INLAND STEEL CONTAINER COMPANY )
) Docket No. SC-NO 165-3-4/12/57
- and - ) Grievance No. 3
) Aribitration No. 223
UNITED STEELWORKERS OF AMERICA )
Local Union No. 2179 ) Opinion and Award

Appearances:

For the Company:

William F. Price, Counsel
E. E. Grosscup, Vice-President
T. W. Dwyer, Plant Manager

For the Union:

Warren D. Morel, International Representative
John Burns, Local Union President

The grievance in this case was filed "on behalf of the entire membership" of the Local Union on March 19, 1957. It complains that the "Company refuses to negotiate a local supplement in violation of the Master Agreement".

At the hearing it developed that the Union did not seek from the arbitrator any award with respect to the three matters involved in the dispute (method of computing vacation pay, rest periods and provision of gloves ) other than an award that the Company was violating the Master Agreement in refusing to negotiate with the Union on these matters.

The Master Agreement under discussion was the first such agreement covering the operations of the Company at Cleveland, Chicago, and New Orleans. At each location the employees are represented by a different local union of the United Steelworkers of America, AFL-CIO. Before the Master Agreement had been signed a local agreement had been in force in the New Orleans plant.

First, as to the method of computing vacation pay: The Local Union President testified that vacation pay in all basic steel and fabricator contracts is computed on the basis of a minimum of 40 and a maximum of 48 hours of work. In this plant the standard is exclusively 40 hours. The Union wishes to negotiate with the Company in order to achieve agreement on a formula that would be the same as that in other basic steel and fabricating plants.

Second, as to rest periods: The New Orleans employees are afforded two ten minute rest periods in a shift; the Cleveland plant of the Company enjoys two fifteen minute rest periods. The Union desires to negotiate for two fifteen minute rest periods.

Third, as to gloves: It appears that gloves are furnished to some employees, but the Union wants to negotiate for broader, and, perhaps, universal distribution of gloves.

The refusal of the Company to regard these matters as proper subjects for negotiation of a local supplement to the Master Agreement rests on a) its version of the verbal understandings reached in the course of negotiating the Master Agreement (to which I shall refer below; and b) on the provisions of Sections 6 and 8 of Article XI of the Master Agreement which provide as follows:

> "Section 6. Prior Agreements. The terms and provisions of this Agreement replace those established by the 1954 and 1955 collective bargaining agreements and the agreements supplemental thereto other than (1) the Chicago Wage Rate Inequity Agreement of December 22, 1955, (2) the New Orleans Wage Rate Inequity and Craft and Maintenance Agreements of July 17, 1953, and (3) where applicable, the 1954 and 1955 agreements with respect to pensions and group insurance for the period between the date hereof and the effective dates of the agreements referred to in Section 4 of this Article XI."

> "Section 8. It is understood that this Agreement may be supplemented by local agreements at each of the plants covered by this Agreement. Such supplemental agreements may contain provisions which preserve any benefits which were in effect prior to the signing of this Agreement which are in excess of or in addition to benefits provided for in this Agreement. It is further understood that new local benefits which are inconsistent with or which go beyond the provisions of this Agreement <u>may not be bargained</u> during the term of this Agreement, and that all local agreements supplemental hereto shall be in writing and signed by the appropriate officers of the Union and the Plant Manager of the Plant involved." (Underscoring supplied.)

The Company, grounding its argument on these provisions, contends that their meaning and effect is a) to extinguish all agreements other than those specifically identified in Section 6; b) that the parties might supplement the Master Agreement by negotiating local supplements; c) that such supplemental agreements locally entered into may protect benefits previously enjoyed; and d) that "new local benefits" which are inconsistent with or go beyond the provisions of the Master Agreement "may not be bargained during the term of this Agreement". (Underscoring supplied).

The Company observes that there had been no formula for 48 hours of vacation pay per week in New Orleans, enjoyed in practice or provided for in the prior local agreement; further that Article VIII Section 4 (Vacation Pay) of the Master Agreement provides that

> "Hours of vacation pay for each vacation week will be computed according to local agreement provided no employee will receive less than forty (40) hours' vacation pay per week." (Underscoring supplied.)

According to the Company, this means, (when read with Article XI Section 8) that if a prior local agreement had provided for more than forty hours of vacation pay, the subsequently negotiated local supplement could preserve this benefit for the employees covered thereby; however, in the case of New Orleans, there was no provision in the previously existing local agreement covering vacation payments for 40 hours although there was a practice to that effect which it intends to recognize. Accordingly, says the Company, the Master Contract clearly forecloses local supplement negotiations on a demand that is not only inconsistent with and goes beyond its provisions, but also is not supported by a pre-existing agreement.

The Union's argument appears to be based on a) its reading of Article XI Section 6, and, b) the understanding which its representatives took away with them from the sessions leading to the negotiations of the Master Agreement. The Union argues that if the cited section has the effect of wiping out prior local agreements, the provision in Article VIII Section 4 (Vacation Pay) stating that hours of such pay will be computed "according to local agreement" must mean according to local agreements to be negotiated in the future such as the Union seeks to initiate.

This interpretation is without merit. Article XI Section 8 deals specifically with and controls the negotiations which may be undertaken on the local level following the signing of the Master Agreement. It does not refer to "local agreements" to be negotiated but "supplemented by local agreements" and to "supplemental agreements". There is

no similar reference to supplementation in Article VIII Section 4 that would support the Union's argument, and the clear language of prohibition in the last sentence of Article XI Section 8 disposes of this contention.

Insofar as vacation pay is concerned, I find the language of the Master Agreement to be unambiguous and not open to such interpretation as is sought in this case. The plain direction and prohibition of Article XI, Section 6, is not diluted by the vacation clause in the Master Agreement. The issue of rest periods and gloves, howwver, does not involve any provisions of the Master Agreement other than Article XI, Section 8, because those matters are not dealt with specifically in the Master Agreement. On these matters (and on the vacation pay matter as well) the Union's claim is based on the negotiating history.

According to the testimony, the Master Agreement negotiations started about 9 A.M. on August 21, 1957 and continued without interruption excepting for meals until about 5 or 6 A.M. on August 22, 1957. Apparently, the negotiators were under great time pressure and the sessions were marked by a considerable lack of communication between sub-committees that were negotiating on different matters. The Union representatives brought up the subjects of vacation pay, computation, rest periods and gloves on several occasions. When this was done, according to the Union, a Company representative stated that if the negotiators got into these matters it would have the effect of unduly holding up the final settlement of the contract and they were told to "handle it back home". This meant to the Union representatives that their demands on these matters would be an appropriate subject for bargaining in connection with local supplemental agreements and formed the basis for this grievance when the Company refused so to bargain.

The testimony offered by the Company's witnesses stressed that throughout the negotiations on the Master Agreement it was made clear to the chief negotiator for the Union (who was not present to testify at the arbitration hearing) that the settlement was to be within the pattern set for fabricating affiliates of basic steel companies. This pattern or formula was said to be illustrated by the Union's agreement with United States Steel Products Division of the United States Steel Corporation negotiated at or about the time of the national negotiations with the basic steel companies. That agreement provided for committees to negotiate a master contract applicable to the separate plants of the Division containing appropriate provisions

> "retaining, and preserving, * * * any and all provisions of the prior agreements or specific practices or customs relating to wages, hours of work or other conditions of employment pro-

> viding benefits for the employees within such plants previously receiving such benefits that are in excess of or in addition to the benefits provided in such single agreement."

Thus, according to the Company, at the negotiations relating to the Master Agreement it was made clear, and it was understood by its representatives and the Union's representatives (in particular, its chief representative), that:1) the Master Agreement would protect previously existing benefits provided for in prior local contracts or recognized in practice and custom; 2) that the Master Agreement might be supplemented through local negotiations to achieve this result; but that such negotiations should not relate to benefits not recognized previously in the local agreement or in practice and custom. The Company's testimony was to the effect that this understanding originating in the national basic steel negotiations and continuing through the Master Agreement negotiations was clearly embodied in Article XI, Section 8, of that Agreement and nothing was said at the Master Agreement negotiations to depart from it. It was stated that the reference to "Handle it back home" related to any and all benefits which were in fact embodied in prior local agreements or recognized in local practice or custom and fell within the directions of Article XI, Section 8. The Company claimed and the Union did not deny that the benefits as to which negotiations were requested in this case did not fall within that category.

The history of negotiations has been outlined here, not because it is controlling, but because a disposition of this case without reference to the principal basis for the Union's claim as presented at the hearing might induce a sense of injustice to its members or perhaps leave an imputation of bad faith on the part of the Company.

I find that this history directly supports the Company's position based on the language of the Master Agreement which, being unambiguous in its direction of what the parties were to negotiate in their local supplements and what they were prohibited from negotiating, is determinative of the issue. The record makes it evident that although other bargaining unitsof the Company enjoy benefits not shared by this bargaining unit, the Local Union at New Orleans similarly enjoys some different benefits not possessed by the others. Uniformity of benefits may well have been an objective of the Local Union's representative at the omnibus and multi-bargaining unit negotiations; the Master Agreement, however, does not incorporate the concept of uniformity, but rather the preservation only of such benefits as were previously enjoyed at each local plant.

AWARD

The grievance is denied.

Peter Seitz,
Assistant Permanent Arbitrator

Approved:

David L. Cole,
Permanent Arbitrator

Dated: December 27, 1957