under Section 9-C-3-d as not providing equitable incentive compensation, since the Board had already found that the incentive would comply with the provisions of Section 9-C if adjusted in accordance with the Board's directions. Had there been a question of proper compliance with the Board's Supplemental Award, it should have been raised in a compliance proceeding and not by a new grievance, processed through all the steps of the grievance procedure. In filing Grievance No. SI-65-88, the Company argues, the Union failed to accept the Board's Award as final and binding in disregard of Section 7-F which reads:

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"The decision of the Board on any issue properly before it in accordance with the provisions of this Agreement shall be final and binding upon the Company, the Union, and all employees concerned."

FINDINGS

The Supplemental Award of the Board in Case USC-1471 constitutes a final and binding adjudication of all questions raised under Sections 9-C-3-d and 9-C-4, as

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set forth in that decision, including those raised by Grievance A-62-43, and this grievance therefore does not present any further issue for consideration by the Board.

The Union has not challenged the Company's engineering of Change No. 32 as an improper compliance with the Supplemental Award of the Board in Case USC-1471, and the record shows that the Company did, in fact, adjust the incentive in accordance with the directions of the Board.

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AWARD

The grievances are dismissed.

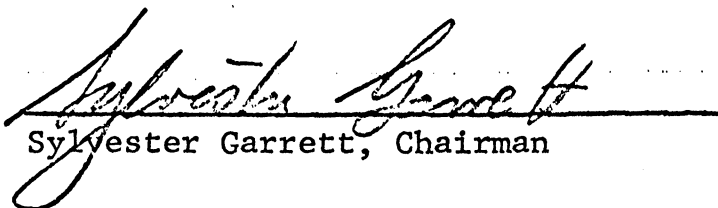
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Findings and Award recommended pursuant to Section 7-J of the Agreement, by



Peter Florey
Assistant to the Chairman

Approved by the Board of Arbitration



Sylvester Garrett, Chairman