

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

IN THE MATTER OF THE CLAIM OF

MANHATTAN ADHESIVES CORPORATION

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0227

Decision No. CU 1000

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 MANHATTAN ADHESIVES CORPORATION in the amount of \$7,438.82 based upon the asserted loss of payment for merchandise shipped to 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) 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."

An officer of the claimant corporation has certified that the claimant was organized in the State of New York and that all times between the respective dates of loss and presentation of this claim on July 6, 1965, more than 50% of the outstanding capital stock of the claimant has been owned by United States nationals. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

Claimant states that all of its stockholders are nationals of the United States.

The record contains prior correspondence with the Department of State in 1964, copies of invoices reflecting the sale of goods to Cuban firms, bank acknowledgements which state that drafts covering the sales prices for those goods were received by local banks in Cuba for collection from the Cuban firms. Claimant states that it has reason to believe that collections of these accounts were made by Cuban collecting banks who were awaiting exchange control permission. With the exception of one account, no evidence of such collections was submitted. Claimant asserts that it has never received payment for these debts. The data concerning sale and shipment of goods claimed to Cuban firms, including information as to consignees, invoices, amounts and due dates is as follows:

<u>Invoice date and number</u>	<u>Sold to</u>	<u>Amount</u>	<u>Due date</u>
February 12, 1960 #5043	Martino, Diaz & Cia.	\$ 389.42	April 11, 1960 ✓
September 23, 1960 #5187	Banco Para El Comercio Exterior de Cuba	158.65	October 4, 1960 ✓
July 26, 1960 #5121	Domingo, Rodriguez & Cia.	78.54	August 1, 1960 ✓
November 3, 1959 #4948	Cia. International de Envases, S.A.	1,821.44	February 4, 1960 ✓
July 25, 1960 #5148	Equipajes Wings, S.A.	313.35	August 29, 1960 ✓
October 6, 1960 #5119A	Armando Gomez Garcia	443.43	November 19, 1960 ✓
September 6, 1960 #5173	Pedro A Lopez E Hijos	1,841.78	November 11, 1960 ✓
September 2, 1960 #5171	Industria Cartonera Micar, S.A.	302.78	November 11, 1960 ✓
September 22, 1960 #5196	Banco Para El Comercio Exterior de Cuba	1,160.24	January 3, 1961
October 4, 1960 #5192	Cia. Paplera Trebus, S.A.	929.19	November 13, 1960 ✓
Total		\$7,438.82	

The file also contains a notice from the Morgan Guaranty Trust Company of New York that the collection of the amount of \$389.42 from Martino Diaz y Cia was made by a Cuban bank on August 10, 1960 which had applied for exchange control permission. Claimant states that it has not received the funds.

The Government of Cuba, on September 29, 1959, published its Law 568, concerning foreign exchange. Thereafter the Cuban Government effectively precluded not only transfers of funds to creditors abroad, but also payment to creditors within Cuba, by numerous, unreasonable and costly demands upon the consignees, who were thus deterred from complying with the demands of the Cuban Government. The Commission holds that Cuban Law 568 and the Cuban Government's implementation thereof, with respect to the rights of

the claimant herein, was not in reality a legitimate exercise of sovereign authority to regulate foreign exchange, but constituted an intervention by the Government of Cuba into the contractual rights of the claimant, which resulted in the taking of American-owned property within the meaning of Section 503(a) of the Act. (See the Claim of The Schwarzenbach Huber Company, FCSC Claim No. CU-0019; and the Claim of Etna Pozzolana Corporation, FCSC Claim No. CU-0049).

Accordingly, in the instant claim the Commission finds that claimant's property was lost as a result of intervention by the Government of Cuba and that, in the absence of evidence to the contrary, the losses occurred on the following dates:

February 4, 1960	\$1,821.44 (date due)
August 1, 1960	78.54 (date due)
August 11, 1960	389.42 (date after acknowledgment of collection)
August 29, 1960	313.35 (date due)
October 4, 1960	158.65 (date due)
November 11, 1960	2,144.56 (date due)
November 13, 1960	929.19 (date due)
November 19, 1960	443.43 (date due)
January 3, 1961	1,160.24 (date due)

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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from the dates on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that MANHATTAN ADHESIVES CORPORATION 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 Seven Thousand Four Hundred Thirty-Eight Dollars and Eighty-Two Cents (\$7,438.82) 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

JAN 24 1968

This is a true and correct copy of the decision of the Commission which was entered as the Final Decision on FEB. 27 1968.

Edward S. Re

Edward S. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Lucia M. ...
Clerk of the Commission

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).)