

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

ASHLAND PAPER MILLS, INC.

Claim No. CU-0349

Decision No. CU-0382

Under the International Claims Settlement
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered October 4, 1967;
No oral hearing requested; Hearing on the record.

Hearing on the record held on September 1, 1971.

FINAL DECISION

The Commission issued its Proposed Decision in this claim on October 4, 1967, denying the claim for failure of proof with respect to loss of payment for merchandise shipped to customers in Cuba.

Claimant objected to the Commission's Proposed Decision on October 11, 1967, and asserted that the requested evidence had previously been mailed to the Commission. On October 23, 1967, claimant submitted some data regarding nationality and ownership in this claim.

By Commission letter of November 3, 1967, claimant was given an extension of time in which to submit additional evidence suggested by the Commission concerning nationality of stockholders.

Thereafter, on February 15, 1968, it was suggested to claimant in a telephone conversation that specific evidence on the point of nationality be submitted. Claimant responded in a letter of February 20, 1968 in which an officer of claimant provided general information. On March 26, 1968 and June 3, 1968, the Commission again suggested that evidence be submitted regarding the proper party claimant, the nationality of claimant's shareholders, and the non-United States nationality of the debtor enterprises. No response to this correspondence has been received.


It may be noted that if probative evidence is received as to the claim in sufficient time to permit consideration thereof before the close of the program on June 30, 1972, the Commission will reopen the claim. Such evidence should be received on or before May 1, 1972 in order to permit adequate consideration thereof.

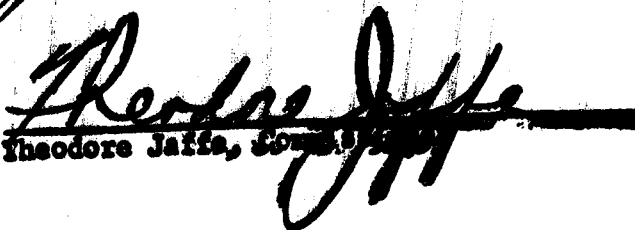
Full consideration having been given to the objections of the claimant, and the entire record, including claimant's objections, having been reviewed, and general notice of the Proposed Decision having been given by posting for 30 days, it is

ORDERED that the Proposed Decision be and the same is hereby entered as the Final Decision of the Commission in this claim.

Dated at Washington, D. C.,
and entered as the Final
Decision of the Commission

REC'D 1972


Lisa S. Carlock, Chairman


Theodore Jaffe, Commissioner

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OF THE UNITED STATES
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IN THE MATTER OF THE CLAIM OF

ASHLAND PAPER MILLS, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0349

Decision No. CU

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PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$6,248.20, was presented by ASHLAND PAPER MILLS, INC. and is based upon the asserted loss of payment for merchandise shipped to Cuba. No evidence has been submitted to establish the nationality of claimant corporation.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

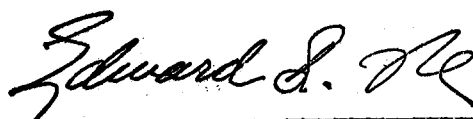
Claimant asserts the loss of payment for merchandise shipped to Cuba. However, claimant submitted no documentary evidence in support of its claim. Accordingly, by Commission letter of July 12, 1966, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, by letter of October 14, 1966, the Commission made additional suggestions to claimant concerning the submission of supporting evidence in this matter. However, no evidence in response to this correspondence has been received to date.

On June 14, 1967, claimant was invited to submit any evidence available to it within 45 days from that date, and claimant was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

The Commission finds that claimant has not met the burden of proof in that it has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

OCT 4 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)