

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

IN THE MATTER OF THE CLAIM OF

MANUEL FRANQUIZ

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-3014

Decision No. CU 4534

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$130,279.59, was presented on behalf of MANUEL FRANQUIZ based upon the asserted ownership and loss of certain real and personal property in Cuba. Claimant has been a national of the United States since birth. This claim was filed on April 28, 1967 by claimant's son because claimant at that time was still in Cuba. Subsequent to claimant's return to the United States on August 7, 1968, claimant ratified the acts of his son.

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.

The record includes a detailed official document, of February 11, 1966, which sets forth the various items of real and personal property in Cuba in which claimant owned interests. On the basis of the said evidence, supplemented by recent statements of claimant, the Commission finds that claimant and his wife, a nonnational of the United States, each owned a one-half interest in the following items of property in Cuba:

1. A concrete and brick unencumbered house and lot located at Jose Antonio Saco Street, Havana, consisting of two stories. It further appears that in 1954 the property was improved by the addition of a basement, garage, hallway, two bedrooms and bath.
2. A concrete and brick unencumbered house and lot located at Reparto Bello, Guanabacoa, consisting of one story.
3. An importing and exporting business (bicycles and velocipedes) conducted through a Cuban entity known as Universal Cycle, located in Havana.
4. A Hillman automobile.
5. An outboard motor boat.
6. Furniture, furnishings, equipment and other personal belongings situated in the two houses and in the boat.
7. Six bank accounts maintained at local Cuban banks.

The Commission finds, on the basis of evidence of record, that the importing and exporting business conducted under the name "Universal Cycle" was intervened on September 15, 1964; and that title to the other properties was taken by the Government of Cuba on December 1, 1966 (pursuant to Cuban Law 989 of December 6, 1961), regardless that claimant and his wife remained in possession of them until later dates. (See Claim of

Manuela H. Skinner, et al., Claim No. CU-1686; and Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

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.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant." This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

Upon consideration of the entire record, the Commission finds that the valuations most appropriate to the properties and equitable to the claimant are those appearing in the official Cuban document, dated February 11, 1966. That document shows the appraised values of the various items of real and personal property, including a balance sheet as of December 31, 1959 for the importing and exporting business, the only available financial statement, detailed lists of the items of personal property, and the credit balances in the six bank accounts. Accordingly, the Commission finds that the values of the properties thus taken by Cuba were as follows on the respective dates of loss, the Cuban peso being on a par with the United States dollar:

- (1) The net worth or the excess of the assets over the liabilities of the importing and exporting business was \$96,921.66.
- (2) The value of the real property at Guanabacoa was \$12,000.00.
- (3) The value of the real property at Vibora, Havana, was \$24,000.00.

(4) The value of the automobile, after depreciation at the rate of 15% per year, was \$595.00.

(5) The value of the motor boat, after depreciation of 15% per year, was \$680.00.

(6) The value of the personal property situated in the two houses and the boat, after depreciation at the rate of 5% per year, was \$7,354.30.

(7) The aggregate value of the six bank accounts, as shown by the balances thereof, was \$33,357.93.

The aggregate value of all of the foregoing properties was, therefore, \$174,908.89, and claimant's one-half interest therein had a value of \$87,454.45.

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>
September 15, 1964	\$48,460.83
December 1, 1966	<u>38,993.62</u>
	\$87,454.45

CERTIFICATION OF LOSS

The Commission certifies that MANUEL FRANQUIZ 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 Eighty-Seven Thousand Four Hundred Fifty-Four Dollars and Forty-Five Cents (\$87,454.45) 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

MAR 4 1970

*Lyle S. Garlock*  
Lyle S. Garlock, Chairman

*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).)