

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

IN THE MATTER OF THE CLAIM OF

FOSTER WHEELER CORPORATION

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0294

Decision No. CU 3358

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 FOSTER WHEELER CORPORATION in the amount of \$331,255.17 based upon the asserted loss of payment for merchandise shipped to Cuba and for costs incurred in the cancellation of a contract by consignee.

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.

The record in this case reflects the sale by claimant to Cia. Cubana de Electricidad of Havana, Cuba of materials on which a balance of \$253,381.52 remains unpaid. Claimant also asserts a loss for cancellation charges to cover costs, incurred on the cancellation of a contract by the debtor, in the amount of \$77,873.65. Claimant asserts that it has not been paid for the goods delivered to the Company at Havana.

Section 505(a) of the Act provides:

. . . A claim under Section 503(a) of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico shall be considered only when such debt or other obligation is a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

On April 28, 1967, Cia. Cubana de Electricidad filed its own claim with the Commission (Claim No. CU-2578). The record in that claim discloses that the said Cia. Cubana Electricidad was organized under the laws of the State of Florida. Therefore, this claim can be considered only if the claimed debt is a charge upon property which was nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimant has neither alleged nor submitted evidence to establish that this debt was a charge upon property which was nationalized,

expropriated, intervened, or taken by the Government of Cuba. Therefore the Commission is without authority to consider this claim, and it is hereby denied. (See Claim of Anaconda American Brass Company, Claim No. CU-0112, 1967 FCSC Ann. Rep. 60.)

The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

DEC 3 1968

Leonard v. B. Sutton
Leonard v. B. Sutton, Chairman

Theodore Jarro
Theodore Jarro, Commissioner

Sidney Feldberg
Sidney Feldberg, 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).)