

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

IN THE MATTER OF THE CLAIM OF

PIEDMONT PROCESSING COMPANY

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2332

Decision No. CU 1055

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 PIEDMONT PROCESSING COMPANY in the amount of \$48,235.78 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."

An officer of the claimant corporation has certified that the claimant was organized in the State of North Carolina and that all times between May 19, 1947 and presentation of this claim on April 25, 1967, more than 50% of the outstanding capital stock of the claimant 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 none of its 101 stockholders, holding 120,497 shares outstanding, were residents of foreign countries and assumed to be citizens of those countries.

The record contains copies of claimant's invoices reflecting sales to the Cuban consignees below, as follows:

<u>Invoice Date</u>	<u>Invoice No.</u>	<u>Consignee</u>	<u>Amount</u>
September 21, 1959	9256	Compania Textilera Sylvania, S. A.	\$ 1,328.54
October 12, 1959	9487	Compania Textilera Sylvania, S. A.	1,354.87
November 5, 1959	9733	Compania Textilera Sylvania, S. A.	6,903.42
September 21, 1959	9257	Perez Orta Rodriguez y Compania	2,901.74
June 19, 1958	5303	Materias Primas Amefird, S. A.	9,762.62

Claimant states that it has not received these funds.

Additionally, the record contains copies of claimant's invoices and copies of correspondence from the First National Bank of Boston, Havana Branch, advising claimant that the following drafts had been paid in local currency but that the bank was awaiting dollar reimbursement releases from the Exchange Board, a Cuban Government agency:

<u>Invoice No.</u>	<u>Consignee</u>	<u>Date paid or Acknowledged</u>	<u>Amount</u>
8411	Compania Textilera Sylvania, S. A.	March 23, 1960	\$ 3,974.34
8816	Compania Textilera Sylvania, S. A.	January 11, 1960	1,851.53
8817	Compania Textilera Sylvania, S. A.	March 29, 1960	1,119.48
6176	Compania Textilera Flamingo, S. A.	November 5, 1959	6,244.85
9502	Perez Orta Rodriguez y Compaia	September 15, 1960	9,076.72
9577	Materias Primas Amefird, S. A.	July 15, 1960	3,717.67

Claimant states that it has not received these funds.

The Government of Cuba, on September 29, 1959, published its Law 568, concerning foreign exchange. Thereafter the Cuban Government effectively precluded not only transfer 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 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:

<u>ON</u>	<u>AS TO</u>
September 29, 1959	\$ 9,762.62 (date of Cuban Law 568)
November 6, 1959	6,244.85
November 21, 1959	4,230.28
December 12, 1959	1,354.87
January 5, 1960	6,903.42
January 12, 1960	1,851.53
March 24, 1960	3,974.34
March 30, 1960	1,119.48
July 16, 1960	3,717.67
September 16, 1960	9,076.72
Total	<u>\$48,235.78</u>

with the exception of the first amount, being the dates payments was due as to the unpaid accounts, and being the dates after the dates on which payment was acknowledged as to the paid accounts.

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).

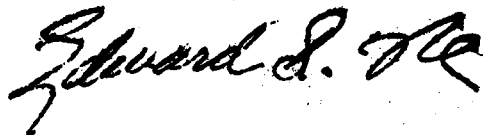
Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from the dates on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

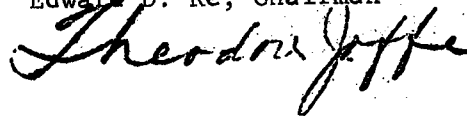
The Commission certifies that PIEDMONT PROCESSING COMPANY suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Forty-Eight Thousand Two Hundred Twenty-Five Dollars and Seventy-Eight Cents (\$48,235.78) 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

JAN 31 1968



Edward D. Re, Chairman



Theodore Jaffe, 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 the 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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