	Grievance Nos.	Appeal Nos.	Award Nos.
INLAND STEEL COMPANY			
and	14-H-8	1160	572
	15-H-56	1161	573
UNITED STEELWORKERS OF AMERICA	15-H-57	1162	574
Local Union 1010	15-H-58	1163	575

Appearances

For the Company:

Henry Thullen, Attorney
Donald Arnold, Attorney
R. H. Ayres, Assistant Superintendent, Labor Relations Department
K. H. Hohhof, Superintendent, Industrial Engineering
W. R. Wilson, Assistant Superintendent, Electrical Department
John R. Brough, Assistant Superintendent, Power, Steam and Combustion
M. Jacobsen, Supervisor, Industrial Engineering
Paul R. Buda, Senior Industrial Engineer
R. P. Schuler, Manager, North Mills
I. C. Granack, Labor Relations Representative

For the Union:

Peter Calacci, International Representative
William E. Bennett, Chairman, Grievanee Committee
William Brown, Grievance Committeeman
Ray Carson, Grievance Committeeman
Witnesses: Steve Matkovick, Herald I. Clayton, Joseph Goulden, Donald Swentzel, John Lanning, Albert Holland

Grievance Nos. 15-H-56, 15-H-57, and 15-H-58 were filed February 6, 1963 and No. 14-H-8 on February 28, 1963. The first three of these grievances question the equitability of Wage Incentive Plan File Nos. 75-4112-1, Revision No. 5; 75-0506-1, Revison No. 6; and 75-2017-1, Revison No. 3 which were installed September 27, 1962 with reference to operations in the 44" Hot Strip Mill. Grievance No. 14-H-8 relates to Wage Incentive Plan File No. 73-0111, Slab Yard Crew, which is partially based on the other three incentive plans.

The grievances assert that these incentive plans do not meet the criteria of the Collective Bargaining Agreement because they do "not pay equitable incentive earnings in relation to previous incentive earnings and the previous job requirements involved," and the relief requested is that "The Company develop an incentive plan that will meet the criteria of the Collective Bargaining Agreement and that the Company pay all monies lost." The contract provisions cited are Article V, Sections 4 and 5.

The discussions in the various steps of the grievance procedure were almost entirely of the kind customarily conducted in disputes over the equitability of a new or revised incentive plan. In Step 3 the Union representatives also argued, however, that the old incentive plans should have been retained "until such time as the improved facilities actually resulted in increased productivity."

At the arbitration hearing the Union argued that under Section 4 of Article V the changed conditions relied on by the Company did not constitute sufficient reason for changing the existing incentive plans. It also contended that the Company should not have used the three months prior to August 6, 1962 as the reference period for determining the average hourly earnings to be guaranteed the employees under Paragraph 58 of Section 5 of Article V, and that when the Company installed these revised incentive plans on September 27, 1962 they had no contractual right to do so retroactively to August 6, 1962, which was the date when these plans were presented to the grievance committeeman in the department.

Although the grievances were not filed until February, 1963, these objections were not mentioned therein; nor were they raised or discussed in the grievance procedure. Arbitration is merely the final step in the grievance procedure, and if these matters were of sufficient importance to determine the issues they could not be considered if raised for the first time at this stage. The least that would have to be done in an orderly and effective grievance procedure would be to remand the dispute back to the fourth step for serious discussion by the parties before the arbitrator is asked to consider them. Each successive step is essentially a review of the disagreements in the earlier steps, and this is particularly true of the arbitration step. How could the parties be expected to resolve or narrow issues which have not been raised or discussed by them? One may change the emphasis of the arguments made previously, or add further considerations, but this is quite different from raising an issue for the first time in the final review or appeal step.

These new points lack the substance to affect the determination in this instance and are therefore not being referred back to the parties.

The facts conceded by the Union indicate that the mechanical improvements and changes in equipment, manufacturing processes or methods were sufficient to warrant the installation of new incentives. These improvements and changes will be specified shortly. This being so, the incentive plans which Section 4 (Paragraph 51) declares shall remain in effect, are explicitly made subject to change pursuant to the provisions of Section 5. Section 5 (Paragraph 53) states:

> " ... in cases where an incentive plan in effect has become inappropriate by reason of new or changed conditions resulting from mechanical improvements made by the Company in the interest of improved methods or products, or from changes in equipment, manufacturing processes or methods, materials processed or handled, or quality or manufacturing standards, the Company shall have the right to install new incentives."

Section 5 provides in Paragraph 58 as follows:

> "Until such time as the new incentive is agreed upon or, in the event a grievance is processed to arbitration, until an arbitrator's decision has been rendered, the average hourly earnings of incumbents of the job as of the date the new incentive is installed shall not be less than the average hourly earnings received by such incumbent under the incentive plan in effect during the three (3) months immediately preceding the installation of the new incentive."

The new incentives were presented by the Company on August 6, 1962, and although the intervening procedural steps took some time thereafter and the new

incentives were not installed by the Company until September 27, 1962, the employees were paid their average hourly earnings based on what they had received during the three-month period ending August 4, 1962. The three months immediately preceding September 27 included 52 days of operations under the changed conditions, and they had no incentive plan in effect during those days. The Company used the last three months of operations under the incentive plan in effect immediately preceding.

Paragraph 58 has an ambiguity. The essential nature of the inquiry as to whether the new incentive is equitable is the comparison in a case like this with "the previous job requirements and the previous incentive earnings," on the theory that the previous job requirements and incentive plan were settled and accepted and therefore equitable. Paragraph 57 establishes this as one of the major criteria in such inquiries. The guarantee of representative earnings under the preceding incentive has therefore been agreed upon as the fair and proper measure of what the employees should have as their minimum earnings under the new or changed conditions. This practiee has been followed in many cases over the years, even in some in which the employees have worked under the changed conditions for a long period of time before the Company has prepared or submitted a proposed new incentive plan at all. It is my view that the purpose and intent of Section 5 are promoted by this practice and that it represents the parties' own resolution over the years of the obvious ambiguity contained in Paragraph 58 as between "the three (3) months immediately preceding the installation of the new incentive" on the one hand and the references in Paragraphs 57 and 58 to "the previous incentive earnings" and "the incentive plan in effect," on the other.

If it be felt that the incumbent employees might have earned more during this intervening period than their average hourly earnings under their previous incentive, then the Company's practice, followed here, of installing the new incentive retroactively to the date when it was first presented to the Union, seems to be the practical answer. It provides the means of protecting the employees in this regard, and it is a practice which has also been followed in a number of previous situations, without objection by the Union. The contract is silent on the subject, and the practice adds an element of protection for the employees which is not inconsistent with any other provision of the contract, or of its purpose or intent.

We come now to the major issue of the equitability of the new or revised incentives. The parties are in accord that this issue may be resolved by using the facts relating to the representative occupation of Flying Shear Operator.

The previous incentive plans were twice the subject of arbitration awards. In April, 1953 Award No. 65, and in August, 1960 Award Nos. 346-348 modified somewhat the incentive plans installed by the Company after certain changes or improvements in the 44" Hot Strip Mill which affected the productive capacity.

Subsequent to the 1960 award, a number of additional changes or improvements were made. In the grievance procedure, the parties spoke of eight items, but the principal ones were these four: (1) three new coilers which reduced coiler delays; (2) the elimination of flats, cutting out piler delays; (3) furnace improvements (the insulating of furnace pipes, installation of new type burners, and the increasing of air flow) which made heating more efficient and controllable; and (4) installation of the 5000 kilowatt rectifier which relieved the previous power limitation, enlarged the rolling capacity, and eliminated mill down time due to hot, overloaded generators.

Interestingly, the Union and its witnesses agreed that these changes have been made and that they have improved the production possibilities and have reduced delay time. Actually, the only dispute is over the amount of production that may reasonably be expected from these improvements.

The Union's position is that in the past 10 months the employees have averaged only 262 production units per hour as opposed to the 275.6 set up in these incentive plans as expected. The production units reflect the tonnage produced and the roll changes made, the major factor being the tonnage. The Union contends that the worst performance has been during the periods when this mill has been operating large numbers of turns per week because at such times maintenance suffers and there are more inexperienced employees in the crews.

It appears, however, that in the eight pay periods (16 weeks) following the installation of these incentives on September 27, 1962 the tonnage produced per turn averaged 2274, which was 99.2% of the expected production of 2293.1 tons, providing a margin over base of 50.3% as compared with the expected 52.87%. The employees' prior incentive plan called for a margin of 51.42% above base rate and this was raised in the new incentive to 52.87% because of an increased workload. In these 16 weeks one crew exceeded the expected production 60 percent of their turns, and their average production for the entire period was 101.8% of expected.

However, production has tended to decline since these first 16 weeks, but it is not accurate to say this has been so only in periods when the turns per week were at high levels. In the ten pay periods starting January 20, 1963 the Flying Shear Operator operated at a margin of 46% above base, when the turns per week were at a high level, but in the 11 pay periods starting July 21, 1963 when the turns were at a relatively low level his performance resulted in a margin of only 44.5% over base.

It must also be noted that in the period of 38 pay periods (76 weeks) starting June 9, 1963 and running through November 21, 1964 there were weeks of low numbers of turns and weeks of high numbers, yet the level of almost 46% above base reached by the Flying Shear Operator in the ten pay periods starting January 20, 1963, when the mill operated at 33 to 39 turns, was equalled or exceeded only twice. In the remaining 36 pay periods the percentage of margin over base ranged from 31.9 to 45.2, with 13 pay periods below 40%. In not a single one of these 38 pay periods, including those when the number of turns was low, did the Flying Shear Operator attain the average margin over base which this occupation achieved in the first eight pay periods after the new incentive was installed. Significantly, also, the worst performance has been in the most recent ten pay periods, ending November 21, 1964.

One is at a loss, after hearing the testimony and studying the exhibits, to understand the reasons for the foregoing performance. Management ascribes it generally to a deterioration in teamwork or coordination because of the lack of direct motivation. The employees agree that the improvements made should increase production and decrease delays, and that neither the nature of customer demands nor the relative amount of poor material has gone up, yet the performance has dropped below the levels prior to the improvements.

The conclusion one is driven to by the evidence is that the expected performance upon which these incentive plans are predicated is reasonably attainable. For some 16 weeks the production was at a level of 99.2% of the indicated objective, and this was during a period when the employees were working on

guaranteed earnings, without a direct incentive. There is no good explanation of the deterioration since that time, and I am convinced, on all the evidence presented and discussed, that the performance will improve to the expected standard once this dispute is terminated. In other words, these disputed incentive plans do provide earnings opportunities which are equitable as measured by the criteria set forth in Article V, Section-5 of the Agreement.

AWARD

This grievance is denied.

Dated: December 30, 1964

David L. Cole
Permanent Arbitrator