

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

IN THE MATTER OF THE CLAIM OF

FIRESTONE INTERAMERICA COMPANY

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-1329

Decision No. CU 1032

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$733,329.00, was presented by FIRESTONE INTERAMERICA COMPANY based upon the asserted ownership and loss of improved real and personal property in 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. 938 (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."

Claimant has submitted a certificate of the Secretary of State of the State of Ohio certifying that FIRESTONE INTERAMERICA COMPANY was organized in the State of Ohio on October 27, 1945 and an officer of the claimant corporation has certified that at all times since October 27, 1945 all of the outstanding capital stock has been owned by the Firestone Tire & Rubber Company which was certified by the Secretary of State for the State of Ohio to have been incorporated in the State of Ohio on March 4, 1910. An officer of the Firestone Tire & Rubber Company has certified that at all times since September 1, 1960 and the presentation of this claim on April 6, 1967 more than 50% of the outstanding capital stock of that corporation 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 99.7% of the outstanding capital stock of Firestone Tire & Rubber Company was owned by stockholders who were United States nationals.

On November 25, 1959, the Government of Cuba published in its Official Gazette Law No. 647 which authorized the Minister of Labor, in such cases as he deemed it necessary, to order the intervention of enterprises or working centers. Law 843, published in the Official Gazette of July 6, 1960 gave the Labor Ministry unilateral authority to extend the period of its intervention of any establishment beyond the six months' period provided in Law 647. Resolution 19009, of August 30, 1960, of the Ministry of Labor ordered the intervention of the enterprise Firestone Tire & Rubber

Company of Cuba, S.A., and appointed an interventor to manage the company. Firestone Tire & Rubber Company, S.A. was, like the claimant, a wholly-owned subsidiary of the Firestone Tire & Rubber Company of Ohio. The authority to intervene Firestone Tire & Rubber Company, S.A. was employed as a basis for intervening all property of the parent United States firm including the property of the claimant herein which was intervened on September 1, 1960. Thereafter claimant was listed as nationalized in Resolution of the President of the Republic of Cuba published in the Cuban Official Gazette on October 24, 1960.

Based on the foregoing, the Commission finds that claimant sustained a loss within the meaning of Title V of the Act on September 1, 1960 when its property was intervened by the Government of Cuba.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

In support of its claim, claimant has submitted a copy of a consolidated balance sheet for July 31, 1960 indicating the investment in Cuba of Firestone Tire & Rubber Company. The balance sheet lists the following assets of claimant:

Cash

In banks	\$13,606.00	
On hand	350.00	
Deposits for Exchange Remittances	33,765.00	
		\$ 47,721.00

Inventories

Finished Goods	214,057.00	
Sales Tax & Prepaid Duties	36,512.00	
		250,569.00

Misc. Accounts & Advances 2.00

2.00

Fixed Assets - After Depreciation

Land	\$ 22,500.00	
Buildings & Building Fixtures	174,784.00	
Machinery & Equipment	62,438.00	
Autos & Trucks	4,729.00	
Furniture & Fixtures	15,599.00	
		<u>\$280,050.00</u>
Total Assets		\$578,342.00

For liabilities, the list contains only an interoffice account with claimant's office in Akron, Ohio in the amount of \$584,595.00 representing the actual funds invested by Firestone Tire & Rubber Company, and the current earnings item indicating a loss of \$6,253.00.

In further support of the amount claimed, claimant has submitted an affidavit concerning land values in Cuba by Jose J. Trasancos, who formerly practiced law in Cuba; a copy of a deed dated January 29, 1957 from Firestone Tire & Rubber Company, S.A. to International Harvester Company of Cuba of land adjoining claimant's property; a statement of the Frederick Snare Corporation, which constructed claimant's buildings in 1954, concerning the construction costs for the same buildings in 1960; and a copy of the original deed to claimant of 11,250 square meters of land located on Rancho Boyeros Highway in the Province of Havana, Cuba dated February 20, 1954.

Based upon the entire record, the Commission finds that the losses sustained by claimant as a result of the intervention of the Government of Cuba on September 1, 1960 are as follows:

Land	\$ 132,187.00
Buildings & Building Fixtures	183,523.20
Machinery, equipment, trucks, etc.	82,766.00
Inventories	250,569.00
Cash	47,721.00
Misc. Accounts & Advances	<u>2.00</u>
Total	\$ 696,768.20

The Commission concludes that claimant sustained a loss of \$696,768.20 within the meaning of Title V of the Act.

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 the Claim of Lisle Corporation, FCSC 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 September 1, 1960, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

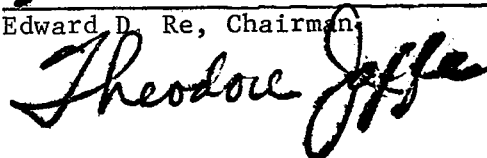
The Commission certifies that FIRESTONE INTERAMERICA COMPANY sustained a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Six Hundred Ninety-Six Thousand Seven Hundred Sixty-Eight Dollars and Twenty Cents (\$696,768.20), with interest thereon at 6% per annum from September 1, 1960 to the date of settlement.

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

JAN 24 1968

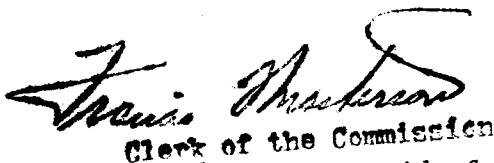


Edward D. Re, Chairman



Theodore Jaffe, Commissioner

*in is a true and correct copy of the decision  
the Commission has entered as the final  
decision on FEB. 27 1968*

  
Francis Anderson  
Clerk of the Commission

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).)