

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN CARBON AND ALLOY
STEEL PRODUCTS**

Inv. No. 337-TA-1002

**ORDER NO. 92: DENYING U.S. STEEL'S MOTION FOR SANCTIONS AGAINST
THE MASTEEL RESPONDENTS AND THE SHAGANG
RESPONDENTS**

(August 4, 2017)

On July 13, 2017, Complainant United States Steel Corporation ("U.S. Steel") moved for sanctions against the Masteel Respondents¹ and the Shagang Respondents² for failure to produce export data as required by Order No. 61 (the "Motion"). Motion Docket No. 1002-080. On July 24, 2017, the Masteel Respondents filed an opposition ("Masteel Opp."), and the Shagang Respondents filed an opposition ("Shagang Opp."). On the same day, the Office of Unfair Import Investigations ("Staff") filed a response in which it opposed the Motion ("Staff Response"). On July 28, 2017, U.S. Steel filed a corrected reply brief.³

U.S. Steel claims that the Masteel and Shagang Respondents (collectively, "Respondents") failed to comply with Order No. 61, which ordered document productions involving shipments of steel by the Respondents to certain countries. The document productions

¹ The Masteel Respondents are Masteel Iron and Steel Co. Ltd., and Magang (Group) Holding Co. Ltd.

² The Shagang Respondents are Jiangsu Shagang Group and Jiangsu Shagang International Trade Co., Ltd.

³ On July 25, 2017, the Masteel Respondents filed an unopposed motion for leave to file out of time Exhibit K to its opposition. Motion Docket No. 1002-086. That motion is hereby GRANTED.

were required to be completed by May 31, 2016. Order No. 61. In its memorandum in support of the Motion, U.S. Steel identifies several shipments to these countries that were not included in Respondents' document productions and seeks sanctions on that basis.

It turns out that the shipments in question occurred after March 31, 2016, which was the end of the date range identified in U.S. Steel's Request for Production ("RFP") No. 34, the discovery request that was the subject of the motion to compel that led to Order No. 61. *See* Order No. 61 at 2 (granting in part and denying in part Motion Docket No. 1002-55); Motion Docket No. 1002-55 (U.S. Steel's Motion to Compel), EDIS Doc. No. 610372. U.S. Steel's RFP No. 34 specifically defined the relevant period for document production to be "January 1, 2010 to March 31, 2016." *See* Staff Response at 2; Staff Ex. A at 6 ¶¶BB.

The dispute that led to Order No. 61 concerned the start date for the relevant productions, not the end date. The controversy resolved by Order No. 61 concerned how far back in time the Respondents would be required to produce documents. As is evident from the transcript of the hearing that led to Order No. 61, there was no argument concerning the end date for producing responsive documents. *See* Tr. of teleconference dated May 16, 2017.⁴ Indeed, I have never been asked to entertain a question about the end date for the requested document productions—until now.

Order No. 61 set specific and firm start dates for Respondents to identify shipments of steel to certain foreign countries. For example, Order No. 61 stated that the Respondents should produce export records concerning "(i) exports of OCTG to the Philippines from 2010-2016; (ii) exports of corrosion-resistant steel to Indonesia, Malaysia, Thailand, and Vietnam for 2014-2016; and (iii) exports of cold-rolled steel to Hong Kong, Thailand, and Vietnam for 2014-

⁴ The transcript of the teleconference was incorporated by reference in Order No. 61. Order No. 61 at 2 n. 2.

2016.” Order No. 61 at 2. U.S. Steel now argues that as a result of the wording of Order No. 61, I expanded the scope of discovery to include shipments from 2014 through the entire calendar year 2016, and that Respondents’ failure to produce documents for the entire calendar year 2016 should be sanctioned.

U.S. Steel’s Motion attempts to parlay Order No. 61 into an adverse finding on liability through the Commission’s rule on sanctions. 19 C.F.R. § 210.33. U.S. Steel’s effort is disingenuous as well as wasteful. While Order No. 61 could be construed to leave room for uncertainty about the end date of Respondents’ discovery obligations, such uncertainty could have been resolved easily by seeking clarification from the ALJ. A motion for sanctions is not an appropriate vehicle for seeking such clarification.

Accordingly, U.S. Steel’s Motion for sanctions against the Respondents, Motion Docket No. 1002-80, is hereby DENIED. The end date for the discovery sought by U.S. Steel’s RFP No. 34 is March 31, 2016. No further sanctions motions should be filed based on or related to Order No. 61. The parties should review carefully any pending motions seeking sanctions to determine whether they comply in letter and spirit with this order. If they do not, they should be withdrawn without delay.

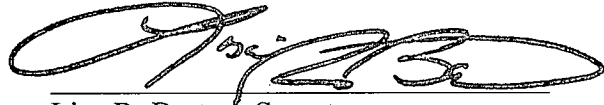
SO ORDERED.



Dee Lord
Administrative Law Judge

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served by hand upon the Commission Investigative Attorney, Monica Bhattacharyya, Esq., and the following parties as indicated, on **August 4, 2017**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

On Behalf of Complainant United States Steel Corporation:

Paul F. Brinkman, Esq.
QUINN EMANUEL URQUHART & SULLIVAN, LLP
777 6th Street, NW, 11th Floor
Washington, DC 20001

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

On Behalf of Respondents Baosteel America Inc., Shanghai Baosteel Group Corporation, and Baoshan Iron & Steel Co., Ltd.:

Sturgis M. Sobin, Esq.
COVINGTON & BURLING, LLP
One CityCenter, 850 Tenth Street, NW
Washington, DC 20001

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

On Behalf of Respondents Hebei Iron and Steel Group Co., Ltd., Hebei Iron & Steel Group Hengshui Strip Rolling Co., Ltd., and Hebei Iron & Steel (Hong Kong) International Trade Co., Ltd.:

Mark G. Davis, Esq.
GREENBERG TRAUERIG, LLP
2101 L Street, NW
Suite 1000
Washington, DC 20037

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

On Behalf of Respondents Magang (Group) Holding Co. Ltd. and Maanshan Iron and Steel Co. Ltd.:

James B. Altman, Esq.
FOSTER, MURPHY, ALTMAN & NICKEL, PC
1899 L Street NW, Suite 1150
Washington, DC 20036

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

Certificate of Service – Page 2

On Behalf of Respondents Shougang Corporation and China Shougang International Trade & Engineering Corporation:

Michael J. Allan, Esq.
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue NW
Washington, DC 20036

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

On Behalf of Respondents Anshan Iron and Steel Group, Angang Group International Trade Corporation, Angang Group Hong Kong Co. Ltd., Wuhan Iron and Steel Group Corp., Wuhan Iron and Steel Co., Ltd., and WISCO America Co., Ltd.:

Tom M. Schaumberg, Esq.
ADDUCI, MASTRIANI & SCHAUMBERG, LLP
1133 Connecticut Avenue NW, 12th Floor
Washington, DC 20036

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

On Behalf of Respondents Jiangsu Shagang Group and Jiangsu Shagang International Trade Co., Ltd.:

Jamie D. Underwood
ALSTON & BIRD LLP
950 F Street NW
Washington, DC 20004

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____