

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

IN THE MATTER OF THE CLAIM OF

EAGLE ELECTRIC MANUFACTURING CO., INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 1717

Decision No. CU 1131

Counsel for claimant:

Guzik and Boukstein

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 EAGLE ELECTRIC MANUFACTURING CO., INC. in the amended amount of \$44,442.38, and is 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 and that all times between the respective dates of loss and presentation of this claim on April 20, 1967, 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 at all times pertinent to this claim.

The record in this claim includes, inter alia, the contents of a related State Department file, copies of invoices and other relevant commercial paper pertaining to the purchases and shipments of merchandise by claimant to Cuban consignees; and acknowledgements and notifications to claimant, by the various collecting banks in Cuba involved in said business transactions. The evidence of record discloses that claimant shipped merchandise to various firms in Cuba; that the cost of such merchandise, together with accompanying charges for such shipments, were paid by the respective consignees to local Cuban banks; but that dollar reimbursement releases were never granted by Cuban governmental officials. Claimant states that it has not received any of the funds for such shipments.

The following list sets forth the invoice numbers and the dates on which shipments were made to the various Cuban consignees; and, information as to the dates on which payments were made in Cuban currency:

<u>INVOICE NO. & DATE</u>	<u>AMOUNT</u>	<u>NAME OF CONSIGNEE</u>	<u>DATE PAID IN LOCAL CURRENCY</u>
K4912 November 9, 1959	\$1,095.00	J. Barreiro y Cia Obrapia #501-505 Havana	March 3, 1960
H9154 September 22, 1959	2,355.84	Cia. Comercial Winston. Infanta #568 Havana.	February 29, 1960
H9479 September 24, 1959	743.55 743.55	Caribbean Electric Construction Corp. Estevez #258, Havana.	January 10, 1960 February 29, 1960
K5664 November 16, 1959	2,525.84 2,525.85	Cia. Comercial Winston. Infanta #568, Havana.	March 11, 1960 April 8, 1960
K5430 November 13, 1959	1,948.60	Cia. Internacional de Ventas a Plazo Maceo #3, Guanaba- coa, Havana.	December 11, 1959
K1667 October 6, 1959	1,290.90	Corp. Electrica Latino Americana S.A. Ave. 25 #523, Vedado, Havana.	January 29, 1960
K3552 October 23, 1959	2,267.70	Electro Sales Co. Oficios #204, Havana.	January 28, 1960
H7610 September 3, 1959	3,410.03	B. Fernandez & Cia. Aguila #506, Havana.	November 24, 1959
K5053 November 10, 1959	3,366.14	B. Fernandez & Cia Aguila #506, Havana.	February 1, 1960
H8819 September 17, 1959	1,247.50	B. Fernandez & Cia. Aguila #506, Havana.	December 16, 1959
K1678 October 6, 1959	990.91	Ferreteria Apolo 10 de Octubre #430 Havana.	January 14, 1960
H5264 August 6, 1959	288.35	Independent Elec. Co. of Cuba. 23 y P. Vedado, Havana.	December 31, 1959

H9452	September 24, 1959	746.85	Independent Elec. Co. of Cuba. 23 y P. Vedado, Havana.	January 28, 1960
K5468	November 13, 1959	554.65	Independent Elec. Co. of Cuba 23 y P. Vedado, Havana.	April 20, 1960
H9613	September 25, 1959	803.25	Marcelino Ponte y Cia. Obrapia #408- 410 Havana.	January 13, 1960
H9616	September 26, 1959	451.20 451.20 451.21	Vicente Rivera Calzada del Cerro #2077, Havana	December 2, 1959 January 5, 1960 February 8, 1960
H9233	September 22, 1959	489.21 489.21	Rivera Comercial O'Reilly #505 Havana.	January 20, 1960 February 26, 1960
K3320	October 22, 1959	783.37 783.37	Francisco Sierra Neptuno #1069 Havana.	February 26, 1960 March 9, 1960
K5667	November 16, 1959	1,013.45 1,013.45	L. Sosa & Cia. Obrapia #415 Havana.	February 29, 1960 March 15, 1960
K4872	November 6, 1959	1,788.99	Enrique Slapochnik Gloria #310, Havana.	February 11, 1960
K2255	October 9, 1959	711.25	Vale y Garcia Obrapia #511, Havana.	January 11, 1960
K2894	October 16, 1959	2,305.50	Abraham Wagner Bernaza #213 Havana.	March 1, 1960
K4895	November 6, 1959	3,230.60	Z. Weiss y Cia. Acosta #266 Havana.	January 28, 1960
H8172	September 10, 1959	598.59	P.I. Zayas Cia. Mercantil S.A. Villegas #218 Havana.	February 29, 1960
K3554	October 23, 1959	2,977.27	Importadora Comer- cial de Cuba, S.A. Infanta #459 Havana	March 1, 1960

TOTAL \$44,442.38

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.)

Claimant is making a claim for the entire amount paid by the consignee to the Cuban collecting bank. However, the evidence submitted reflects that claimant authorized The First National City Bank branch in Santiago de Cuba to pay a certain stated percentage of the sums collected from the consignees to claimant's representative in Cuba as his commission. The Commission finds, therefore, that claimant's loss resulting from the intervention of the Cuban Government is the amount collected by the Cuban bank from the consignee, less the amount claimant authorized the collecting bank in Cuba to pay its representative as commission.

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 respective losses occurred on the days after payment was made in Cuban currency to the listed Cuban collection banks.

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 respective dates 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 provisions are made for the settlement thereof, as follows:

A. LOSSES OCCURRING IN 1959

On \$3,257.57 from November 25, 1959
On \$451.20 from December 3, 1959
On \$1,849.23 from December 13, 1959
On \$1,186.87 from December 17, 1959

B. LOSSES OCCURRING IN 1960

On \$272.71 from January 1, 1960
On \$451.20 from January 6, 1960
On \$743.55 from January 11, 1960
On \$671.06 from January 12, 1960
On \$743.41 from January 14, 1950
On \$936.56 from January 15, 1950
On \$489.21 from January 21, 1960
On \$5,936.42 from January 29, 1960
On \$1,221.18 from January 30, 1960
On \$3,209.51 from February 2, 1960
On \$372.57 from February 9, 1960
On \$1,714.01 from February 12, 1960
On \$1,217.12 from February 27, 1960
On \$4,321.27 from March 1, 1960
On \$4,991.67 from March 2, 1960
On \$1,095.00 from March 4, 1960
On \$694.13 from March 10, 1960
On \$2,525.84 from March 12, 1960
On \$900.44 from March 17, 1960
On \$2,314.50 from April 9, 1960
On \$525.60 from April 21, 1960.

TOTAL \$42,091.83

CERTIFICATION OF LOSS

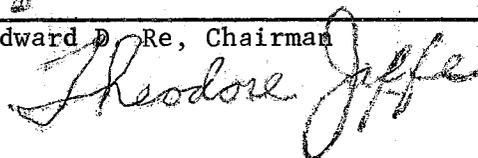
The Commission certifies that EAGLE ELECTRIC MANUFACTURING CO., INC. suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Forty-Two Thousand Ninety-One Dollars and Eighty-Three Cents (\$42,091.83) 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

JAN 31 1968



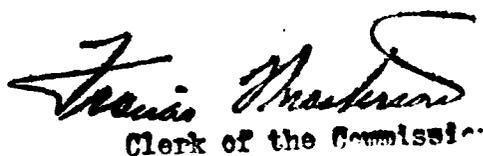
Edward D. Re, Chairman



Theodore Jaffe, Commissioner

CERTIFICATION

This is a true and correct copy of the ^{decision} decision of the Commission which was entered as the final decision on MAR 4 1968


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).)