

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

IN THE MATTER OF THE CLAIM OF

MARTIN SCHAEFER  
d.b.a.  
SPARE PARTS & EQUIPMENT CO.

Claim No. CU - 0826

Decision No. CU - 4282

Under the International Claims Settlement  
Act of 1949, as amended

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 SPARE PARTS & EQUIPMENT CO. in the amount of \$1,536.95 as amended 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.

The record discloses that MARTIN SCHAEFER, a national of the United States since birth, has been authorized to do business as SPARE PARTS & EQUIPMENT CO.

The record contains copies of claimant's invoices reflecting the sales to consignees in the amounts shown below, including freight, shipping and other fees:

<u>CONSIGNEE</u>	<u>DUE DATE</u>		<u>AMOUNT</u>
A. Perez Munoz	November 8, 1958	\$	\$ 196.85
Eloy Vila Vasquez	April 31, 1958	468.45	
	May 31, 1959	246.35	
	November 30, 1959	<u>246.10</u>	960.90
	May 23, 1960	189.60	
Candido Gonzalez	June 23, 1960	<u>189.60</u>	379.20
			<u>\$1,536.95</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 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 in the contractual rights of the claimant, which resulted in the taking of American-owned property within the meaning of

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Section 503(a) of the Act. (See Claim of The Schwarzenbach Huber Company, Claim No. CU-0019, 25 FCSC Semiann. Rep. 58 [July-Dec. 1966]; and Claim of Etna Pozzolana Corporation, Claim No. CU-0049, 1967 FCSC Ann. Rep. 46.)

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 loss occurred on the dates shown below, September 29, 1959 being used for items which fell due prior to that date.

<u>FROM</u>	<u>ON</u>
September 29, 1959	\$ 911.65
November 30, 1959	246.10
May 23, 1960	189.60
June 23, 1960	<u>189.60</u>
	\$1,536.95

The Commission has decided that in certification of loss 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, FCSC Claim No. CU-0644), and in the instant case it is so ordered, from the aforesaid dates.

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CERTIFICATION OF LOSS

The Commission certifies that MARTIN SCHAEFER, d.b.a. SPARE PARTS & EQUIPMENT CO., 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 One Thousand Five Hundred Thirty-Six Dollars and Ninety-Five Cents (\$1,536.95) 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

**DEC 10 1969**

*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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