

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

**IN THE MATTER OF THE CLAIM OF**

**UNIVERSAL OIL PRODUCTS COMPANY**

**Claim No. CU -0650**

**Decision No. CU**

**3022**

**Under the International Claims Settlement  
Act of 1949, as amended**

Counsel for claimant:

Patrick J. Link, Esquire

**PROPOSED DECISION**

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$89,991.00, was presented by the UNIVERSAL OIL PRODUCTS COMPANY, based upon an indebtedness due from the Refineria Cabaiguan, S.A., a Cuban enterprise, intervened by the Government of 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.

Officers of the claimant corporation have submitted evidence to establish that the claimant corporation was organized under the Laws of the State of Delaware, and that at all times between the date of loss and presentation of this claim on January 24, 1966, more than 50% of the outstanding capital stock of the claimant business enterprise has been owned by nationals of the United States. The Commission holds that claimant corporation is a national of the United States within the meaning of Section 502(1)(B) of the Act.

The evidence of record, including a statement of a corporate official of claimant, discloses that at all times pertinent to this claim approximately 98 per cent of the outstanding shares of stock of UNIVERSAL OIL PRODUCTS COMPANY were held by nationals of the United States.

The evidence of record includes two contracts, both executed on July 23, 1958, including (1) a Unifining Process Agreement between Universal Oil Products Company and Union Oil of California and the Refineria Cabaiguan, S.A., and (2) a UOP PLatforming Process License Agreement between Universal Oil Products Company and Refineria Cabaiguan, S.A. The Refineria Cabaiguan, S.A. was to utilize certain processes and obtain the expert knowledge and operation of a unit or units for the operation of such processes and to secure a license under certain patent rights held by the aforesaid companies. The agreements indicated that as

long as the entire output of the unit to be erected by Refineria Cabaiguan, S.A., doing business in Cuba, for operation under the Unifining Process Agreement was to be directed to the UOP Platforming Process, no royalties were payable under the Unifining Process Agreement, i.e., with certain limited exceptions apparently not applicable to the instant claim.

An examination of the UOP Platforming Process License Agreement, however, discloses that the claimant herein, as the licensor, and the Refineria Cabaiguan, S.A., as the licensee, agreed that the licensee would become indebted to the claimant for use of oil refining processes and other facilities, as described in the agreement, which pertained to the processes of refining such petroleum products by the licensee at or near Cienfuegos, Cuba. Under Schedule B, "Royalties", Table I, of the UOP Platforming Process License Agreement, it is provided in part as follows:

Upon the execution and delivery by Licensee of this agreement, Licensee shall pay for as herein provided and thereby acquire a fully paid license hereunder for the design capacity of the units in which the UOP Platforming Process is to be carried out, the installation of which has been decided upon by Licensee. Licensee shall, within ninety days after its decision to install any further unit or units for carrying out the operation of the UOP Platforming Process hereunder, pay for as herein provided and thereby acquire a further fully paid license for the design capacity of each such unit.

The licensee obligated itself, under the UOP Platforming Process License Agreement, to pay the claimant, as licensor, certain royalties for the acquisition of fully paid licenses for the design capacity of all units in which the UOP Platforming Process was to be utilized. Under the above provisions found in Schedule B of the UOP Platforming Process License Agreement there is set forth the fully paid royalty per barrel of fresh stock charge per year as related to the quantity on a sliding scale. The design capacity of the unit involved herein was 900 barrels per standard day which resulted in a total sum being payable of \$89,991.00. This computation is based on data in the agreement providing that royalties on 1 to 365,000 barrels of fresh

stock charge per year would have a fully paid royalty per barrel of fresh stock charge per year of 30.3¢; and, that based on 900 barrels multiplied by 330 days, designated by claimant as an "efficiency factor" for the year, there would be a total of 297,000 barrels, or \$89,991.00, for the "Total Royalty due and payable, based upon a 900 barrels per standard day design capacity".

The evidence of record available to the Commission discloses that the Refineria Cabaiguan, S.A. was intervened by the Government of Cuba on April 6, 1959, when such official action of that government was published in the Cuban Official Gazette as of that date. Refineria Cabaiguan, S.A., was organized under the laws of Cuba, and therefore would not qualify as a corporate "National of the United States" as defined in Section 502(1)(B) of the Act (supra). Claimant is therefore entitled to file this claim, based upon a debt of an intervened Cuban enterprise within the purview of Section 503(a) of the Act.

The Commission concludes that claimant suffered a loss in the amount of \$89,991.00 within the meaning of Title V of the International Claims Settlement Act of 1949, as amended, as a result of the intervention of the Refineria Cabaiguan, S.A. on April 6, 1959. (See the Claim of Kramer, Marx Greenlee and Backus, Claim No. CU-0105; 25 FCSC Semiann. Rep. 62 /July-Dec. 1966/.

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 loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date of loss, to the date on which provisions are made for settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that UNIVERSAL OIL PRODUCTS COMPANY 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 Eighty-Nine Thousand Nine Hundred Ninety-One Dollars (\$89,991.00) with interest thereon at 6% per annum from April 6, 1959, to the date of settlement.

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

SEP 11 1968

*Leonard v. B. Sutton*  
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Leonard v. B. Sutton, Chairman

*Theodore Jaffe*  
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Theodore Jaffe, Commissioner

*Sidney Freidberg*  
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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).)