

Slip Op. 02-108

UNITED STATES COURT OF INTERNATIONAL TRADE

CORUS GROUP PLC, CORUS UK Ltd.,
CORUS STAAL BV, CORUS
PACKAGING PLUS NORWAY AS,
CORUS STEEL USA INC., and
CORUS AMERICA INC.,

Plaintiffs,

v.

George W. BUSH, President of the
United States, Robert C. BONNER,
Commissioner, United States Customs
Service, and THE UNITED STATES
INTERNATIONAL TRADE
COMMISSION,

Defendants,

and

WEIRTON STEEL CORP.,

Defendant-Intervenor,.

and

BETHLEHEM STEEL CORP.,
NATIONAL STEEL CORP, and
UNITED STATES STEEL CORP.

Defendant-Intervenors.

Court No. 02-00253

[Summary judgment for defendants.]

Dated: September 5th, 2002

Stephoe & Johnson LLP (Richard O. Cunningham, Peter Lichtenbaum, and Arun Venkataraman) for plaintiffs.

Robert D. McCallum, Jr., Assistant Attorney General, David M. Cohen, Director, Lucius B. Lau, Assistant Director, Commercial Litigation Branch, Civil Division, United States Department of Justice, for defendants George W. Bush, President of the United States, and Robert C. Bonner, Commissioner, United States Customs Service.

Lyn M. Schlitt, General Counsel, James M. Lyons, Deputy General Counsel, United States International Trade Commission (Mary Elizabeth Jones and Mark B. Rees), for defendant United States International Trade Commission.

Schagrin and Associates (Roger B. Schagrin) for defendant-intervenor Weirton Steel Corporation.

Skadden, Arps, Slate, Meagher, & Flom LLP (Robert E. Lighthizer, John J. Mangan, James C. Hecht) for defendant-intervenors Bethlehem Steel Corporation, National Steel Corporation, and United States Steel Corporation.

JUDGMENT

The sole issue remaining for decision in this matter is whether International Trade Commissioner Devaney's vote resulting in imposition of duties on certain steel products, pursuant to § 201 et. seq. of the Trade Act of 1974, was a valid vote. The court heard oral argument on this matter in conjunction with plaintiffs' preliminary injunction motion, which motion was denied in Corus Group PLC v. United States, No. 02-00253, Slip Op. 02-87 (Ct. Int'l Trade Aug. 9, 2002). In that opinion, the court also denied the ITC's motion to dismiss for lack of jurisdiction, id. at 5, and finally determined that the ITC's method of counting votes was proper. Id. at 10. The court has considered argument and briefing on the remaining issue and concludes that Commissioner Devaney's vote was valid as he was appointed by the President

pursuant to the Recess Appointment Clause of the Constitution, U.S. Const. art. III, § 2, cl. 3, to fill a vacancy on the ITC.

The court also concludes that it cannot express its reasoning on this issue better than it was expressed in Nippon Steel Corp. v. United States, No. 01-00103, Slip Op. 02-100 (Ct. Int'l Trade Aug. 30, 2002) and hereby adopts the reasoning of that opinion as its own.

Thus, based upon the opinions previously issued in this matter and in Nippon, defendants are granted summary judgment. Judgment is hereby entered in favor of defendants.

Jane A. Restani
Judge

Dated: New York, New York.

This 5th day of September, 2002.