

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

IN THE MATTER OF THE CLAIM OF

REX CHAINBELT, INC.

Claim No. CU-0268

Decision No. CU 806

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, for \$130,565.69, was presented by REX CHAINBELT, INC., based upon asserted loss of payment for merchandise shipped to customers 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) 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 Wisconsin on February 23, 1892 as the Chain Belt Company and according to a certificate of the Secretary of State for the State of Wisconsin the name was changed to REX CHAINBELT, INC., on January 22, 1964. The officer further certified that at all times between the date of loss and the presentation of this claim on July 22, 1966, 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 less than three-tenths of one percent of its corporate stock was held by non-United States nationals.

The record includes a record of invoices and other data concerning shipments of merchandise to Cuban business firms, listed hereafter as the consignees. This evidence failed to disclose that drafts for shipments were paid to collecting banks by the consignee. Claimant states that it has not received any of the funds for such shipments.

There follows hereafter data concerning the shipments made to Cuban consignees, including information on unpaid drafts, and due dates.

<u>FUNDICION MACFARLANE, S.A.</u>	<u>DUE DATE AND AMOUNT OF COVERING DRAFT</u>	
Invoice No. DM 149	February 8, 1960	\$ 40.37
Invoice Nos. 26568, 51550, DM 72	January 14, 1960	5,670.21
Invoices Nos. 23218, 23227, 744880, DM 717	November 11, 1959	2,583.97
Invoice Nos. 25876, 25878, 25880, 51270, 745294, 745295, DM 55	January 22, 1960	2,604.47
Invoice Nos. 25879, DM 59	January 30, 1960	1,321.38
Invoice Nos. 24876, 24877 24879, 24880, 24883, 50936, 20937, DM 01	December 13, 1959	15,126.48
Invoice Nos. 26564, 26566 26571, 745411, 745412, DM 82	January 8, 1960	6,779.58
Invoice Nos. 25405, 25407, 25408, 25412, 51121, DM 08	December 22, 1959	10,570.80
Invoice Nos. 26817, 26823 DM 81	January 10, 1960	8,941.95
Invoice Nos. 26182, 21687 26188, 26189, 51411, 26195, 26199, 26200, DM 54	January 5, 1960	2,575.16
Invoice Nos. 25089, 25090 51008, 51010, 51011, DM 722	November 16, 1959	5,757.29
Invoice Nos. 23569, 23573, 23574, 23575, 50455, 50456, 50457, DM 718	November 18, 1959	9,788.90
Invoice Nos. 27133, DM 90	December 25, 1959	229.68
Invoice Nos. 26810, 26815, 26929, 26829, DM 88	January 10, 1960	13,783.89
Invoice Nos. 28227, 29220, 28223, 52233, 745721, CM 3231, DM 305	April 23, 1960	4,304.42

<u>FUNDICION MACFARLANCE, S.A.</u>	<u>DUE DATE AND AMOUNT OF COVERING DRAFT</u>	
Invoice Nos. 27600, 27602, 27604, 745598, DM 135	February 6, 1960	\$ 5,212.93
Invoice Nos. 27125, 27131 27132, 27134, 27135, 51772, DM 74	January 11, 1960	6,047.19
Invoice Nos. 27585, 27586, 27593, 27599, 745594, DM 134	February 6, 1960	6,844.58
Invoice Nos. 28715, DM 207	February 28, 1960	2,952.93
Invoice Nos. 28498, 28500, 52343, 745759, 745760, DM 263	April 1, 1960	6,347.66
Invoice Nos. 52341, DM 231	March 15, 1960	518.38
<u>CIA. DE VIDRIOS OWENS-ILLINOIS DE CUBA, S.A.</u>		
Invoice Nos. 748311, DM 717	October 28, 1960	477.60
<u>IMPORTADORA BOSGON, S.A.</u>		
Invoice Nos. 81685, DM 76	January 6, 1960	<u>12,085.87</u> \$130,565.69

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 claimants, 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 the subject accounts receivable were lost as a result of intervention by the Government of Cuba, and that in the absence of evidence to the contrary, such losses occurred on the respective maturity dates with regard to unpaid drafts maturing after September 29, 1959.

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 dates 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 losses occurred, to the date on which provisions are made for the settlement thereof.

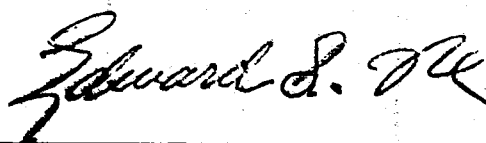
CU-0268

CERTIFICATION OF LOSS

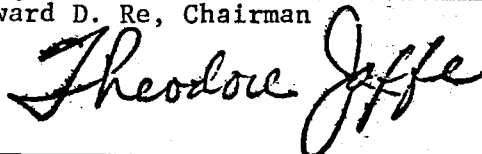
The Commission certifies that REX CHAINBELT, INC., suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred Thirty Thousand Five Hundred Sixty-Five Dollars and Sixty-Nine Cents (\$130,565.69) 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 10 1968



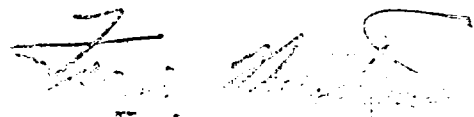
Edward D. Re, Chairman



Theodore Jaffe, Commissioner

CERTIFICATION

This is a true and correct copy of the decision of the Commission which was entered as the final decision on FEB 12 1968



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).)