

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

IN THE MATTER OF THE CLAIM OF

DU PONT FAR EAST INC.

Claim No. CN-0354

Decision No. CN- 207

Under Title V of the International Claims  
Settlement Act of 1949, as amended by  
Public Law 89-780

Counsel for claimant:

Gerald E. Kandler, Esq.

PROPOSED DECISION

This claim against the Chinese Communist regime, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$16,278.00 is based upon the loss of personal property in Shanghai, China. Claimant, DU PONT FAR EAST INC., is a corporation organized under the laws of the State of Delaware and at all times between October 1946 and the presentation of this claim, more than 50 per centum of the outstanding capital stock was owned, directly or indirectly, by persons who were United States nationals. The Commission, therefore, finds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), as amended by 80 Stat. 1365 (1966), 22 U.S.C. §§1643-1643k, Supp. II (1967)], the Commission is given jurisdiction over claims of nationals of the United States against the Chinese Communist regime. 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 Chinese Communist

regime arising since October 1, 1949 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 Chinese Communist regime or by enterprises which have been nationalized, expropriated, intervened, or taken by the Chinese Communist regime and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Chinese Communist regime.

The record discloses that after World War II, claimant was trading under the name of DU PONT (CHINA) INC., a corporation organized under the laws of the State of Delaware; that in 1950 it maintained a branch in Shanghai, China, consisting of an office at No. 51 Canton Road and a warehouse nearby; and that in 1960 claimant changed the name to DU PONT FAR EAST INC.

The record further discloses that DU PONT (CHINA) INC. was placed under control of the Shanghai military authorities by an order dated December 31, 1950. The record does not indicate the exact date of nationalization, expropriation or confiscation of claimant's property by the Chinese Communist regime. The Commission appreciates the fact that such evidence may not be obtainable due to the political conditions which now exist in Communist China. In addition, the Commission takes administrative notice that, in many instances, there was no decree, law or order issued under which the Chinese Communist regime nationalized or otherwise took property of individual nationals of the United States. In the absence of said decrees, laws and orders concerning claimant's property in Shanghai, the Commission finds that the placement of claimant's property under military control of the Chinese Communist authorities constituted a taking of these assets

within the meaning of Title V of the Act and that claimant's property was taken on December 31, 1950.

Extracts from claimant's ledgers as of December 31, 1950 reveal that on this date the value of the furniture and fixtures in the branch office in Shanghai had a value of \$5,304.98 and the equipment in the warehouse a value of \$10,973.05, after appropriate deduction for depreciation. The Commission, therefore, finds that the aggregate amount of claimant's losses within the meaning of Title V of the Act was \$16,278.00.

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 Claim of Clarence Burton Day and Ethelwyn C. Day, Claim No. CN-0030, Decision No. CN-1); and in the instant claim it is so ordered.

CERTIFICATION OF LOSS

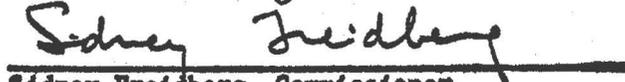
The Commission certifies that DU PONT FAR EAST INC. suffered a loss in the amount of Sixteen Thousand Two Hundred Seventy-eight Dollars (\$16,278.00) with interest thereon at 6% per annum from December 31, 1950 to the date of settlement, as a result of the actions of the Chinese Communist regime, within the scope of Title V of the International Claims Settlement Act of 1949, as amended.

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

25 MAR 1970

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

  
Sidney Freidberg, Commissioner

THIS DECISION WAS ENTERED AS THE COMMISSION'S  
FINAL DECISION ON 30 APR 1970

  
Francis P. Kaufman  
Clerk of the Commission

The statute does not provide for the payment of claims against the Chinese Communist regime. Provision is made only 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.

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. 412-413 [1967].)

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