

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

IN THE MATTER OF THE CLAIM OF

SOILTEST, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0694

Decision No. CU **1668**

Counsel for claimant:

Norville, Walsh & Case

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 SOILTEST, INC. in the amount of \$1,804.00 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 Illinois in September 1952 and that at all times between November 13, 1959 and presentation of this claim on March 10, 1966, 100% of the outstanding capital stock of the claimant has been owned by Cenco Instruments Corporation. Cenco Instruments Corporation was organized in the State of Delaware in 1948 and an officer of the parent corporation has certified that more than 50% of the outstanding capital stock of Cenco Instruments Corporation has at all pertinent times been owned by United States nationals. The Commission therefore holds that the claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

The record contains copy of claimant's invoice No. 45931 of November 13, 1959, reflecting the sale to Ministerio De Obras Publicas Department De Laboratorio of Havana, Cuba, of goods totalling \$1,804.00. The terms were C.O.D. The evidence of record reflects that the goods were received by the consignee but that payment to claimant was never made.

Accordingly, in the instant claim the Commission finds that claimant's property was lost as a result of the Government of Cuba's failure to pay its debt and that, in the absence of evidence to the contrary, the loss occurred on November 18, 1959, the estimated date of delivery.

(See Claim of Clemens R. Maise, Claim No. CU-3191).

The Commission has decided that in payment of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be allowed at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of Lisle Corporation, 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 date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that SOILTEST, 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 One Thousand Eight Hundred Four Dollars (\$1,804.00) with interest thereon at 6% per annum from November 18, 1959 to the date of settlement.

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

APR 10 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

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. 412-13 (1967).)

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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.

CERTIFICATION
This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on MAY 17 1968
Francis MacKerrow
Clerk of the Commission