In the matter of Arbitration

Between	)	
	)	Grievance No. 23-WIP-K-28
Inland Steel Company	)	Appeal No. 1193
	)	Award No. 599
and	)	
	)	
United Steelworkers of America	)	
Local 1010	)	

Appearances:

For the Company:

Henry M. Thullen, Attorney
W. A. Dillon, Director, Industrial Relations
W. L. Ryan, Assistant General Manager, Industrial Relations
R. H. Ayres, Assistant Director, Industrial Relations
L. R. Mitchell, Superintendent, Labor Relations
R. J. Stanton, Chairman, Management Incentive Committee
J. I. Herlihy, Manager, Industrial Engineering Services
K. H. Hohhof, Superintendent, Industrial Engineering
M. G. Jacobson, General Supervisor, Mills, Industrial Engineering
H. H. Cummins, General Supervisor, Primary Production
S. G. Murzyn, Supervising Industrial Engineer
T. J. Peters, Arbitration Coordinator, Labor Relations
T. L. Kinach, Senior Labor Relations Representative

For the Union:

Carl B. Frankel, Assistant General Counsel
Ben Fischer, Director, Contract Administration
Theodore J. Rogus, Staff Representative
Joseph Wolanin, Chairman, Incentive Committee
Jesse Arrendondo, President, Local 1010
Alexander W. Bailey, Chairman, Grievance Committee
Gavino Galvan, Secretary, Grievance Committee
William Mitchell, Member, Incentive Committee
John K. Smith, Wage Division
Howard Hendricks, Griever
Aristeo Torres, Outer Guard

The question presented by this grievance concerns which test is to be applied to determine whether equitable incentive earning opportunities are provided by the incentive plan, file No. 37-1213, on the No. 5 Continuous Pickling Line. This line is new equipment installed in the No. 3 Cold Strip Mill East. The effective date of the installation of this incentive plan was May 16, 1971.

The Union urges that equitable incentive earning opportunities must be in relation to those on like units, as required by Article 9, Section 5.b. of the collective bargaining agreement of August 1, 1968. The Company insists the incentive earning opportunities must be judged by the guides set forth in the Incentive Arbitration Award of August 1, 1969, which was rendered pur-

suant to Appendix J of the July 30, 1968 Settlement Agreement entered into between the Eleven Coordinating Committee Steel Companies and the Union. Inland Steel is one of these coordinating steel companies. This Award was by Memorandum of Understanding of August 18, 1969 made an appendix to the Basic Agreements of these companies and the Union.

In other departments the Company has four other pickle lines operating with incentive plans, the incentive earnings on which have ranged from 51.3% to 71.1% above the incentive calculation rate, the average being 58.9%. This average percentage is what the Union contends the employees should have the opportunity to achieve, insisting that the criteria of Article 9,Section 5.b.(3) of the Basic Agreement of 1968 still apply, despite the Award of August 1, 1969.

The Company's contention is that the new incentive plan, which was established and installed subsequent to August 1, 1969, is governed as to incentive earning opportunities by the provisions of the Award, particularly Part B, paragraph 2(1), which stipulates that an "incentive on a Direct Incentive Job shall be designed to provide earning opportunities 35% above the Incentive Calculation Rate."

The issue raised by this grievance is whether the plan should provide incentive earning opportunities for employees on these direct incentive jobs to achieve 35% or 58.9%.

The Union's position is that Part B of the Award, entitled "Guides for Definition of Equitable Incentive Earning Opportunities and Procedures for Application" applies only to new incentives installed after August 1, 1969 as a result of the new coverage section of the Award, and is not applicable to the incentive plan covering operations on the No. 5 Pickle Line. It points to the prefaces to Parts A, B, and C of the Award, in support of its contention.

The prefaces to Parts B and C are:

> "B. Guides For Definition Of Equitable Incentive Earning Opportunities And Procedures For Application
>
> "1. Preface
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> "This section deals with: (a) determination of Guides for Equitable Incentive Earning Opportunities and (b) procedures for application of these Guides to new incentives installed after August 1, 1969 as a result of the new coverage section of this Award (A above).
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> .....
>
> "C. Guides For Incentive Administration
>
> "1. Preface
>
> "The Guides in this Section are intended only to supplement and not to

supplant existing contractual provisions governing incentive administration. Paragraphs C-2 and C-3 below accordingly apply only to the administration of new incentives installed under the Guides in A and B. It will be necessary to apply these Guides for Administration of such new incentives only where an existing agreement does not provide equivalent benefits and protections."

On the other hand, the Company's position is that the guides in Part B clearly provide for 35% above incentive calculation rate for direct incentive jobs under new incentives installed after August 1, 1969, as the instant incentive was, and that the explicit provisions of Part C.4.a., in the full context of the arbitration proceedings, the Award, and the parties' Memorandum of Understanding of August 18, 1969, leave no room for doubt.

Part C.4.a. is:

"4. Installation of New Equipment or Operations Supplementing Existing Equipment Or Operations

"a. Where new equipment is installed, or new operations commenced, which are supplementary to the facilities or equipment covered by incentives at a given plant, new incentives shall be developed at the earliest practicable date. The new standards shall be designed to provide appropriate Equitable Incentive Earning Opportunities as set forth under B above and shall become effective when installed, but in no event more than 12 months after the new operation is commenced."

The Company also emphasizes the qualifying language in paragraph 4 of the August 18, 1969 Memorandum of Understanding, in the second sentence of this paragraph. In full, paragraph 4 stipulates:

"4. Each of the eleven companies and the union preserve all provisions of their current Basic Agreements. However, to the extent any such provision conflicts with a specific provision of the Award or this Memorandum of Understanding, the Award or this Memorandum of Understanding shall supersede such provision in such respect."

The essence of the Union's position is that the employees on a newly installed incentive like the one here in question are entitled to have the incentive earning opportunities which they could have had under their 1968 collective bargaining agreement unless the percentage stipulated in the Award would produce a higher percentage.

This contention was also made by the Union in the arbitration proceedings before the Panel. The Union argued that the product of the higher of the two tests or criteria should prevail, that the incentive earnings on new equipment or operations should be no less than the average incentive earnings on similar equipment or operations in use in the plant, that disparities in incentive earnings on similar operations could be demoralizing and lead to the possibility that there may be cuts in wages.

Nevertheless, after hearing and considering the evidence and arguments of both sides, the Panel stipulated in its Award that new incentives should provide 35% incentive earning opportunities for direct incentive jobs, and that this shall be applicable to new equipment installed or operations commenced which are supplementary to the facilities or equipment already covered by incentives at a given plant. These explicit provisions of Part C, paragraph 4 demonstrate that the Panel definitely intended that jobs under an incentive plan like the one here in question should be subject to the guides set forth in Part B. The preface to Part B was in this respect effectively countermanded by paragraph 4 of Part C.

While the Panel did not specifically mention the Union's contentions as to the likelihood that disparities in earnings on similar types of work would develop if its proposal was not adopted, the Panel in its preface to Part D made some observations with reference to prevailing disparities under existing incentives saying:

> "The Union proposal for dealing with these wide earnings variations would require immediate and substantial upward adjustment of the lower earning incentives but contemplates no adjustment of possible 'runaway' incentives. Such a proposal ignores the mandate of Appendix J which may fairly be interpreted as requiring that any program for adjustment of truly unsound incentives be a 'two-way street.'"

Moreover, 18 days after the Award was issued the eleven companies and the Union agreed, as quoted above, that if any provision of the collective bargaining agreement conflicts with a provision of the Award the Award shall supersede the contract provision.

This grievance requires that we determine what the Arbitration Panel awarded on the matter of the criterion or test to be applied to ascertain whether equitable incentive earning opportunities are provided by the incentive plan in question for direct incentive jobs. To the extent that there is any room for difference of opinion as to what was awarded, we must interpret the Award and give the relevant provisions their reasonable meaning. We are not reviewing the judgment of the Panel. We are merely trying to say what they ruled or what they intended.

Reading the Award in full, in the context of what may be called its legislative history, the failure of the Panel to accept particularly the proposals urged by the Union that the employees should have either the incentive earning opportunities provided by their collective bargaining agreement or those stipulated in the Award, whichever is higher, and in the

light, also, of the parties' Memorandum of Understanding and of the underlying purpose of the Award, one is led to the conclusion that the direct incentive jobs on the No. 5 pickle line should have earning opportunities 35% above the incentive calculation rate, and not the higher percentage under the criteria of the 1968 collective bargaining agreement.

AWARD

This grievance is denied.

Dated: April 17, 1972

/s/ David L. Cole
David L. Cole, Permanent Arbitrator

The chronology is as follows:

Grievance filed (second step)	June 23, 1971
Second step hearings	September 27, 1971 October 8, 1971
Appealed to Fourth step	December 2, 1971
Fourth step hearings	December 14, 1971 December 28, 1971
Appealed to arbitration	January 17, 1972
Date of Arbitration	February 28, 1972
Date of Award	April 17, 1972