

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

IN THE MATTER OF THE CLAIM OF

REMINGTON RAND AMERICA CORPORATION

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -0301

Decision No. CU - 3367

Counsel for claimant:

Robert C. Sullivan, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$803,528.56 was presented by REMINGTON RAND AMERICA CORPORATION based upon debts owed to claimant by Remington Rand de Cuba, S. A., a nationalized enterprise.

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)(B) of the Act defines the term "national of the United States" as 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.

The record shows that claimant was organized in Delaware, and that at all pertinent times all of its outstanding capital stock was owned by Sperry Rand Corporation, also organized in Delaware. An officer of Sperry Rand Corporation has certified that as of December 30, 1966, less than 2.5% of its outstanding capital stock was owned by shareholders having registered addresses outside the United States. It is assumed that these stockholders are nonnationals of the United States. (See Claim of Sperry Rand Corporation, Claim No. CU-0278.) The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

The evidence of record establishes that Remington Rand de Cuba, S.A. was incorporated under the laws of Cuba in 1946, and like claimant herein, was a wholly-owned subsidiary of Sperry Rand Corporation. Remington Rand de Cuba, S.A. purchased products from claimant for resale to customers in Cuba, acting as claimant's distributor in Cuba, as well as distributor for the parent corporation and other affiliates of the parent corporation.

On October 24, 1960, the Government of Cuba published in its Official Gazette Resolution No. 3, which listed as nationalized Remington Rand de Cuba, S.A. (hereafter referred to is the nationalized enterprise).

In support of its claim for the asserted debt of the nationalized enterprise, claimant has submitted a list of the invoices for the products sold to the nationalized enterprise; a copy of an audited balance sheet of the nationalized enterprise as of March 31, 1960, showing a debt due claimant; a copy of an audited profit and loss statement for the nationalized enterprise as of March 31, 1960, showing that it had sustained

substantial losses from its operations; a certified copy of claimant's trial balance as of March 1960 and accompanying list of its accounts receivables showing debts due from the nationalized enterprise; certified copies of other accounts receivable records of claimant; a certified copy of the balance sheet of claimant as of September 30, 1960 and accompanying analysis of inter-company receivables, showing that the nationalized enterprise owed claimant a balance of \$803,552.55, which claimant rounded off to \$803,553.00; as well as affidavits from officers of claimant relating to the asserted debts.

It appears that subsequent to September 30, 1960, certain other minor adjustments were recorded so that the net balance due from the nationalized enterprise was \$803,528.56 on October 24, 1960 when Remington Rand de Cuba, S.A. was nationalized by the Government of Cuba.

Accordingly, the Commission finds that Remington Rand de Cuba, S.A. was indebted to claimant in the amount of \$803,528.56, and concludes that claimant suffered a loss in that amount within the meaning of Title V of the Act as a result of the nationalization of Remington Rand de Cuba, S.A. on October 24, 1960. (See Claim of Kramer, Marx, Greenlee and Backus, Claim No. CU-0105, 25 FCSC Semiann. Rep. 62 [July-Dec. 1966].)

As indicated above, the nationalized enterprise had sustained substantial losses from its operations. The record shows that it had no net worth at the time of its nationalization. However, this fact does not preclude making a certification of loss in a situation such as this, particularly inasmuch as it appears that the assets of the nationalized enterprise on the date of nationalization were more than sufficient to have paid this debt.

The Commission has decided that in certification of loss 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), and in the instant case, it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that REMINGTON RAND AMERICA 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 Eight Hundred Three Thousand Five Hundred Twenty-Eight Dollars and Fifty-Six Cents (\$803,528.56) with interest at 6% per annum from October 24, 1960 to the date of settlement.

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

DEC 11 1968

*Leonard v. B. Sutton*

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

*Theodore Jaffe*

~~Theodore Jaffe, Commissioner~~

*Sidney Feidberg*

~~Sidney Feidberg, Commissioner~~

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).)