

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

IN THE MATTER OF THE CLAIM OF

UNITED EXPORT INDUSTRIES, INC.

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-0292

Decision No. CU

426

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 UNITED EXPORT INDUSTRIES, INC. in the amount of \$50,204.54 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 Illinois and that at all times between February 27, 1948, and presentation of this claim on July 28, 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 both of its stockholders were nationals of the United States.

The record contains copies of letters, all from the First National Bank of Chicago, except one from Banco Nunez, Havana, Cuba, acknowledging the September 9, 1960 collection of \$293.90 and the October 12, 1960 collection of \$295.37, to claimant, in which it is stated that the following collections were paid by the respective consignees and that the collecting bank was still awaiting a dollar reimbursement release from the Exchange Board, a Cuban Government agency:

<u>CONSIGNEE</u>	<u>INVOICE DATE</u>	<u>COLLECTING BANK</u>	<u>AMOUNT OF DRAFT</u>	<u>DATE OF PAYMENT</u>
Agencias De tractores E Equipos, S.A.	December 12, 1959	The Trust Company of Cuba	\$964.93	March 1, 1960
			\$964.93	April 4, 1960
			\$964.93	May 12, 1960
			\$964.93	June 2, 1960
J.M. Anderson Trading Co. S.A.	June 16, 1959	The Trust Company of Cuba	\$1,202.13	December 20, 1959
J.M. Anderson Trading Co. S.A.	September 19, 1959	The Trust Company of Cuba	\$3,453.45	January 15, 1960
			\$3,453.45	April 5, 1960
			\$3,453.45	July 5, 1960
J.M. Anderson Trading Co, S.A.	November 5, 1959	The Trust Company of Cuba	\$11,883.14	January 5, 1960
Castellon y Cia, S.A.	June 9, 1959	Banco Continental Cubano	\$158.54	November 6, 1959
Eliseo Contreras Cutie	July 13, 1959	Trust Company of Cuba	\$349.12	January 5, 1960
Eliseo Contreras Cutie	October 12, 1959	Trust Company of Cuba	\$327.63	March 9, 1960
			\$327.63	June 10, 1960
			\$327.62	September 6, 1960
			\$327.62	November 28, 1960
Eliseo Contreras Cutie	October 12, 1959	Trust Company of Cuba	\$332.88	April 11, 1960
			\$332.91	May 11, 1960
Eliseo Contreras Cutie	October 26, 1959	Trust Company of Cuba	\$264.51	April 21, 1960
			\$264.51	May 23, 1960
			\$264.51	June 21, 1960
			\$ 96.03	July 15, 1960
Eliseo Contreras Cutie	October 20, 1959	Trust Company of Cuba	\$157.19	February 23, 1960
			\$157.19	March 18, 1960
			\$157.19	April 28, 1960
			\$157.19	May 26, 1960
Eliseo Contreras Cutie	October 30, 1959	Trust Company of Cuba	\$173.34	March 18, 1960
			\$173.34	April 28, 1960
			\$173.35	May 26, 1960
Eliseo Contreras Cutie	November 17, 1959	Trust Company of Cuba	\$363.85	April 21, 1960
			\$363.85	May 23, 1960
			\$363.85	June 21, 1960
			\$363.87	September 20, 1960
Pedro De Las Casas	June 18, 1959	Trust Company of Cuba	\$859.18	March 31, 1960
Manuel Dias Perez	September 25, 1959	Banco Continental Cubano	\$180.20	November 24, 1959
			\$725.15	February 19, 1960
			\$725.15	April 25, 1960
Fuera Industrial, S.A.	July 8, 1959	Trust Company of Cuba	\$931.01	November 25, 1959
			\$931.01	November 26, 1959
Fuera Industrial, S.A.	August 24, 1959	Trust Company of Cuba	\$802.01	December 13, 1959
			\$802.01	January 13, 1960

<u>CONSIGNEE</u>	<u>INVOICE DATE</u>	<u>COLLECTING BANK</u>	<u>AMOUNT OF DRAFT</u>	<u>DATE OF PAYMENT</u>
Fuerza Industrial, S.A.	October 16, 1959	Trust Company of Cuba	\$354.33	January 19, 1960
Hermanos Fernandez Castano	November 9, 1959	Banco Continental Cubano	\$221.66 \$1,024.08 \$1,024.08	January 8, 1960 March 17, 1960 April 4, 1960
Importaciones Medina, S.A.	November 16, 1959	Banco Continental Cubano	\$293.63 \$293.62 \$293.62	May 5, 1960 May 31, 1960 June 28, 1960
Manuel Landrove Lopez	July 29, 1959	Banco Nunez	\$759.67	February 1, 1960
Manuel Landrove Lopez	October 30, 1959	Banco Nunez	\$984.89 \$984.90 \$400.00 \$293.90 \$295.37	March 21, 1960 March 31, 1960 August 2, 1960 September 9, 1960 October 12, 1960
Maquinarias Landi, S.A.	October 26, 1959	Banco Gelats	\$413.71 \$413.71 \$413.71 \$413.74	December 17, 1959 January 15, 1960 February 10, 1960 March 10, 1960
Edesio Rodriguez	October 12, 1959	Trust Company of Cuba	\$182.33	March 14, 1960
Saumell E Hijo, S. en C.	May 11, 1959	Trust Company of Cuba	\$276.49 \$276.49	October 29, 1959 December 1, 1959
Saumell E Hijo, S. en C.	June 26, 1959	Trust Company of Cuba	\$408.00 \$851.28	March 29, 1959 February 9, 1960
Saumell E Hijo, S. en C.	August 24, 1959	Trust Company of Cuba	\$92.55	February 12, 1959

Claimant states that it has not received any of these funds.

The Government of Cuba, on September 29, 1959, published its Law 568, concerning foreign exchange. Thereafter the Cuban Government effectively precluded transfers of funds, in this and similar cases, 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.)

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 loss occurred

<u>ON</u>	<u>AS TO</u>
October 30, 1959	\$276.49,
November 7, 1959	\$158.54,
November 25, 1959	\$180.20,
November 26, 1959	\$931.01,
November 27, 1959	\$931.01,
December 2, 1959	\$276.49,
December 14, 1959	\$802.01,
December 18, 1959	\$413.71,
December 31, 1959	\$1,202.13,
January 6, 1960	\$12,232.26,
January 9, 1960	\$221.66,
January 14, 1960	\$802.01,
January 16, 1960	\$3,867.16,
January 20, 1960	\$354.33,
February 2, 1960	\$759.67,
February 10, 1960	\$851.28,
February 11, 1960	\$413.71,
February 13, 1960	\$92.55,
February 20, 1960	\$725.15,
February 24, 1960	\$157.19,
March 2, 1960	\$964.93,
March 10, 1960	\$327.63,
March 11, 1960	\$413.74,
March 15, 1960	\$182.33,
March 18, 1960	\$1,024.08,
March 19, 1960	\$330.53,
March 22, 1960	\$984.89,

<u>ON</u>	<u>AS TO</u>
March 30, 1960	\$408.00,
April 1, 1960	\$1,844.08,
April 5, 1960	\$1,989.01,
April 6, 1960	\$3,453.45,
April 12, 1960	\$332.88,
April 22, 1960	\$628.36,
April 26, 1960	\$725.15,
April 29, 1960	\$330.53,
May 6, 1960	\$293.63,
May 12, 1960	\$332.91,
May 13, 1960	\$964.93,
May 24, 1960	\$628.36,
May 27, 1960	\$330.54,
June 1, 1960	\$293.62,
June 3, 1960	\$964.93,
June 11, 1960	\$327.63,
June 22, 1960	\$628.36
June 29, 1960	\$293.62,
July 6, 1960	\$3,453.45,
July 16, 1960	\$96.03,
August 3, 1960	\$400.00
September 7, 1960	\$327.62,
September 10, 1960	\$293.90,
September 21, 1960	\$363.87,
October 13, 1960	\$295.37,
November 29, 1960	\$327.62,

the days after the collections were acknowledged by the collecting bank.

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).

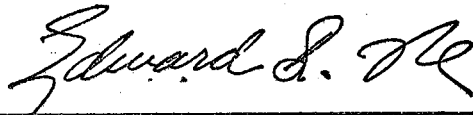
Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from the dates on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that UNITED EXPORT INDUSTRIES, 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 Fifty Thousand Two Hundred Four Dollars and Fifty-Four Cents (\$50,204.54) 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

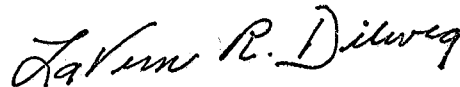
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Edward D. Re, Chairman



Theodore Jaffe, Commissioner




LaVern R. Dilweg, 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, 32 Fed. Reg. 412-13 (1967).)

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.

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This is a true and correct copy of the decision of the Commission which was entered as the final decision on 21 NOV 1967

  
Frank M. Anderson  
Clerk of the Commission