

UNITED STATES COURT OF INTERNATIONAL TRADE

DA JIN (U.S.) TRADING COMPANY,
INC.,

Plaintiff,

v.

THE UNITED STATES,

Defendant,

and

ABC COKE, et al.,

Defendant-Intervenors

Before: WALLACH, Judge
Court No.: 02-00155

ORDER

Upon consideration of Plaintiff’s Motion for a Temporary Restraining Order and Preliminary Injunction and Defendant’s Motion to Dismiss and Opposition to Plaintiff’s Motion for a Preliminary Injunction; the Court having reviewed the pleadings and papers on file herein, and having heard oral argument on Wednesday, February 20, 2002, with Plaintiff Da Jin (U.S.) Trading Company, Inc., appearing by and through Jeffrey S. Neeley, Esq., Defendant, United States of America, appearing by and through Lucius B. Lau, Esq., and Defendant-Intervenors ABC Coke, et al., appearing by and through Roger B. Schagrin, Esq.; and good cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED that Defendant’s Motion to Dismiss be, and hereby is, GRANTED on the grounds that this court lacks subject matter jurisdiction to hear this case under 28 U.S.C. §1581(i), the only basis for jurisdiction asserted by Plaintiff in its Amended Complaint, since jurisdiction under 28 U.S.C. §1581(c) is or could have been available, *Norcal/Crosetti Foods, Inc. v. United States*, 963 F.2d 356, 359 (Fed. Cir. 1992); and on the grounds that Plaintiff has failed to exhaust its available administrative remedies, *Nippon Steel Corp. v. United States*, 219 F.3rd 1348 (Fed. Cir. 2000) and *Sandvik Steel Co. v. United States*, 164 F.3rd 596 (Fed. Cir. 1998); and it is further

ORDERED, ADJUDGED AND DECREED that the Temporary Restraining Order previously entered in this case in favor of Plaintiff and against Defendant be, and hereby is, dissolved, and it is further

ORDERED, ADJUDGED AND DECREED that all other pending motions in the above entitled matter be, and hereby are denied as moot; and it is further

ORDERED, ADJUDGED AND DECREED that Plaintiff's Amended Complaint in the above entitled matter be, and hereby is, DISMISSED

Evan J. Wallach, Judge

Dated: February 20, 2002
New York, New York