

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

IN THE MATTER OF THE CLAIM OF

PPG INDUSTRIES, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1530

Decision No. CU 5217

Counsel for claimant:

George W. Spangler, Esq.

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 PPG INDUSTRIES, INC. (formerly known as Pittsburgh Plate Glass Company) for the amount of \$1,290,685.38, as amended.

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.

The record shows that claimant was organized in 1920 under the laws of the State of Pennsylvania and that, at all times between January 1, 1959 and the filing of this claim, more than 99% of its outstanding capital stock was owned by residents of the United States who are presumed to have been nationals of the United States. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

Claim is asserted for the following losses:

- A. Caustic Soda Tank and Pipe Line
- B. Bank Accounts and Accounts Receivable
- C. Leasehold Improvements
- D. Furniture and Fixtures
- E. Miscellaneous Losses

A. Caustic Soda Tank and Pipe Line

According to evidence of record, the Columbia-Southern Chemical Corporation erected a caustic soda storage tank on land owned by a Cuban company to provide a better supply system for the caustic soda. The tank and attached pipe were leased to the Cuban firm for a term of five years, renewable for a further term of five years. The Cuban lessee was intervened by the Cuban Government in February, 1959 at which time the caustic soda storage tank and pipe were taken. At the time of loss, Columbia-Southern Chemical Corporation qualified as a national of the United States whose capital stock was wholly owned by PPG INDUSTRIES, INC. Subsequently, on December 31, 1960, Columbia-Southern Chemical Corporation was liquidated and its assets were transferred

to PPG which assumed the liabilities, debts and obligations. The Commission therefore finds that the caustic soda storage tank and connecting pipe were taken by the Government of Cuba on February 15, 1959 and that claimant succeeded to the loss on December 31, 1960.

As evidence of the value of the lost equipment, claimant has submitted affidavits of company officers and statements of the original cost and installation. On the basis of all the evidence of record, the Commission finds that on the date of loss, the tank and pipe had a value of \$84,992.91 and concludes that claimant succeeded to the loss in that amount on December 31, 1960 within the meaning of Title V of the Act.

B. Bank Accounts and Accounts Receivable

Claim is asserted herein for \$407,799.79 for bank accounts and \$436,845.85 for accounts receivable which belonged to Pittsburgh Plate Glass International, S.A. (now PPG Industries International S.A.) and which were assigned to Columbia-Southern Chemical Corporation on December 13, 1960 in part payment of a debt owed by PPG Industries International S.A. Evidence of record establishes that PPG Industries International S.A. is a wholly-owned subsidiary of PPG INDUSTRIES, INC. and was organized under the laws of Switzerland on July 16, 1958. Its offices in Cuba were taken over by Cuban authorities on October 13, 1960. The Commission therefore finds that the assets of PPG Industries International S.A. in Cuba were taken by the Government of Cuba on October 13, 1960 and that, as a result of the subsequent assignment to Columbia-Southern Chemical Corporation and its liquidation on December 31, 1960, claimant succeeded to the claim for the loss of the bank accounts and accounts receivable.

At the time of seizure of its Cuban properties, PPG Industries International S.A. had bank balances in the amount of 381,504.83 Cuban pesos (which have been held to be on a par with the United States dollar) in The Royal Bank of Canada in Havana and 26,294.96 Cuban pesos in The First National City Bank of New York, Havana office. Further it had accounts receivable in the amount of 436,845.85 Cuban pesos owed by Cuban firms for

merchandise. Accordingly, the Commission finds that PPG Industries International S.A. suffered a loss in the total amount of \$844,645.64 on October 13, 1960 for its bank balances and accounts receivable within the meaning of Title V of the Act and that claimant succeeded to that loss through the assignment to Columbia-Southern Chemical Corporation and its liquidation.

C. Leasehold Improvements

Claimant asserts a loss of \$42,315.33 for improvements made by its Swiss subsidiary, PPG Industries International S.A., to property which it had leased on October 15, 1958 for a period of five years. The rented area was located on the seventh floor of the building at Calle 23 and Menocal Avenue, Havana, Cuba. Claimant has submitted a complete listing of the costs for the improvements made to the leased premises by its subsidiary from the time of occupation of the rented area to the taking of the subsidiary's assets on October 13, 1960, less depreciation to October 13, 1960.

On the basis of the evidence of record, the Commission finds that claimant suffered a loss through the actions of the Cuban Government for the improvements made to the leased premises in the amount of \$42,315.33 within the meaning of Title V of the Act.

D. Furniture and Fixtures

The amount of \$96,917.20 is asserted for the value of furniture and fixtures taken by the Cuban Government on October 13, 1960 from PPG Industries International S.A. Claimant has submitted an affidavit of the Controller and Treasurer which owned the taken property with a list of the items of office equipment, furniture, and fixtures with the date of purchase and amount paid. The total purchase price for the items claimed amounted to \$114,588.76, but with depreciation deducted the value is asserted to be \$96,917.20.

Accordingly, the Commission finds that claimant through its subsidiary suffered a loss in the amount of \$96,917.20 within the meaning of Title V of the Act for the taking of furniture and fixtures on October 13, 1960.

E. Miscellaneous Losses

Claimant asserts a loss of \$221,814.30 for the following:

Personalty of employees purchased by PPG Industries International S.A.	\$ 21,192.39
Moving Expenses	138,692.80
Taxes and Payments to Employees under Cuban Laws	53,653.96
Miscellaneous	8,275.15

In support of the claim for the loss of personalty, claimant has submitted a list of items left by employees of PPG Industries International S.A. which were purchased by that company and a portion of which were subsequently sold. The employees were being moved from Cuba to Puerto Rico and other locations beginning in July, 1960 but were unable to take all their possessions. Accordingly, the employer paid them for the personal property which was left in Cuba. The amount paid was \$35,444.75 but some of the property was sold for \$14,252.36, personalty having a value of \$21,192.39 remaining. The unsold items were not placed in a central location but apparently were left in the residences of the employees.

On December 6, 1961, the Cuban Government published its Law 989 in its Official Gazette, which effectively confiscated all assets, personal property and real estate, rights, shares and stocks, bonds and securities of persons who left the country.

The Commission therefore finds that the remaining personal property was taken by the Government of Cuba on December 6, 1961 in accordance with the terms of Law 989 and that as a result claimant sustained a loss in the amount of \$21,192.39 within the meaning of Title V of the Act.

The remaining expenses claimed are for payments made by claimant's subsidiary commencing in June, 1960 after the company officials determined that the offices should be removed from Havana, Cuba, to Puerto Rico. Claimant has asserted that the amount of \$138,692.80 was spent in moving records and personnel from Cuba. Among the expenses listed are many payments made prior to the taking of the subsidiary's property on October 13, 1960 as well as expenses for opening the company's offices in Puerto Rico - telephone service and

title search. Claimant contends that these expenses are a result of the nationalization of the property of PPG Industries International S.A. and the amount of such should be certified as a loss within the meaning of Title V of the Act. It appears that the moving costs were a result of the employer's desire to retain the employees and its recognition of its obligations which it undertook in sending American nationals to Cuba.

Claimant also asserts a loss because of the payment of funds to the Cuban Government under a law of August 4, 1960. The provisions of that law have not been submitted and there is no evidence before the Commission to establish that such law was discriminatory, a violation of international law, or a taking of property by the Cuban Government.

The Commission finds that the claim asserted for these additional losses in the amount of \$200,621.91 are not losses within the purview of Title V of the Act; that such additional costs did not arise from the nationalization of property and claim therefor must be denied.

Recapitulation

Claimant's losses within the purview of Title V of the Act are summarized as follows:

<u>Item</u>	<u>Date of Loss</u>	<u>Amount</u>
Caustic Soda Storage Tank and Pipe	February 15, 1959	\$ 84,992.91
Bank Accounts and Accounts Receivable	October 13, 1960	844,645.64
Leasehold Improvements	October 13, 1960	42,315.33
Furniture and Fixtures	October 13, 1960	96,917.20
Miscellaneous Expenses	December 6, 1961	<u>21,192.39</u>
	Total	\$1,090,063.47

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), and in the instant case it is so ordered as follows:

<u>FROM</u>	<u>ON</u>
February 15, 1959	\$ 84,992.91
October 13, 1960	983,878.17
December 6, 1961	<u>21,192.39</u>
	\$1,090,063.47

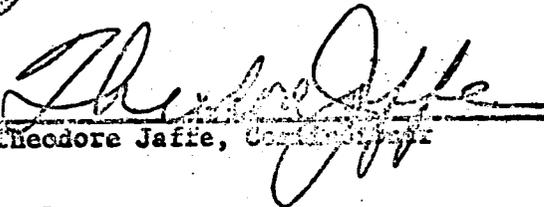
CERTIFICATION OF LOSS

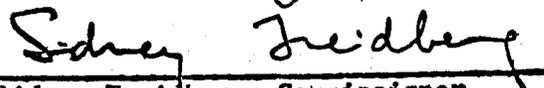
The Commission certifies that PPG INDUSTRIES, INC. suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Million Ninety Thousand Sixty-three Dollars and Forty-seven Cents (\$1,090,063.47) 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

JUN 30 1970


S. Curlock, Chairman


Theodore Jaffe, Commissioner


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).)