

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

IN THE MATTER OF THE CLAIM OF

PAN AMERICAN FORWARDERS, INC.

Claim No. CU-0257

Decision No. CU-23

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 PAN AMERICAN FORWARDERS, INC., for \$1,713.46 based upon the asserted ownership and loss of merchandise shipped to Cuba, and bank charges.

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. . . .

William V. Young, President of claimant corporation, has certified that since December 19, 1946 the outstanding stock of the corporation has been more than 50 per cent owned by a United States national. The Secretary of the corporation has certified that all the capital stock of all classes has been owned exclusively by William V. Young. It appears claimant corporation was organized in the State of New York.

The record in this case reveals that The Schwarzenbach Huber Company, which has filed a claim under Title V of the Act, No. CU-0019, shipped goods to Tiendas Flogar, S.A., of Havana, Cuba, under invoice No. SA-15892 dated September 1, 1959. The amount involved in both claims is as follows:

Merchandise	\$1,591.06
Cartage	10.50
Consul fees	33.94
Insurance	13.59
Ocean freight, shipping and clearance, USA	<u>61.63</u>
	\$1,710.72

The terms of the sale were 60 days sight through the Trust Company of Cuba. Tiendas Flogar, S.A., received the goods and paid \$1,710.72 to the Trust Company of Cuba on collection No. 124849 on November 4, 1959, for the account of The Schwarzenbach Huber Company and the bank

so informed The Schwarzenbach Huber Company.

Claimant, PAN AMERICAN FORWARDERS, INC., did not acquire any ownership interest in the goods involved. It further appears that under the terms of the contract the freight charges were paid to the account of The Schwarzenbach Huber Company, against whom the claimant has recourse.

Claimant, PAN AMERICAN FORWARDERS, INC., has additionally claimed \$2.74 described as charges paid to the Bankers Trust Company of New York in connection with a sight draft for \$1,710.72 sent by said bank on behalf of claimant. Bankers Trust Company informed claimant on December 4, 1959 that Tiendas Flogar S.A., had in fact paid \$1,710.72 to the Trust Company of Cuba. The Commission holds that the item of \$2.74, paid by claimant in an effort to recover its shipping charges, is not a loss resulting from actions of the Government of Cuba within the scope of section 503(a) of the Act.

Accordingly, for the reasons stated above, the claim is denied.

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

30 NOV 1966

CERTIFICATION

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

JAN 13 1967

Frank M. ...
Clerk of the Commission

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))