

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

IN THE MATTER OF THE CLAIM OF

ARON PERLMAN AND
ROBERT PERLMAN D/B/A
INTRA INTERNATIONAL TRADERS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0570

Decision No. CU 728

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 ARON PERLMAN AND ROBERT PERLMAN D/B/A INTRA INTERNATIONAL TRADERS in the amount of \$24,067.70 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) of the Act defines the term "national of the United States" as "(B) 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."

The evidence of record reflects and the Commission finds that INTRA INTERNATIONAL TRADERS was organized in New York and that all times between February 4, 1957 and presentation of this claim on November 22, 1965, ARON PERLMAN, a national of the United States since his naturalization on November 16, 1922, and ROBERT PERLMAN, a national of the United States since his birth in the United States, were the sole persons conducting the business of INTRA INTERNATIONAL TRADERS.

The record contains copy of claimant's invoice No. 4100 of October 2, 1959 reflecting the sale to Almacenes Universal, S. A. of Havana, Cuba, of goods totalling \$2,161.30.

The record also contains copies of correspondence from the First National City Bank and Banco Continental Cubano to claimants in which it is acknowledged that drafts in the following amounts were paid in

local currency to Cuban banks on the stated dates by the respective consignees for goods received from claimants and that currency exchange authorizations were applied for:

<u>INVOICE</u>	<u>CONSIGNEE</u>	<u>AMOUNT</u>	<u>DATE PAID</u>
4091	Lazaro L. Goldstein	\$1,746.50	December 2, 1959
4092	David Matz	705.52	December 19, 1959
4128B	Elias Zand	736.05	January 29, 1960
4129	M. Minsky, La Casa del Nylon	817.96	December 30, 1959
4129A	M. Minsky, La Casa del Nylon	817.96	January 20, 1960
4129B	M. Minsky, La Casa del Nylon	817.95	February 4, 1960
4157A	Elias Zand	187.50	February 13, 1960
4157B	Elias Zand	187.50	February 28, 1960
4182A	Elias Zand	529.38	February 20, 1960
4182B	Elias Zand	529.37	March 20, 1960
4183	Elias Zand	629.15	February 4, 1960
4183A	Elias Zand	629.14	February 19, 1960
4195	Elias Zand	519.32	February 18, 1960
4195A	Elias Zand	519.31	March 6, 1960
4195B	Elias Zand	519.31	March 15, 1960
4434	Compania Pantalon "X", S.A.	1,599.80	October 13, 1960
4455	Elias Zand	3,234.04	October 19, 1960
4460	Elias Zand	2,784.60	October 26, 1960

Additionally, the record contains a letter of claimants dated May 29, 1961 to the Department of State and a letter of August 24, 1965 from the First National City Bank, to claimants, in which it is acknowledged that checks by Banco de las Colones drawn on the Chase Manhattan Bank in payment of the following

invoices were received by that bank, but were not honored in New York because of the shortage of funds:

<u>INVOICE</u>	<u>CONSIGNEE</u>	<u>AMOUNT</u>	<u>DATE PAID</u>
4314B	Meiras Zamb	\$ 816.29	September 15, 1960
4320	Elias Zand	1,789.88	August 3, 1960
4320A	Elias Zand	1,789.87	September 3, 1960

Claimants state that they have 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 to creditors abroad, but also payment to creditors within Cuba, 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, FCSC Claim No. CU-0019; and the Claim of Etna Pozzolana Corporation, FCSC Claim No. CU-0049).

Accordingly, in the instant claim the Commission finds that claimants' property was lost as a result of intervention by the Government of Cuba and that, in the absence of evidence to the contrary, the loss occurred:

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<u>ON</u>	<u>AS TO</u>
November 2, 1959	\$ 2,161.30
December 3, 1959	1,746.50
December 20, 1959	705.52
December 31, 1959	817.96
January 21, 1960	817.96
January 30, 1960	736.05
February 5, 1960	1,447.10
February 14, 1960	187.50
February 19, 1960	519.32
February 20, 1960	629.14
February 21, 1960	529.38
March 1, 1960	187.50
March 7, 1960	519.31
March 16, 1960	519.31
March 21, 1960	529.37
May 29, 1960	816.29
August 4, 1960	1,789.88
September 4, 1960	1,789.87
October 14, 1960	1,599.80
October 20, 1960	3,234.04
October 27, 1960	2,784.60

With the exception of the first item, (which is the due date of that invoice), these dates are the days following the acknowledgment of payment of the respective drafts by the consignees to the collecting Cuban banks.

The Commission has decided that in the 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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

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

CERTIFICATION OF LOSS

The Commission certifies that ARON PERLMAN AND ROBERT PERLMAN D/B/A INTRA INTERNATIONAL TRADERS 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 Twenty-Four Thousand Sixty-Seven Dollars and Seventy Cents (\$24,067.70) 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

30 NOV 1967

Edward D. Re
Edward D. Re, Chairman

CERTIFICATE

to be a true and correct
copy of the Commission
Decision on -- JUN 9 1968

the decision
as the first
Theodore Jaffe
Theodore Jaffe, Commissioner

LaVern R. Dilweg
LaVern R. Dilweg, 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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