

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

IN THE MATTER OF THE CLAIM OF

SNAP-ON TOOLS CORPORATION

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2516

Decision No. CU

1706

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$23,750.71, was presented by SNAP-ON TOOLS CORPORATION and is based upon the asserted loss of payment for merchandise shipped to Cuba. Claimant stated that it has been a national of the United States since April 7, 1930.

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 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts that in November, 1959 it shipped merchandise to Cuban Tools Importing Company of Havana, Cuba. Claimant further asserts that payment was to be effected by a bank draft, drawn on the Cuban purchaser in the amount of \$23,779.37. Finally, claimant states that Cuban Tools Importing Company made provisional payment in Cuba in February, 1960, and that the draft proceeds had never been received.

By Commission letter of June 22, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. On July 21, 1967, the Commission received a letter from claimant, requesting that the time for submission of evidence be extended for thirty days. In response to this request, claimant was advised by Commission letter of July 24, 1960, that further action on the claim would be held in abeyance until after September 1, 1967.

On October 2, 1967, claimant was invited to submit, within 45 days of that date, the evidence that had been previously suggested; claimant

was advised that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. At claimant's request, the time within which to submit evidence was extended to January 6, 1968, but no evidence has been submitted.

The Commission therefore finds that claimant has not met the burden of proof in that it has failed to establish either ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba, or that it is a United States national as contemplated by the Act. Thus, the Commission is constrained to deny this claim and it is hereby denied. 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

APR 24 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Cha'rman

Theodore Jaffe

Theodore Jaffe, 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).)

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