

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

IN THE MATTER OF THE CLAIM OF

TRANS-CUBA OIL COMPANY

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3492

Decision No. CU

796

Counsel for claimant:

Battle, Fowler, Stokes & Kheel
by Jay H. Schafrann, Esq.

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 TRANS-CUBA OIL COMPANY in the amount of \$7,000,000.00 based upon the asserted ownership and loss of cash, oil concessions and other assets of the claimant corporation.

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 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 claimant herein, TRANS-CUBA OIL COMPANY, filed this claim with the Commission on May 26, 1967, indicating in correspondence and the claim application that its principal place of business was Havana, Cuba; and that while the corporation does not qualify as a "national of the United States" within the meaning of the Act, the claim was filed solely on behalf of the United States citizen stockholders of claimant. Claimant corporation has therefore petitioned for an order, permitting it to represent its consenting United States citizen stockholders.

In Commission correspondence of June 29, 1967, and July 12, 1967, to claimant, through counsel, the Commission suggested that evidence be submitted pertaining to the ownership, loss and value of the assets of claimant corporation, and the nationality of the stockholders. It was also suggested that claimant forward a list of the stockholders who were nationals of the United States, indicating those stockholders who assented to claimant's representation of them in this claim for loss of their respective interests in the corporate property or assets. In a letter dated August 3, 1967, counsel advised that they have no supporting evidence or list of the stockholders in question, for the reason that such data was confiscated or destroyed in Cuba.

The Commission finds that an Order permitting the claimant to represent the stockholders in the particular claim would serve no useful purpose, since the claimant corporation, due to the loss of records in Cuba, has no information or evidence which would be helpful to the stockholders; and that information, such as the names, location and nationality of the stockholders, is unknown to the claimant. Accordingly, the request of claimant for an Order permitting the representation of its stockholders is denied.

This leaves for determination the question as to the compensability of the claim filed by claimant as a corporate entity, within the aforesaid provisions of the Act, for the loss of cash, oil concessions and other assets of the corporation in 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."

No evidence has been submitted to establish that the property upon which this claim is based was owned by a corporation which qualifies as a national of the United States under the provisions of Section 502(1) of the Act. On the contrary, the record before the Commission discloses that the claimant corporation was organized in Cuba in 1953. Moreover, there is nothing in the record to establish that 50 per centum or more of its outstanding capital stock was owned directly or indirectly by natural persons who are not citizens of the United States.

Inasmuch as the claimant corporation, TRANS-GUBA OIL COMPANY, was organized in Cuba it does not qualify as a national of the United States within the meaning of the statute. Accordingly, the claim is denied. (See the Claim of F. L. Smidth & Co., Claim No. CU-0104.)

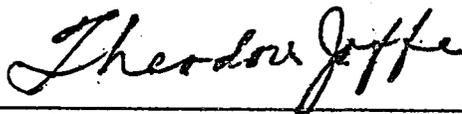
The Commission finds it unnecessary to make other determinations with respect to this claim. However, the Commission will consider the evidence submitted in this claim and all available data in reaching determinations with respect to the individual claims of the stockholders of claimant corporation which have been filed with this Commission.

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

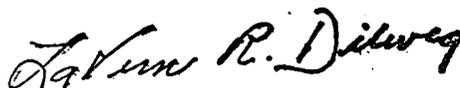
6 DEC 1967.



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on JAN 11 1968



Tracie Mackintosh
Clerk of the Commission

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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