

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

IN THE MATTER OF THE CLAIM OF

ESCAMBIA TREATING COMPANY

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2283

Decision No. CU -1004

Appeal and objections from a Proposed Decision entered January 24, 1968.  
No oral hearing requested; Hearing on the record.

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Hearing on the record held on June 19, 1968

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FINAL DECISION

The Commission issued its Proposed Decision in this claim on January 24, 1968, denying it on the grounds that claimant had failed to establish that the debt which is the subject matter of this claim was a charge upon property which was nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimant objected but failed to submit any evidence to establish that the debt of its consignee, a Florida corporation, was secured by any of that company's assets in Cuba. On the contrary, claimant has the standing of no more than an unsecured general creditor. (See Claim of Anaconda American Brass Company, Claim No. CU-0112).

Full consideration having been given to the objections of the claimant, and the entire record, including claimant's objections,

having been reviewed, and general notice of the Proposed Decision having been given by posting for 30 days, it is

ORDERED that the Proposed Decision be and the same is hereby entered as the Final Decision of the Commission in this claim.

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

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

Sidney Freidberg, Commissioner

26 JUN 1968

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
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IN THE MATTER OF THE CLAIM OF

ESCAMBIA TREATING COMPANY

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU - 2283

Decision No. CU

1004

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 ESCAMBIA TREATING COMPANY in the amount of \$121,498.25, based upon the asserted loss of payment for goods 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."

Claimant corporation has submitted a certificate of the Secretary of State of Florida which certifies that ESCAMBIA TREATING COMPANY was chartered in that State on August 31, 1946. Furthermore, an officer of claimant corporation has certified that on April 24, 1967, the date of presentation of this claim, 100% of the outstanding capital stock of the claimant was owned by United States nationals.

This claim is based upon the net amount of unpaid invoices representing shipments of creosoted pine telephone poles to Cia. Cubana de Electricidad in Havana, Cuba.

Section 505(a) of the Act provides:

...A claim under Section 503(a) of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico shall be considered only when such debt or other obligation is a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The records of the Commission reveal that Cia. Cubana de Electricidad is a corporation organized under the laws of the State of Florida. Therefore this claim can be considered only if the claimed debt is a charge upon property which was nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimant has neither alleged nor submitted evidence to establish that this debt was a charge upon property which was nationalized, expropriated, intervened, or taken by the Government of Cuba. Therefore the Commission is without authority to consider this claim, and it is hereby denied.

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

**JAN 24 1968**

*Edward S. Re*

Edward S. Re, 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. Reg. 412-13 (1967).)

CU- 2283