

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

IN THE MATTER OF THE CLAIM OF

SOUTHERN STATES COOPERATIVE, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 0358

Decision No. CU 3826

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 SOUTHERN STATES COOPERATIVE, INC. in the amount of \$225,112.86 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, intervendd, 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.

An officer of the claimant corporation has certified that the claimant was organized in the State of Virginia. The record shows that at all times pertinent to this claim, more than 50% of the outstanding capital stock of the claimant has been owned by United States nationals.

Claimant states that less than 1/2 of one percent of its stockholder interest is presumed to be owned by non-nationals of the United States. The Commission holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

The record contains copies of claimant's accounts receivable ledgers and a copy of a letter dated July 3, 1963 by The Royal Bank of Canada, reflecting the sale of feed to Pienso's Tropical, S.A. in Havana, Cuba, a Cuban corporation, with balances and in total amount as follows:

<u>Feed delivered from mill in:</u>	<u>Date of balance:</u>	<u>Balance Due:</u>
Ohio	May 9, 1960	\$ 176,096.43
Baltimore	August 24, 1959	51,699.98
		<u>227,796.41</u>
Less patronage refund		2,683.55
		<u>\$ 225,112.86</u>

A portion of the total indebtedness of \$225,112.86, namely the equivalent of \$50,061.90 was deposited in pesos in the Cuban branch of The Royal Bank of Canada in an attempt to effect payment to claimant. However, the Government of Cuba did not authorize the transfer of the deposited amount to claimant in the United States.

Piensos Tropical, S.A. was intervened by the Government of Cuba on May 24, 1960, Resolution No. 177. The intervention of the debtor corporation by the Government of Cuba made the collection of the debt now in question impossible for the claimant. Accordingly, the Commission concludes that on May 24, 1960 claimant sustained a loss in the amount of \$225,112.86 within the meaning of Title V of the Act.

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) and in the instant case, it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that SOUTHERN STATES COOPERATIVE, 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 Two Hundred Twenty-Five Thousand One Hundred Twelve Dollars and Eighty-Six Cents (\$225,112.86) with interest thereon at 6% per annum from May 24, 1960 to the date of settlement.

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

AUG 27 1969

~~Richard W. B. Nathan~~
~~SECRETARY, COMMISSION~~
Richard Jaffe
~~RICHARD JAFFE, COMMISSIONER~~
Sidney Feinberg
~~SIDNEY FEINBERG, 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).)