

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

IN THE MATTER OF THE CLAIM OF

STANDARD MOTOR PRODUCTS, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0535

Decision No. CU 2085

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by STANDARD MOTOR PRODUCTS, INC. in the amount of \$15,002.61 including interest, based upon the asserted loss of payment for merchandise shipped to Cuba.

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 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

An officer of the claimant corporation has certified that the claimant was organized in New York and that all times between 1926 and presentation of this claim on October 28, 1965, more than 50% of the outstanding capital stock of the claimant has been owned by United States nationals. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

Claimant states that less than 1% of its stockholders were residents of foreign countries and assumed to be citizens of those countries.

The record contains correspondence by claimant, with copies of account statements attached thereto, to the Department of State in 1961 and 1964 and copies of letters to claimant from collecting banks and an agent in Cuba which reflect the sale of goods by claimant to customers in Cuba, for which drafts were issued by claimant and collection thereof made in Cuba without remittance of the funds to claimant. The data concerning the identities of the customers, drafts, amounts, collecting banks, and dates of collection of the drafts is as follows:

<u>Collecting Bank in Cuba</u>	<u>Number of draft</u>	<u>Drawee</u>	<u>Amount</u>	<u>Date of Collection</u>
Royal Bank of Canada	#59604	Importadora de Piezas La Federal, S.A.	\$400.50	December 10, 1959
First National City bank of Boston	#59616	Salvador Valdes Velez	575.39	December 23, 1959
The First National City Bank of New York	#60349	Armando Garcia	458.66	July 20, 1960

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<u>Collecting Bank in Cuba</u>	<u>Number of draft</u>	<u>Drawee</u>	<u>Amount</u>	<u>Date of Collection</u>
The First National City Bank of New York	#59965	Delgado Alonso y Cia	\$ 592.66	February 26, 1960
Banco Nunez	#60603	Hnos. Marin Sierra	1306.42	October 14, 1960
Banco Contin- ental Cubana	#60723	Diaz y Rodriguez	1232.76	December 9, 1960
Banco Godoy Sayan	#60719	Piezas y Acc. Gume, S. A.	3958.88	December 12, 1960
First National City Bank of New York	#60735	Cia. de Accs. de Autos Garcia y Hnoa	1446.38	December 12, 1960
Banco Garrigo	#60724	Domingo Bolo- nos	1234.25	January 3, 1961
Bank of Nova Scotia	#60465	F. Hernandez	314.49	January 17, 1961
		Total	<u>\$11,520.19</u>	

Claimant states that it has not received the funds.

The Government of Cuba, on September 29, 1959, published its Law 568, concerning foreign exchange. Thereafter the Cuban Government effectively precluded not only transfers of funds in this and similar cases, by numerous, unreasonable and costly demands upon the consignees, who were thus deterred from complying with the demands of the Cuban Government. The Commission holds that Cuban Law 568 and the Cuban Government's implementation thereof, with respect to the rights of the claimant herein, was not in reality a legitimate exercise of sovereign authority to regulate foreign exchange, but constituted an intervention by the Government of Cuba into the contractual rights of the claimant, which resulted in the taking of American-owned property within the meaning of Section 503(a) of the Act. (See the Claim of The Schwarzenbach Huber Company, Claim No. CU-0019, 25 FCSC Semiann. Rep. 58 [July - Dec. 1966]).

Accordingly, in the instant claim the Commission finds that claimant's property was lost as a result of intervention by the Government of Cuba

and that, in the absence of evidence to the contrary, the losses occurred on the following dates:

<u>On</u>	<u>As To</u>
December 11, 1959	\$400.50
December 24, 1959	575.39
February 27, 1960	592.66
July 21, 1960	458.46
October 15, 1960	1306.42
December 10, 1960	1232.76
December 13, 1960	3958.88
December 13, 1960	1446.38
January 4, 1961	1234.25
January 18, 1961	<u>314.49</u>
Total	\$11,520.19

being the days following collection by the last Cuban banks.

A portion of this claim, in the amount of \$3,482.42 is based on interest which claimant states had accrued on the unremitted funds since the dates of collection and was due at the time of filing this claim. Claimant has submitted no evidence of probative value to show that this interest was due and owing. However, the Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from the dates on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that STANDARD MOTOR PRODUCTS, INC. suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Eleven Thousand Five Hundred Twenty Dollars and Nineteen Cents (\$11,520.19) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

JUL 24 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

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).)

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