

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

IN THE MATTER OF THE CLAIM OF

DELTA AIR LINES, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3308

Decision No. CU 3972

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 DELTA AIR LINES, INC. in the rounded amount of \$212,396.00 based upon the asserted loss of personal property and funds 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 Louisiana and that at all times between 1961 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 1/2 of 1% of its stock is held by stockholders residents of foreign countries and assumed to be citizens of those countries. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

Claimant maintained offices at Prado 301, Havana, and at the Jose Marti Airport in Havana, Cuba; as well as accounts in several banks. The property of the claimant was intervened on January 12, 1962, by Resolution 154, issued pursuant to Cuban Law 647.

Evidence submitted by claimant includes a detailed schedule of personalty; schedule of bank accounts, working funds and utility company deposits; ledger sheets showing the bank account balances, and deposits on long term lease of its Havana office; a trial balance for December 31, 1961; as well as lengthy explanations from corporate officers.

The evidence of record discloses the claimant had the following property in Cuba:

Personal property, furniture, etc.		
Original cost	\$72,737.00	
Depreciation	<u>62,929.24</u>	\$ 9,807.76
Bank Accounts:		
Royal Bank of Canada - Checking		163,637.46
First National Bank of Boston - Checking		11,159.74
Royal Bank of Canada - Pay Roll		8,085.54
First National Bank of Boston - Pay Roll		776.05
Cash in several offices		16,229.53
Deposits with utility companies		600.00
Security deposit on lease of Havana Office		<u>2,100.00</u>
		\$212,396.08

It also appears that the claimant has asserted, and the United States Internal Revenue Service has allowed, an income tax deduction in the amount of \$212,396.00 for the said loss.

The Commission finds that on January 12, 1962, claimant suffered a loss in the amount of \$212,396.08 within the meaning of Title V of the Act, as a result of the intervention of its property by the Government of Cuba on that date.

The Commission has decided that in payment of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be allowed 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.

CERTIFICATION OF LOSS

The Commission certifies that DELTA AIR LINES, 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 Two Hundred Twelve Thousand Three Hundred Ninety-six Dollars and Eight Cents (\$212,396.08) with interest thereon at 6% per annum from January 12, 1962 to the date of settlement.

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

OCT 1 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, 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).)