

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

In the Matter of the Claim of

F.L. SMIDTH & CO.

Claim No. CU-0104

Decision No. CU-1

Under the International Claims Settlement
Act of 1949, as amended

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 F.L. SMIDTH & CO. based upon the asserted ownership and loss of promissory notes, sight drafts accepted and an open account all assertedly due from Cementos Santa Teresa S.A., of Havana, Cuba, said to have been nationalized by the Government of Cuba.

Under Section 503 of the International Claims Settlement Act of 1949, as amended (64 Stat. 12; 69 Stat. 562; 72 Stat. 527; 78 Stat. 1110; 79 Stat. 988) the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. That section 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

(a) . . . 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) of the Act defines the term "national of the United States" as . . . "(B) 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 "

The Treasurer of F.L. SMIDTH & CO., has certified that claimant corporation was organized in the State of Delaware and that all of its outstanding stock is held by F.L. SMIDTH & CO., A/S of Denmark; and further, has advised the Commission that F.L. SMIDTH & CO., A/S of Denmark is a closed corporation and to the best of his knowledge none of the shareholders are nationals of the United States.

From the foregoing, it is clear that the property upon which this claim is based was not owned by a corporation which qualifies as a national of the United States in that 50 per centum or more of its outstanding capital stock was not owned directly or indirectly by natural persons who are citizens of the United States, as is required under the provisions of section 502(1)(B) of Title V of the Act.

Inasmuch as the outstanding capital stock of F.L. SMIDTH & CO., is not owned to the extent of 50 per centum or more directly or indirectly by natural persons, citizens of the United States, the Commission finds that the claim is not a claim of a national of the United States as defined in Section 502(1)(B) of the Act, and it is accordingly denied.

The Commission finds it unnecessary to make other determinations with respect to this claim.

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

AUG 3 1966

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 20 days after service or receipt of notice of this Proposed Decision upon the expiration of 30 days after such service or receipt of notice, the decision will be entered as the Final Decision of the Commission, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) (1964))

CERTIFICATION

This is a true and correct copy of the decision of the Commission which was entered as the final decision on 9-20-66

Francis H. ...

Clerk of the Commission