

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

IN THE MATTER OF THE CLAIM OF

INTRUSION-PREPAKT, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2794

Decision No. CU 4197

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$29,705.06, was presented by INTRUSION-PREPAKT, INC., based upon a bank account 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 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.

An officer of the claimant corporation has certified that the claimant was organized in Ohio and that at all times between December 31, 1959 and presentation of this claim, more than 50% of the outstanding capital stock of the claimant has been owned by United States nationals. Claimant states that 188 of its 27,788 shares of capital stock are held by non United States residents and presumed not to be 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.

The evidence of record discloses that during 1959 claimant's wholly owned subsidiary, "Intrusion-Prepakt, S.A.", sold all its physical assets to Inyecciones Y Perforaciones, a Cuban corporation, and that the proceeds of this sale were deposited to the account of claimant's subsidiary in Con El Banco Gelats, Havana, Cuba. The record includes a bank statement which shows a balance of 29,705.06 pesos as of June 30, 1960.

On December 5, 1962, the Government of Cuba published its Law 1076 in its Official Gazette. This law authorized the nationalization and appropriation to the Cuban State of private commercial enterprises, and their establishments, stores, deposits, goods, and rights, dedicated to clothes, weaving, footwear, hardware, and the like. There has not been located any Resolution of the Cuban Minister of Trade effectuating nationalization of "Intrusion-Prepakt, S.A." It appears that frequently such Resolutions have not been published in the Cuban Official Gazette.

Nevertheless, it clearly appears that "Intrusion-Prepakt, S.A." came within the scope of Law No. 1076 (supra). Accordingly, in the absence of evidence to the contrary, the Commission finds that "Intrusion-Prepakt, S.A." was nationalized by the Government of Cuba on December 5, 1962. (See Claim of Perkins Marine Lamp and Hardware Corporation, Claim No. CU-0232, 1967 FCSC Ann. Rep. 42.)

Accordingly, it is concluded that claimant suffered a loss in the amount of \$29,705.06 within the meaning of Title V of the Act as a result of nationalization of "Intrusion-Prepakt, S.A." by the Government of Cuba as of December 5, 1962.

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 on \$29,705.06 from December 5, 1962 to the date on which the provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that INTRUSION-PREPAKT, 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 Twenty-Nine Thousand Seven Hundred Five Dollars and Six Cents (\$29,705.06) with interest thereon at 6% per annum from December 5, 1962, the date of taking, to the date of settlement.

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

NOV 14 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).)