

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

IN THE MATTER OF THE CLAIM OF

CIA. CUBANA PRIMADERA, S.A.

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2690

Decision No. CU **3767**

Counsel for claimant:

Milbank, Tweed, Hadley & McCloy

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was filed on May 1, 1967 by CIA. CUBANA PRIMADERA, S.A. on behalf of its stockholders, based upon the nationalization by the Government of Cuba of its properties 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. 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 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

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.

Claimant corporation was organized in Liberia and does not qualify as a national of the United States under Section 502(1)(B), supra.

The corporation was authorized, however, to act as agent for its individual stockholders.

In our decision entitled Claim of Martha P. Balme (Claim No. CU-8162) we held that the properties of the Company in Cuba were intervened by the Government of Cuba on August 7, 1960 and that claims of individual stockholders of CIA. CUBANA PRIMADERA, S.A. are compensable to United States nationals under the facts

and conditions set forth therein. In that decision we set out the reasons and method used in determining the value per preferred share as \$92.1936, and finding that the common stock had no value on the date of loss.

Inasmuch as claimant herein does not qualify as a national of the United States under the Act, this claim is accordingly denied.

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

JUL 23 1969

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

Sidney Freidberg, Commissioner

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).)