

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

IN THE MATTER OF THE CLAIM OF

TEXACO INC.  
TEXAS PETROLEUM COMPANY  
TEXACO EXPORT INC.

Claim No. CU-1331  
Claim No. **CU**-1332  
Claim No. CU-1333

Decision No. **CU** 4546

Under the International Claims Settlement  
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered on March 4, 1970.  
No oral hearing requested; Hearing on the record.

Hearing on the record held on June 4, 1970

FINAL DECISION

By Proposed Decision dated March 4, 1970, the Commission determined that the aforesaid claimants suffered losses of property in Cuba which were within the purview of Title V of the Act; and that certifications of loss were granted, including the sum of \$50,079,109.67 to Texaco Incorporated, \$5,143,433.04 to Texas Petroleum Company and \$971,880.02 to Texaco Export Incorporated.

Subsequently, claimants clarified that the correct name of Texaco Incorporated is TEXACO INC. and Texaco Export Incorporated is TEXACO EXPORT INC. Further, claimant TEXACO INC. submitted argument in support of its contention that a bank account in the United States of a Cuban subsidiary, in the amount of \$2,000.00, should not have been deducted, and that no claim had been asserted by TEXACO INC. for loss of this account.

Upon consideration of this matter, it is found that the Proposed Decision should be and it is amended to reflect the correct names of claimants herein, as TEXACO INC. and TEXACO EXPORT INC.

In the Proposed Decision of March 4, 1970, the Commission determined that TEXACO INC. had asserted that The Texas Company (West Indies) Ltd.

had suffered a loss of \$14,384,843.25 in cash reserves, including several bank accounts. However, the evidence of record, including a balance sheet of the Cuban firm dated May 31, 1960, established that the sum of \$2,000.00 was deposited in an account in the United States. An account located in the United States was not subject to intervention by the Government of Cuba. Accordingly, the Commission determined that the net amount of cash in Cuba which was intervened by that government was the sum of \$14,382,843.25.

In letters of April 9, 1970, and May 7, 1970, claimant TEXACO INC. further clarified the evidence of record. A balance sheet dated June 29, 1960, of The Texas Company (West Indies) Ltd., establishes that the refinery division of the Cuban firm had certain bank deposits in the amount of \$663,324.98. Further, at the time of intervention on June 29, 1960, the Intervenor of the Cuban corporation, as well as other officials of the Government of Cuba, conducted an inventory of the checking and savings accounts, as well as the time deposits of the Cuban subsidiary of TEXACO INC. This inventory, not including the refinery account, established that the bank accounts which were held for the sales and administrative accounts of The Texas Company (West Indies) Ltd., were in the total amount of \$13,721,518.27, or, with the refinery account, in the total amount of \$14,384,843.25. Thus, the Commission concludes that the sum of \$2,000.00 held in the United States was not included in the asserted loss of TEXACO INC. and the funds held by the Cuban corporation in Cuba which were taken by the Government of Cuba on June 29, 1960, were in the total amount of \$14,384,843.25. Accordingly, the Commission finds that the certification of loss in the claim of TEXACO INC. should be and it is hereby increased by \$2,000.00, resulting in an aggregate certification to TEXACO INC. of \$50,081,109.67.

The Certifications of Loss as restated below will be entered and in all other respects the Proposed Decision is affirmed.

CERTIFICATIONS OF LOSS

The Commission certifies that TEXACO INC. suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the

CU-1331  
CU-1332  
CU-1333

International Claims Settlement Act of 1949, as amended, in the amount of Fifty Million Eighty-one Thousand One Hundred Nine Dollars and Sixty-seven Cents (\$50,081,109.67), with interest at 6% per annum on \$50,076,242.01 from June 29, 1960, and on \$4,867.66 from August 6, 1960, to the date of settlement;


The Commission certifies that TEXAS PETROLEUM COMPANY 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 Five Million One Hundred Forty-three Thousand Four Hundred Thirty-three Dollars and Four Cents (\$5,143,433.04), with interest thereon at 6% per annum from June 29, 1960, to the date of settlement; and

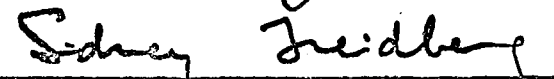
The Commission certifies that TEXACO EXPORT INC. suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Nine Hundred Seventy-one Thousand Eight Hundred Eighty Dollars and Two Cents (\$971,880.02), with interest thereon at 6% per annum from June 29, 1960, to the date of settlement.

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

JUN 10 1970

  
Lyde S. Carlcox, Chairman

  
Theodore Jaffe, Commissioner

  
Sidney Freidberg, Commissioner

CU-1331

CU-1332

CU-1333

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

IN THE MATTER OF THE CLAIM OF

TEXACO INCORPORATED  
TEXAS PETROLEUM COMPANY  
TEXACO EXPORT INCORPORATED

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-1331  
Claim No. CU-1332  
Claim No. CU-1333

Decision No. CU -4546

PROPOSED DECISION

These claims against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amounts of \$58,145,692.00, \$5,143,433.04 and \$971,880.02, were presented by TEXACO INCORPORATED, TEXAS PETROLEUM COMPANY and TEXACO EXPORT INCORPORATED, based upon the loss of real and personal property of a Cuban corporation known as The Texas Company (West Indies) Limited and for certain debts owed to claimants.

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)(B) of the Act defines the term "national of the United States" as 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.

The claimants herein, TEXACO INCORPORATED, TEXAS PETROLEUM COMPANY and TEXACO EXPORT INCORPORATED, were organized under the laws of Delaware, New Jersey and Delaware, respectively. Officers of the claimant corporations have certified that at all times pertinent to these claims at least 99 per cent of the outstanding capital stock of these corporations was owned by nationals of the United States. An officer of TEXACO INCORPORATED has certified that .48% of its shares were held by .44% of the stockholders, non-United States nationals. An officer of TEXAS PETROLEUM COMPANY has certified that TEXACO owned 4,992 of its 5,000 shares and of the remainder one was held by a non-United States national. An officer of TEXACO EXPORT INCORPORATED has certified that 498 of its 500 shares were held by TEXACO INCORPORATED and the remainder were held by United States nationals. The Commission holds that claimants qualify as nationals of the United States within the meaning of Section 502(1)(B) of the Act.

TEXACO INCORPORATED (hereafter referred to as TEXACO), has asserted claim in part for the appraised market value of the Cuban assets of The Texas Company (West Indies) Limited (hereafter referred to as the Cuban corporation), organized under the laws of Cuba and a wholly-owned subsidiary of TEXACO. TEXACO initiated operations in Cuba in 1919 and expanded refinery

CU-1331  
CU-1332  
CU-1333

operations and sales outlets over the years. In 1957 a 20,000-barrel-a-day refinery was constructed at Santiago de Cuba. Further, the Cuban corporation maintained four marine terminals, with docks and tanks, located at Cienfuegos, Santiago de Cuba, Havana and Matanzas, extensive automotive equipment, service stations, tank cars, bank accounts, land comprising approximately 1,919,707 square meters, and other assets. The Cuban corporation was engaged in extensive marketing operations at commercially strategic points throughout the island.

The Cuban corporation was intervened on June 29, 1960, pursuant to Resolution 188 of June 28, 1960 under Law 635 of 1959. Resolution 188 was promulgated by the Government of Cuba when the Cuban corporation assertedly refused to refine certain crude oil as assertedly provided under a 1938 law pertaining to combustible materials. Subsequently, this Cuban firm was listed as nationalized in Resolution 1, of August 6, 1960, pursuant to Cuban Law 851. The Commission finds, however, that the Cuban corporation was effectively intervened within the meaning of Title V of the Act by the Government of Cuba on June 29, 1960.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

TEXACO has asserted this claim in part for loss of the Cuban corporation assets and has submitted the book values as well as appraised market values of this enterprise, which claimant refers to as "replacement costs". The evidence

CU-1331  
CU-1332  
CU-1333

includes certain appraisal reports, showing market values at the time of loss, prepared by the Frederick Snare Corporation, Procon, Incorporated and the Chicago Bridge & Iron Company. Additionally, TEXACO has submitted a Consolidated Balance Sheet showing financial data pertaining to the refinery and sales divisions of the Cuban corporation as of May 31, 1960, prior to the date of loss.

The list of Cuban assets as submitted by TEXACO showing book value and appraised market values, plus certain additional portions of claim for other losses (which will be discussed hereafter) is as follows:

	<u>Book Costs</u> <u>May 31, 1960</u>	<u>Appraised Market</u> <u>Values</u>
<u>Refinery</u>		
Tanker berthing facilities	(	\$ 614,442.00
Refinery process units	(	11,083,100.00
Flat bottom oil tanks	(	<u>1,637,280.00</u>
Sub-total	(	\$13,334,822.00
	(\$15,313,719.69	
Site clearing, etc.	(	
Contract	(	\$ 1,380,327.00
Non-contract	(	<u>4,125,700.00</u>
Sub-total	(	\$ 5,506,027.00
Additions	\$ 361,226.58	\$ (366,128.59
of which incom. app.	<u>89,861.42</u>	<u>(</u>
Total refinery (ex. Land and plat. content of catalyst)	\$15,674,946.27	\$19,206,977.59
<u>Terminals</u>		
Cienfuegos	\$ 234,300.36	\$ 430,959.00
Santiago de Cuba	307,135.40	852,518.00
Havana (Regla)	755,038.30	1,057,569.00
Matanzas	<u>541,958.28</u>	<u>1,182,648.00</u>
Sub-total	\$ 1,838,432.34	\$ 3,523,694.00
<u>Sales Division</u>		
Office equipment	\$ 126,320.16	\$ 126,320.16
Auto equipment	93,602.74	93,602.74
Loaned equipment & misc.	84,597.34	84,597.34
Service station equipment	<u>1,037,521.07</u>	<u>1,171,591.53</u>
Sub-total	\$ 1,342,041.31	\$ 1,476,111.77
Total above (ex. ref. incom. app.)	\$18,765,558.50	\$24,206,783.36
Depreciation	<u>3,267,560.07</u>	<u>4,214,400.98</u>
Net fixed assets	\$15,497,998.43	\$19,992,382.38
Plus ref. incom. app.	<u>89,861.42</u>	
Total dep. assets	\$15,587,859.85	\$19,992,382.38
Tank cars	-	\$ 313,260.00

CU-1331  
CU-1332  
CU-1333

Other-Non-dep. Assets

Land	\$ 1,949,885.33	\$ 1,909,775.87
Platinum content of catalyst	\$ 2,190.00	\$ 2,190.00
Incom. appropriations	120,153.53	120,153.53
Cash	\$13,524,634.39	\$14,384,843.25
Accounts Receivable	13,028,209.23	13,072,691.20
Merchandise inventories	4,532,086.52	5,009,316.82
Materials and supplies	592,401.74	592,401.74
Investments & Advances	\$ 2,147,968.59	\$ 2,183,568.59
Deferred charges	<u>222,420.23</u>	<u>222,420.23</u>
TOTAL NET ASSETS	\$51,707,809.41	\$57,803,003.61

Plus

Plat. content of catalyst on books of TEXACO INC.	\$ 79,749.19	\$ 84,568.05
Expenses to get employees out of Cuba, etc.		\$ 253,252.82
Naviera Vacuba, S.A.		<u>4,867.66</u>
	\$51,787,558.60	\$58,145,692.14

The Consolidated Balance Sheet of the Cuban corporation for the sales and refining divisions, as of May 31, 1960, reflects the following:

A S S E T S

CURRENT ASSETS:

Cash in Banks, in Transit & On Hand		\$13,524,634.39
In Cuba (outside United States)	\$13,522,634.39	
In United States	<u>2,000.00</u>	
Notes and Accounts Receivable		13,028,209.23
Notes Receivable - Customers	\$ 1,141,336.63	
Accounts Receivable - Customers	6,150,116.38	
Accounts Receivable - Others	<u>5,782,756.22</u>	
Total Notes and Accounts Receivable	\$13,074,209.23	
Reserve for Doubtful Notes & Accounts	<u>(46,000.00)</u>	
Merchandise Inventories		4,532,086.52
Crude Oil	\$ 282,150.52	
Refined Products & Merchandise	<u>4,249,936.00</u>	
Materials and Supplies		<u>592,401.74</u>
Total Current Assets		\$31,677,331.88

INVESTMENT AND ADVANCES:

Misc. Investments & Long-Term Receivables	\$ 2,183,568.59
Less:	
Reserve to Adjust Securities to Market	20,600.00
Reserve for Possible Losses	<u>15,000.00</u>
	<u>\$ 35,600.00</u>

CU-1331  
CU-1332  
CU-1333



<u>PROPERTIES, PLANT AND EQUIPMENT - NET:</u>		\$17,660,088.71
Properties, Plant & Equipment -		
At Cost	\$21,090,292.78	
Less: Reserve for Depreciation	<u>3,430,204.07</u>	
<u>DEFERRED CHARGES:</u>		222,420.23
Prepaid Insurance and Taxes	\$ 38,016.70	
Other Prepaid Exp. and Deferred		
Charges	<u>184,403.53</u>	
		<u>\$51,707,809.41</u>

LIABILITIES AND NET WORTH

CURRENT LIABILITIES:

Accounts Payable		\$ 735,400.13
Accrued Liabilities		810,779.46
Payrolls and Commissions	\$ 48,951.03	
Taxes (other than Income Taxes)	673,500.22	
Other	<u>88,328.21</u>	

LONG-TERM DEBT: 100.00

INTERCOMPANY & INTERDEPARTMENTAL ACCOUNTS: 52,065,512.85

Intercompany Notes & Accounts	\$52,071,007.65
Interdepartmental Accounts	<u>(5,494.80)</u>

CAPITAL STOCK: 827,000.00

Authorized 16,540 Shares at \$50	
Per Share	
Outstanding 16,540 Shares	\$ 827,000.00

CAPITAL SURPLUS: 413,500.00

EARNED SURPLUS: (3,144,483.03)

Gross Operating Earnings	\$ 2,611,816.86
Non-Operating Earnings	82,571.07
Total Earnings	<u>\$ 2,694,387.93</u>
Operating Expenses	(\$ 2,110,792.46)
Non-Operating Expenses	<u>(347,000.04)</u>
Total Expenses	<u>(\$ 2,457,792.50)</u>
Net Earnings or (Loss)	
for Period	\$ 236,595.43

Earned Surplus Beginning of Year:	
Unappropriated	<u>( 3,381,078.46)</u>

\$51,707,809.41

In connection with "Investments and Advances", the Cuban corporation includes 206 shares of stock of the Ferrocarriles Occidentales de Cuba, S.A. and

CU-1331  
CU-1332  
CU-1333

two shares of the Havana Biltmore Yacht and Country Club. The cost of such shares, in the total amounts of \$20,600.00 and \$4,272.00, respectively, are carried on the books of the Cuban corporation as the value of such stock interests.

The Commission has consistently held that the value of the stock of the Ferrocarriles Occidentales de Cuba, S.A. is the original cost of such shares, or \$100.00 per share. (See Claim of Ruth Anna Haskew, Claim No. CU-0849, 1968 FCSC Ann. Rep. 31.) Accordingly, the Commission finds that the Cuban corporation sustained a loss in the amount of \$20,600.00 for the stock interest in Ferrocarriles Occidentales de Cuba, S.A.

TEXACO has indicated the par value of the shares of stock of the Havana Biltmore Yacht and Country Club as being \$1,000.00 par value; and that the purchase price of two shares was in the amount of \$4,272.00. The Commission has found that the Havana Biltmore Yacht and Country Club was intervened by the Government of Cuba on March 19, 1960. (See Claim of Arman E. Becker, Jr., Claim No. CU-1094.) In that claim the Commission determined that the aggregate value of a membership interest in the Country Club and one share of stock in the Cuban corporation, Series A of \$1,000 par value, was \$3,500.00 on March 19, 1960, the date of loss. Accordingly, the Commission finds that the book value of the two shares of stock, listed under "Investments and Advances", is \$7,000.00, an increase of \$2,728.00 in the assets of the Cuban corporation.

The Commission must determine the net worth of the Cuban corporation, not merely its Cuban assets, when arriving at the extent of losses, if any, of TEXACO in their claim. The Commission hereby finds that the appraised market values of the Cuban corporation, as reflected by appraisals of construction firms and personnel of the claimant, represent the most appropriate basis of evaluation of such net worth. The total liabilities, including taxes, debts and accounts payable, as more particularly discussed hereafter, must be deducted from the adjusted value of the assets to reach the net worth of the Cuban corporation.

CU-1331  
CU-1332  
CU-1333

Evidence of record shows that on May 31, 1960, the Texaco Petroleum Company, a wholly-owned Delaware subsidiary of TEXACO, owed the Cuban corporation the sum of \$152,565.00. Pursuant to the provisions of Section 505(a) of the Act, a claim based upon a debt of a corporation qualifying as a national of the United States, within the contemplation of the Act, may not be considered unless the debt was a charge on property which was nationalized or otherwise taken by the Government of Cuba. There is no evidence to establish that the instant account was secured by property taken by Cuba. Accordingly, the Commission finds that this sum of \$152,565.00 is not within the purview of Section 505(a) of the Act and therefore must be deducted from the total assets. (See Claim of Anaconda American Brass Company, Claim No. CU-0112, 1967 FCSC Ann. Rep. 60.) In "Current Assets" it is noted that the sum of \$2,000.00 represented cash in the United States of the Cuban corporation. Accordingly, the Commission finds that this sum was not the subject of intervention by the Government of Cuba.

Accordingly, although the value of the assets of the Cuban corporation, as shown by the appraised values set forth above, is in the amount of \$57,803,003.61, the Commission hereby determines that the adjusted value is \$57,651,166.61.

The liabilities include the "Accounts Payable" and "Accrued Liabilities" of the Cuban corporation in the amounts of \$735,400.13 and \$810,779.46, which must be deducted from the adjusted value of the assets to reach net worth of the Cuban corporation.

The evidence establishes that a wholly-owned subsidiary of TEXACO, The Texas Company (Panama) Incorporated, now known as Texaco (Panama) Inc., existing under the laws of Panama, loaned the Cuban corporation the sum of \$22,000,000.00 in 1956. The Cuban corporation repaid the sum of \$1,180,000.00, leaving a balance of \$20,820,000.00 owing to Texaco (Panama) Inc. Pursuant to an Agreement of January 1, 1960, the Panama subsidiary of TEXACO assigned all rights and interests in the Loan Agreement, with promissory notes, to TEXACO. The sum of \$20,820,000.00 remains unpaid as of the date of intervention of the Cuban corporation.

CU-1331  
CU-1332  
CU-1333

Additionally, TEXACO has submitted the following table, identified as "Intercompany Notes and Accounts - Net" of the Sales and Refinery Divisions of the Cuban corporation, showing a net indebtedness of the Cuban firm in the amount of \$31,251,007.65, exclusive of the aforesaid sum assigned to TEXACO by the Panama corporation:

<u>INTERCOMPANY NOTES AND ACCOUNTS - NET</u>	
The Texas Company (West Indies) Ltd.*	
<u>TEXACO INC.</u>	
Merchandise, Imports Payable	\$21,273,564.58
Cabotage freight	4,533.92
Advances, investments and other credits	5,136,928.31
Debits outstanding	(1,146,219.56)
Suspense	69,400.01
Subtotal	<u>25,338,207.26</u>
<u>Texaco (Panama) Inc.</u>	803,535.77
<u>TEXAS PETROLEUM COMPANY</u>	
Merchandise, Imports Payable	5,641,007.39
Products shipped offshore	(1,552,291.80)
Coastwise freight	376,766.08
Suspense	338,169.98
Subtotal	<u>4,769,162.00</u>
<u>Texaco Purchasing Company**</u>	
Merchandise, Imports Payable	300,014.01
Suspense	192,653.74
Subtotal	<u>492,667.75</u>
Total Payable	31,403,572.78
<u>Texaco Petroleum Company (Delaware)</u>	(152,565.13)
Net Indebtedness	\$31,251,007.65

\* Balance Sheets of Sales Division (FS-1002) and Refining Division (FR-1002) of the Texas Company (West Indies) Ltd., as of May 31, 1960.

\*\* Now known as TEXACO EXPORT INCORPORATED

Claimants have submitted invoices and other evidence to establish that additional shipments of crude oil and other merchandise were shipped to the Cuban corporation subsequent to May 31, 1960, the date of the balance sheet, but before the Cuban corporation was intervened by the Government of Cuba. Accordingly, the amount of the debts listed above, compiled as of May 31, 1960, as the indebtedness of the Cuban corporation to the TEXAS PETROLEUM COMPANY (New Jersey) and TEXACO EXPORT INCORPORATED (Delaware) must be

CU-1331  
CU-1332  
CU-1333

adjusted to reflect those unpaid amounts due as of the date of loss. The Commission finds that the Cuban corporation was indebted to the TEXAS PETROLEUM COMPANY in the amount of \$5,143,433.04 and was indebted to TEXACO EXPORT INCORPORATED in the amount of \$971,880.02, as of the date of the intervention of the Cuban corporation.

The evidence of record establishes that the Cuban corporation was indebted to Texaco (Panama) Inc. in the amount of \$803,535.77. Texaco (Panama) Inc. is a wholly-owned subsidiary of TEXACO, and, pursuant to Section 505(c) of the Act, TEXACO would be entitled to the aforesaid sum which was due and payable to the Panama corporation. (See Claim of Avon Products, Inc., Claim No. CU-0772.) The sum of \$803,535.77, with the indebtedness of \$25,338,207.26, results in a total indebtedness of \$26,141,743.03 as the intercompany indebtedness due TEXACO. Thus, the intercompany obligation, coupled with the unpaid loan in the amount of \$20,820,000.00, as discussed above, increases the total indebtedness of the Cuban corporation to TEXACO to the sum of \$46,961,743.03.

Thus, the Commission finds that the "Accounts Payable" and "Accrued Liabilities" of the Cuban corporation as shown on the Balance Sheet are in the amount of \$1,546,179.59; that the other indebtedness of the Cuban enterprise is in the amount of \$53,077,056.09; and that total liabilities are therefore in the amount of \$54,623,235.68.

The Commission finds that adjusted value of the assets is in the amount of \$57,651,166.61; that the liabilities, including accounts payable and debts of the Cuban corporation are in the total amount of \$54,623,235.68; that the net worth of the Cuban enterprise at the time of loss was \$3,027,930.93; and that claimant TEXACO sustained such loss within the scope of Title V of the Act upon the intervention of the Cuban enterprise.

As mentioned earlier, the evidence of record establishes debts of the intervened Cuban corporation to claimants herein, as follows:

<u>Claimant</u>	<u>Indebtedness</u>
TEXACO INCORPORATED	\$46,961,743.03
TEXAS PETROLEUM COMPANY	5,143,433.04
TEXACO EXPORT INCORPORATED	<u>971,880.02</u>
TOTAL	\$53,077,056.09

CU-1331  
CU-1332  
CU-1333

The Commission hereby finds that claimants suffered losses in amounts listed above within the scope of Title V of the Act, as a result of the intervention of the Cuban corporation by the Government of Cuba. (See Claim of Kramer, Marx, Greenlee and Backus, Claim No. CU-0105, 25 FCSC Semiann. Rep. 62 [July-Dec. 1966].)

This leaves for determination certain items of claim asserted by TEXACO for other losses in Cuba, including an item carried on their books for the platinum content of catalyst in Cuba, accounts receivable from Naviera Vacuba, S.A., a Cuban firm, and expenses incurred in removing company employees from Cuba.

The Statement of Claim and balance sheet of May 31, 1960, include an item of \$2,190.00 as an asset of the Cuban corporation for the "Platinum Content of Catalyst", which is utilized in the refinery processes. A claim is also made in the amount of \$84,568.05 for certain poundage of catalyst which is carried as an asset in the books of TEXACO, in the amount of \$79,749.19.

The evidence discloses that in addition to a shipment of 438 pounds of catalyst to Cuba in April 1937 there was also 19,135 pounds (dry basis) in Cuba of this "platforming catalyst". Certain catalysts returned to the Universal Oil Products Company, pursuant to an operating agreement by the Cuban corporation, in October 1958 and May 1959, were reconditioned and reshipped to Cuba in January 1959 (9,621 pounds) and in July 1959 (9,514 pounds). This platinum content of the reshipments was comprised of 525.684 and 520.303 troy ounces, or a total of 1,045.987 ounces. This investment was the property of and carried on the books of TEXACO.

The evidence of record discloses that this platinum was in Cuba at the time of intervention of the Cuban corporation. Further, TEXACO has submitted evidence to establish that the appraised value of such platinum is \$80.85 per troy ounce, or a total value of \$84,568.05. The evidence establishes this average price as the price c.i.f. New York at which TEXACO purchased platinum for the pool maintained by TEXACO refineries, as of March 1960, and is the last such purchase prior to the expropriation of the refinery and other property

CU-1331  
CU-1332  
CU-1333

of the Cuban corporation, including the platinum in question. The Commission finds that the aforesaid appraised value of the platinum is the most appropriate evaluation of such loss and, accordingly, finds that TEXACO sustained a loss in the amount of \$84,568.05 for this portion of the claim.

TEXACO submitted invoices to establish the sale of fuel oil in March and early 1960 to vessels of a Cuban firm known as Naviera Vacuba, S.A., in the total amount of \$4,867.66, which remains unpaid. Evidence available to the Commission discloses that Naviera Vacuba, S.A. was confiscated by the Government of Cuba on August 26, 1960, pursuant to Law 735 (see Claim of James Keys, Claim No. CU-0991, 1968 FCSC Ann. Rep. 75). Accordingly, the Commission finds that this is a compensable loss of TEXACO within the purview of Title V of the Act (see Kramer, *supra*).

The remaining portion of the claim of TEXACO pertains to the asserted costs incurred by that claimant in connection with the evacuation of employees and their families from Cuba, more particularly as follows:

Payments to employees for loss of personal effects	\$ 72,358.75
Packing, storage, shipment and insurance costs on personal effects of employees	27,222.31
Air fares on evacuating personnel <u>1/</u>	3,597.24
Rental of cars <u>2/</u>	13,449.91
Hotel rentals and meals for evacuated employees in Miami	19,486.73
Payroll expense of evacuated personnel <u>3/</u>	88,353.79
Living expenses of evacuated personnel <u>4/</u>	<u>28,784.09</u>
Total	\$253,252.82

- 1/ Including reimbursement to one employee who paid for own transportation.
- 2/ Rental of cars while attempting to ship employees' personal cars out of Cuba.
- 3/ June 1960-November 1960, during which time efforts were being made to find positions for these employees elsewhere.
- 4/ Expenses while awaiting reassignment elsewhere.

CU-1331  
CU-1332  
CU-1333

With respect to the item of claim asserted by TEXACO in the amount of \$72,358.75 for "Payments to employees for loss of personal effects", claimant has submitted no supporting evidence. In order to establish a compensable claim the record must include evidence pertaining to the nationality of the employees in question and evidence pertaining to ownership of the property, nationalization or other taking thereof, and value of the properties assertedly owned and taken from the employees. Additionally, in order to establish this portion of the claim of TEXACO documentation must be of record to establish that the claims for loss were assigned to TEXACO by their employees; that payments were made to the employees; and that the employees in question did not assert claims for loss of their properties under Title V of the Act.

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).)

The Commission finds that claimant TEXACO has failed to meet the burden of proof with respect to the portion of their claim based upon loss of payments to employees for loss of personal effects. Accordingly, this portion of the claim is hereby denied.

With respect to other expenses, as enumerated above, which were assertedly paid by TEXACO for those incidentals arising from the resettlement of employees, TEXACO asserts that it made payments to their employees in 1960 in the form of severance pay, packing and shipping charges, air fares, hotel bills, living expenses and similar forms of assistance.

In considering these portions of the claim, the Commission must determine whether such losses are certifiable under Title V of the Act.

Section 501 of the Act states:

It is the purpose of this title to provide for the determination of the amount and validity of claims against the Government of Cuba which have arisen since January 1, 1959, out of nationalization, expropriation, intervention, or other takings of, or special measures directed against, property of nationals of the United States, . . .

CU-1331  
CU-1332  
CU-1333



This Section and Section 503(a) of the Act, supra, both refer to losses from the taking of property. The record is clear that claimant's losses, described above, are not for property taken by the Government of Cuba. There is no evidence of record to establish that these payments were made for property which was nationalized or otherwise taken by Cuba. Therefore, the Commission finds that these losses are not within the purview of Title V of the Act. Accordingly, these portions of the TEXACO claim are hereby denied. (See Claim of Cuban Electric Company, Claim No. CU-2578.)

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 Lisle Corporation, Claim No. CU-0644), and in the instant claims it is so ordered as follows:

1. TEXACO INCORPORATED

<u>FROM</u>	<u>ON</u>
June 29, 1960	\$50,074,242.01
August 26, 1960	4,867.66
	<u>\$50,079,109.67</u>

2. TEXAS PETROLEUM COMPANY

<u>FROM</u>	<u>ON</u>
June 29, 1960	\$ 5,143,433.04

3. TEXACO EXPORT INCORPORATED

<u>FROM</u>	<u>ON</u>
June 29, 1960	\$ 971,880.02

CERTIFICATIONS OF LOSS

The Commission certifies that TEXACO INCORPORATED 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 Fifty Million Seventy-nine Thousand One Hundred Nine Dollars and Sixty-seven Cents (\$50,079,109.67), with interest thereon at 6% per annum from the respective dates of loss to the date of settlement;

CU-1331  
CU-1332  
CU-1333

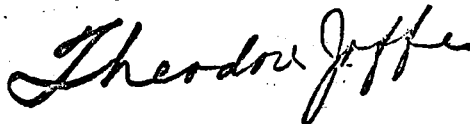
The Commission certifies that TEXAS PETROLEUM COMPANY suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Five Million One Hundred Forty-three Thousand Four Hundred Thirty-three Dollars and Four Cents (\$5,143,433.04), with interest thereon at 6% per annum from June 29, 1960, to the date of settlement; and


The Commission certifies that TEXACO EXPORT INCORPORATED 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 Nine Hundred Seventy-one Thousand Eight Hundred Eighty Dollars and Two Cents (\$971,880.02), with interest thereon at 6% per annum from June 29, 1960, to the date of settlement.

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

MAR 4 1970

  
Kyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

  
Sidney Fraiberg, Commissioner

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.

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-1331

CU-1332

CU-1333