

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

IN THE MATTER OF THE CLAIM OF

COMPANIA MINERA LEHIGH S.A.

Under the International Claims Settlement  
Act of 1949, as amended

Claim No CU-0143

Decision No. CU -6074

Counsel for claimant:

Clifford, Warnke, Glass,  
McIlwain & Finney  
By James T. Stovall, III, Esq.

FINAL DECISION


The Commission issued its Proposed Decision in this matter on February 17, 1971, denying the claim inasmuch as claimant does not qualify as a national of the United States.


In that decision it was noted that the corporation was authorized to act as agent for its individual stockholders. Further, it was indicated that the Proposed Decision in Claim No. CU-8773 (the Trexler Trust), recited the nationalization of the property of the corporation, but that no value could be found.

An Oral Hearing having been held in the Matter of Claim No. CU-8773, the Commission has found a value as set out therein. No hearing having been requested in the instant claim, the Proposed Decision, as amended herein, is entered as the Commission's Final Decision in this matter.

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

JUL 21 1971

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

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PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was filed on June 29, 1965 by Nolan P. Benner, President of the COMPANIA MINERA LEHIGH S.A. on behalf of its stockholders, based upon the nationalization by the Government of Cuba of the corporation's assets.

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 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.

Claimant corporation, organized under the laws of Cuba on January 9, 1956, does not qualify as a national of the United States under Section 502 (1)(B) of the Act (supra), and the claim of the corporation, therefore, cannot be considered by the Commission.

By Order No. CU-2 of October 13, 1966, the corporation COMPANIA MINERA LEHIGH S.A. was authorized to act as agent for its individual stockholders who have indicated their assent to the company so acting.

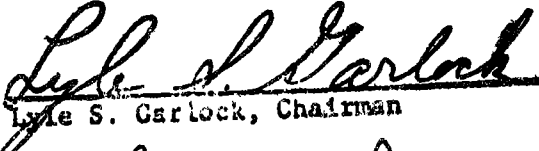
In our Proposed Decision entitled Claim of Nolan P. Benner et al., Trustees under a Trust established under the Last Will of Harry C. Trexler, Deceased (Claim No. CU-8773), we held that the property of the corporation in Cuba was nationalized or otherwise taken by the Government of Cuba on November 23, 1959, and that claims of individual stockholders of COMPANIA MINERA LEHIGH S.A., if they are citizens of the United States, will be considered by the Commission.

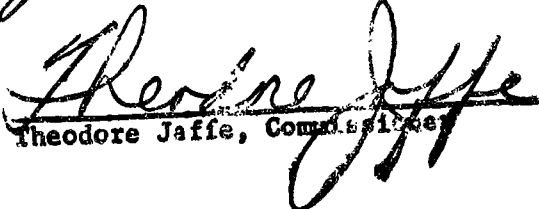
We held, however, that the Commission is not in the position to evaluate the assets of COMPANIA MINERA LEHIGH S.A. absent evidence to show that the mines and concessions subject of the claim at the time of loss had any earning capacity and commercial value.

Inasmuch as claimant corporation does not qualify as a national of the United States under the Act, the claim of the corporation cannot be considered and it is accordingly denied.

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

FEB 17 1971

  
Lyle S. Carlock, Chairman

  
Theodore Jaffe, Commissioner

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, (1970).)