

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

IN THE MATTER OF THE CLAIM OF

S. C. PRADO & CO., INC.

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -0476

Decision No. CU-839

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 S. C. PRADO & CO., INC. in the amount of \$60,337.66, as amended, plus interest, 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 the State of New York in 1945 and that at all times between January 1, 1959 and presentation of this claim on October 4, 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 all of its stockholders were nationals of the United States.

The record contains copies of claimant's invoices, as below, which reflect the sale and delivery of goods to various Cuban purchasers in the gross amount of \$60,337.66. This amount has been decreased by \$559.41 for sales commission due to claimant's Havana agent, and the totals below have been adjusted accordingly.

The record also contains copies of letters addressed to claimant from its banks, the Chase Manhattan Bank and the Irving Trust Company, each of which informs claimant that one or more of its bank drafts had been paid provisionally in local currency by the appropriate Cuban debtor, and that the proceeds would be remitted upon receipt of dollar exchange approval from the Cuban Government. Claimant states that it has not received the funds.

<u>Customer</u>	<u>Invoice Date</u>	<u>Date of Advice or Due Date</u>	<u>Amount Due</u>
Alom & Cia.	8/ 5/59	10/ 5/59	\$ 540.80
Auto Lizmen S.A.	11/ 9/59	1/ 8/60	812.73
Casa Daubar S.A.	12/16/59	1/20/60	887.69
Cia. Ferret. Los Aliados	9/14/59	11/13/59	484.17
Cia. Imp. Comercial	7/ 7/59	12/11/59	579.05
" " " "	7/ 7/59	10/ 6/59	485.10
" " " "	10/27/59	12/26/59	727.63
" " " "	10/27/59	1/25/60	598.00
" " " "	10/27/59	2/24/60	598.00
Delgado Alonso	1/ 5/60	7/ 8/60	1,174.40
Guerra y Pinera	9/14/59	11/13/59	950.79
" " "	9/14/59	12/13/59	861.71
" " "	11/10/59	1/ 9/60	953.99
" " "	11/10/59	2/ 8/60	810.00
Gonzalez Candido	12/14/59	3/14/60	556.82
Hernandez M, J.W.	8/14/59	9/23/59	1,280.02
I.D.E.S.A. - Sta. Clara	8/19/59	10/18/59	215.64
" " " " "	9/ 9/59	2/18/60	273.00
Inversiones Dubreuil y Rodriguez, S.A.	1/ 5/60	7/ 8/60	4,741.62
Imp. Rabonet, S.A.	11/ 5/59	12/ 5/59	1,122.92
Latour Luis	8/ 4/59	11/ 2/59	317.00
" " "	10/20/59	12/19/59	499.89
" " "	10/20/59	1/18/60	442.00
" " "	11/24/59	12/24/59	456.84
" " "	11/24/59	1/23/60	380.00
" " "	11/24/59	2/22/60	380.00
Lopez y Leira	5/26/59	10/12/59	218.44
" " "	7/24/59	12/ 8/59	226.91
" " "	7/24/59	11/21/59	226.91
" " "	9/21/59	5/11/60	295.49
" " "	9/21/59	5/11/60	240.62
" " "	9/21/59	1/19/60	240.62
" " "	11/ 4/59	2/10/60	279.95
" " "	11/ 4/59	3/ 7/60	225.00
" " "	12/ 9/59	8/25/60	320.91
" " "	12/ 9/59	4/20/60	270.00
" " "	12/ 9/59	8/25/60	270.00
Martin Angel	6/26/59	12/28/59	302.34
" " "	11/ 4/59	2/ 4/60	531.00
" " "	11/ 4/59	1/ 3/60	435.00
" " "	11/ 4/59	2/ 2/60	435.00
" " "	11/ 4/59	3/ 4/60	435.00

<u>Customer</u>	<u>Invoice Date</u>	<u>Date of Advice or Due Date</u>	<u>Amount Due</u>
Martin Angel	10/ 5/59	1/18/60	\$ 438.57
" " "	10/ 5/59	9/ 5/60	353.75
" " "	10/ 5/59	7/ 8/60	353.75
" " "	10/ 5/59	7/ 8/60	353.75
" " "	12/28/59	3/29/60	391.72
" " "	12/28/59	4/28/60	444.00
Martinez Moya Mario	1/ 4/60	2/29/60	1,626.72
Morhaim & Cia.	10/ 5/59	2/ 2/60	104.27
Motor Auto Co.	11/24/59	3/25/60	450.03
Neira & Gonzalez	6/17/59	1/11/60	660.00
" " "	6/24/59	3/10/60	325.97
" " "	6/ 6/59	1/29/60	299.80
" " "	6/ 6/59	2/29/60	299.80
" " "	6/14/59	1/ 4/60	1,030.00
" " "	6/14/59	1/29/60	1,030.00
" " "	6/14/59	3/16/60	1,051.25
" " "	6/14/59	5/24/60	1,056.38
" " "	8/24/59	3/ 1/60	795.43
" " "	8/24/59	1/29/60	564.49
" " "	8/24/59	2/16/60	564.49
" " "	8/24/59	3/16/60	564.49
" " "	8/24/59	5/27/60	578.60
" " "	8/24/59	6/14/60	581.42
" " "	10/20/59	2/ 9/60	1,036.91
" " "	10/20/59	2/ 9/60	854.36
" " "	10/20/59	3/18/60	854.36
" " "	10/20/59	5/17/60	854.36
" " "	10/20/59	6/13/60	854.36
" " "	10/29/59	8/15/60	854.36
" " "	10/29/59	7/ 8/60	854.36
" " "	11/13/59	1/12/60	584.63
" " "	11/13/59	1/ 1/60	500.00
" " "	11/13/59	2/11/60	500.00
Perez M. Antonio	11/23/59	2/22/60	342.07
" " "	11/23/59	3/11/60	270.00
" " "	11/23/59	4/11/60	270.00
Ramos y Almodovar	10/30/59	11/18/59	1,357.78
" " " "	1/ 5/60	7/ 8/60	424.51
" " " "	1/ 5/60	7/ 8/60	340.00
" " " "	1/ 5/60	8/25/60	340.00
Saladrigas Jose	8/17/59	1/20/60	306.83
" " " "	8/17/59	10/16/59	352.00
" " " "	8/17/59	1/18/60	352.00
" " " "	12/10/59	1/ 9/60	225.34
" " " "	12/10/59	4/25/60	246.00
" " " "	12/10/59	1/ 9/60	61.45
" " " "	12/ 8/59	2/18/60	698.17
" " " "	12/ 8/59	3/ 8/60	598.00
" " " "	12/ 8/59	3/ 8/60	598.00

<u>Customer</u>	<u>Invoice Date</u>	<u>Date of Advice or Due Date</u>	<u>Amount Due</u>
Trans-America S.A.	8/14/59	2/29/60	\$ 771.04
" " " "	12/30/59	3/ 8/60	854.90
" " " "	12/30/59	4/ 7/60	762.71
Comercial Nasurco S.A.	4/12/60	4/ 7/61	98.01
Latour Luis	3/11/60	11/30/60	521.67
" " "	3/11/60	3/24/60	470.00
" " "	3/11/60	2/ 3/61	581.04
" " "	3/11/60	5/ 6/60	521.00
Martin Angel	10/17/60	1/ 4/61	<u>420.35</u>
Adjusted Total			\$ 59,778.25

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 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; and the Claim of Etna Pozzolana Corporation, FCSC Claim No. CU-0049.)

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 on September 29, 1959, the date of publication of Cuban Law 568 as to \$1,280.02;

On October 5, 1959 as to	\$ 540.80
October 6, 1959 as to	485.10
October 12, 1959 as to	218.44
October 16, 1959 as to	352.00
October 18, 1959 as to	215.64

On November 2, 1959 as to	\$ 317.00
November 13, 1959 as to	1,434.96
November 18, 1959 as to	1,357.78
November 21, 1959 as to	226.91
On December 5, 1959 as to	1,122.92
December 8, 1959 as to	226.91
December 11, 1959 as to	579.05
December 13, 1959 as to	861.71
December 19, 1959 as to	499.89
December 24, 1959 as to	456.84
December 26, 1959 as to	727.63
December 28, 1959 as to	302.34
On January 1, 1960 as to	500.00
January 3, 1960 as to	435.00
January 4, 1960 as to	1,030.00
January 8, 1960 as to	812.73
January 9, 1960 as to	1,240.78
January 11, 1960 as to	660.00
January 12, 1960 as to	584.63
January 18, 1960 as to	1,232.57
January 19, 1960 as to	240.62
January 20, 1960 as to	1,194.52
January 23, 1960 as to	380.00
January 25, 1960 as to	598.00
January 29, 1960 as to	1,894.29
On February 2, 1960 as to	539.27
February 4, 1960 as to	531.00
February 8, 1960 as to	810.00
February 9, 1960 as to	1,901.27
February 10, 1960 as to	279.95
February 11, 1960 as to	500.00
February 16, 1960 as to	564.49
February 18, 1960 as to	971.17
February 22, 1960 as to	722.07
February 24, 1960 as to	598.00
February 29, 1960 as to	2,697.56
On March 1, 1960 as to	795.43
March 4, 1960 as to	435.00
March 7, 1960 as to	225.00
March 8, 1960 as to	2,050.90
March 10, 1960 as to	325.97
March 11, 1960 as to	270.00
March 14, 1960 as to	556.82
March 16, 1960 as to	1,615.74
March 18, 1960 as to	854.36
March 24, 1960 as to	470.00
March 25, 1960 as to	450.03
March 29, 1960 as to	391.72
On April 7, 1960 as to	860.72
April 11, 1960 as to	270.00
April 20, 1960 as to	270.00
April 25, 1960 as to	492.00
April 28, 1960 as to	444.00

On May 6, 1960 as to	\$ 521.00
May 11, 1960 as to	536.11
May 17, 1960 as to	854.36
May 24, 1960 as to	1,056.38
May 27, 1960 as to	578.60
June 13, 1960 as to	854.36
June 14, 1960 as to	581.42
July 8, 1960 as to	8,242.39
August 15, 1960 as to	854.36
August 25, 1960 as to	930.91
September 5, 1960 as to	353.75
November 30, 1960 as to	521.67
January 4, 1961 as to	420.35
February 3, 1961 as to	581.04

in each case the date of loss being either the date of the Cuban bank advice, or the due date of the draft according to the terms of sale.

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 losses occurred, to the date on which provision is made for the settlement thereof.

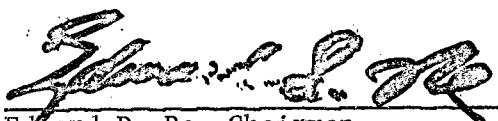
#### CERTIFICATION OF LOSS


The Commission certifies that S. C. PRADO & CO., INC. suffered a loss, as a result of actions of the Government of Cuba, within the

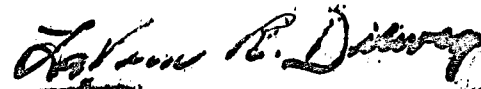
scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Fifty-Nine Thousand Seven Hundred Seventy-Eight Dollars and Twenty-Five Cents (\$59,778.25) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

20 DEC 1967

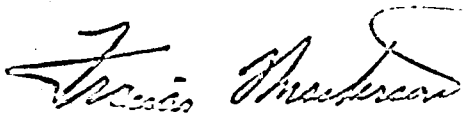
  
Edward D. Re, Chairman

  
Theodore Jaffe, Commissioner

  
LaVern R. Dilweg, Commissioner

UNCLASSIFIED

This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on \_\_\_\_\_ 12 2 1967 \_\_\_\_\_

  
Francis M. Peterson  
Clerk of the Commission

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).)

CU-0476