

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

IN THE MATTER OF THE CLAIM OF

KNOLL INTERNATIONAL LTD.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3276

Decision No. CU 1927

Counsel for claimant:

Proskauer, Rose, Goetz & Mendelsohn

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the total amount of \$10,079.26, was presented by KNOLL INTERNATIONAL LTD. and is based upon a debt assertedly due from a Cuban enterprise.

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 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.

An officer of the claimant corporation has certified that the corporation was organized in the State of Delaware, and that at all times between 1953 and the presentation of this claim on May 3, 1967, more than 50% of claimant's outstanding capital stock was owned by nationals of the United States. The officer also certified that between January 1, 1960 and the presentation of the claim, 100% of claimant's outstanding capital stock has been owned by Art Metal Inc., a New York corporation, and that more than 50% of the outstanding capital stock in Art Metal Inc. is owned by 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 record establishes that on September 24, 1959, Knoll International of Havana, S.A., was intervened by the Government of Cuba. On the date of intervention, claimant held 50% of the outstanding capital stock of the Cuban corporation. In addition,

claimant asserts that it had extended credits amounting to \$2,441.77 to Knoll International of Havana, S.A.

The President of the Cuban corporation and the Intervenor agreed to liquidate the corporation and pay over to the stockholders an amount equal to the equity of each shareholder, as of September 24, 1959. Subsequently, the stockholders of Knoll International of Havana, S.A. met and unanimously ratified the agreement between the President and the Intervenor, and also agreed to give this ratification retroactive effect to the date of intervention, September 24, 1959. Thereafter, checks drawn on Knoll International of Havana and payable to claimant for the credits extended by claimant and for 50% of the stockholders' equity were delivered to claimant's Havana attorneys. Claimant asserts, however, that it never received the checks totalling \$10,079.26.

As evidence of the existence and amount of the debt due it, claimant has submitted copies of two uncanceled checks, each of which is dated April 28, 1960. Each check names claimant as payee, and each is drawn on the account of Knoll International of Havana, S.A. Check No. 2245, in the amount of \$7,637.49, represents the amount due claimant on the dissolution of the Cuban corporation; check No. 2246, for \$2,441.77, represents payment for the credits extended by claimant to Knoll International of Havana, S.A.

On the basis of the evidence of record, and in the absence of additional or contrary evidence, the Commission finds that claimant suffered a loss, as a result of the actions of the Government of Cuba, in the total amount of \$10,079.86, and that the total sum due claimant is the debt of a nationalized enterprise as contemplated by Section 502(3) of the Act. The Commission further finds that the date of loss with respect to the debt is September 24, 1959, the date of the intervention of Knoll International of Havana, S.A. and the date upon which the debt became due and payable.

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.)

Accordingly, the Commission concludes that the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum on \$10,079.26 from September 24, 1959 until the date on which provision is made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that KNOLL INTERNATIONAL LTD. suffered a loss, as a result of the 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 Ten Thousand Seventy-Nine Dollars and Twenty-Six Cents (\$10,079.26) with interest thereon at 6% per annum from September 24, 1959 to the date of settlement.

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

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

JUN 13 1968

Theodore Jaffe

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 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).)