

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

IN THE MATTER OF THE CLAIM OF

CHASE INTERNATIONAL INVESTMENT
CORPORATION on Behalf of
ARCTURUS INVESTMENT &
DEVELOPMENT LTD.

Claim No. CU-0655

Decision No. CU-25

Under the International Claims Settlement
Act of 1949, as amended

AMENDED PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was denied by the Commission by Proposed Decision issued on December 21, 1966, on the ground that ARCTURUS INVESTMENT & DEVELOPMENT LTD., did not qualify as a national of the United States, and further, discussing Sections 505(b) and 505(c) of the Act. The matter having been re-examined, it is

ORDERED that the Proposed Decision be amended as follows:

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by CHASE INTERNATIONAL INVESTMENT CORPORATION, on behalf of ARCTURUS INVESTMENT & DEVELOPMENT LTD., in the amount of \$150,150.00, based on a stock interest in "Cia. Antillana de Acero, S.A." of Cuba.

Under Section 503 of the International Claims Settlement Act of 1949, as amended (64 Stat. 12; 69 Stat. 562; 72 Stat. 527; 78 Stat. 1110; 79 Stat. 988) the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. That section 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

(a) . . . 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 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.

In order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established that the subject property was owned wholly or partially, directly or indirectly by nationals of the United States on the date of nationalization or other taking.

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 . . .

CHASE INTERNATIONAL INVESTMENT CORPORATION has stated that it is organized under the provisions of the Federal Reserve Act; that it is

wholly owned by The Chase Manhattan Bank, a New York corporation. An officer of The Chase Manhattan Bank has certified that the holders of over 95 per cent of the capital stock of The Chase Manhattan Bank are resident in the United States.

CHASE INTERNATIONAL INVESTMENT CORPORATION further states that it is the sole owner of ARCTURUS INVESTMENT & DEVELOPMENT LTD., a Canadian Non-Resident Owned Investment Company, and that this claim is filed on behalf of said ARCTURUS; that the claim is based on (1) \$150,000.00 for 1,500 shares of Class B Common Stock of Compania Antillana de Acero, S.A., of Cuba, an investment made by a transfer of United States Dollars from New York to Havana, and recorded as an investment of ARCTURUS; and (2) \$150.00 paid to the Havana branch of a Boston Bank, for handling the purchase on behalf of ARCTURUS.

It appears that Cia. Antillana de Acero, S.A., was intervened by the Government of Cuba on March 23, 1960 by Resolution No. 3266 of the Minister of the Treasury.

From the foregoing, it is clear that the property upon which this claim is based was not owned by a corporation which qualifies as a national of the United States in that it was not organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico as is required under the provisions of section 502(1)(B) of Title V of the Act.

Inasmuch as ARCTURUS INVESTMENT & DEVELOPMENT LTD. was not organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, the Commission finds that the claim is not a claim of a national of the United States as defined in Section 502(1)(B) of the Act, and accordingly it must be denied. (See the Claim of Cia. Ganadera Becerra, S.A., FCSC Claim No. CU-0726)

CHASE INTERNATIONAL INVESTMENT CORPORATION contends that this is the claim of ARCTURUS INVESTMENT & DEVELOPMENT LTD., direct under

Section 505(b) of the Act, and not subject to limitations on indirect claims under Section 505(c) of the Act. Section 505 of the Act provides:

(b) A claim under section 503(a) of this title based upon a direct ownership interest in a corporation, association, or other entity for loss shall be considered, subject to the other provisions of this title, if such corporation, association, or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant.

(c) A claim under section 503(a) of this title based upon an indirect ownership interest in a corporation, association, or other entity for loss shall be considered, subject to the other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof at the time of such loss was vested in nationals of the United States.

If this claim were presented by CHASE INTERNATIONAL INVESTMENT CORPORATION, based on a loss incurred through a Canadian subsidiary, ARCTURUS INVESTMENT & DEVELOPMENT LTD., it appears that it would be necessary to establish that 25 per cent of the stock of "Cia. Antillana de Acero, S.A." was vested in nationals of the United States. In response to an inquiry on this point, a corporate officer of CHASE INTERNATIONAL INVESTMENT CORPORATION, has replied as follows:

Unfortunately the stock sold by Antillian to North Americans represented only 24.39% of the then outstanding stock. Since Arcturus owned 1,500 of the 20,000 Class B Shares, the maximum that could have been owned by Americans was 22.56%. Therefore it appears that Arcturus is not able to qualify under Section 505(c) of the Act.

Inasmuch as ARCTURUS INVESTMENT & DEVELOPMENT, LTD., is not itself a qualified claimant under the Act, and although CHASE INTERNATIONAL INVESTMENT CORPORATION may have held indirectly an interest in "Cia. Antillana de Acero, S.A." of Cuba, such Cuban entity is

not shown to have been owned to the extent of 25 per cent by United States nationals, and the Commission is constrained to deny the claim, and deems it unnecessary to make specific findings with respect to other elements of this claim.

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

FEB 1 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 20 days after service or receipt of notice of this Proposed Decision upon the expiration of 30 days after such service or receipt of notice, the decision will be entered as the Final Decision of the Commission, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) (1964))

CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on MAR 9 1967

Jessie M. Anderson
Clerk of the Commission

FOREIGN CLAIMS SETTLEMENT COMMISSION
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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.

In order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking.

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 . . .

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It appears that Cia. Antillana de Acero, S.A., was intervened by the Government of Cuba on March 23, 1960 by Resolution No. 3266

of the Minister of the Treasury.

From the foregoing, it is clear that the property upon which this claim is based was not owned by a corporation which qualifies as a national of the United States in that it was not organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico as is required under the provisions of section 502(1)(B) of Title V of the Act.

Inasmuch as ARCTURUS INVESTMENT & DEVELOPMENT LTD. was not organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, the Commission finds that the claim is not a claim of a national of the United States as defined in Section 502(1)(B) of the Act, and accordingly it must be denied. (See the Claim of Cia. Ganadera Becerra, S.A., FCSC Claim No. CU-0726)

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"(b) A claim under section 503(a) of this title based upon a direct ownership interest in a corporation, association, or other entity for loss shall be considered, subject to the other provisions of this title, if such corporation, association, or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant.

"(c) A claim under section 503(a) of this title based upon an indirect ownership interest in a corporation, association, or other entity for loss shall be considered, subject to the other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof at the time of such loss was vested in nationals of the United States.

If this claim were presented by CHASE INTERNATIONAL INVESTMENT CORPORATION based on a loss incurred by ARCTURUS INVESTMENT & DEVELOPMENT LTD., the Commission would be constrained to hold that the Canadian corporation, remaining intact and an entity capable of transacting business, incurring debts and holding property, is the

owner of any claim arising under international law, and that any claim that might have been presented by CHASE INTERNATIONAL INVESTMENT CORPORATION would not be valid under Title V of the Act in that it would not have been owned by a national of the United States on the date of filing with the Commission, and accordingly such claim would be denied. (See the Claim of Becton, Dickinson and Company, FCSC Claim No. CU-0113.)

On the other hand, if CHASE INTERNATIONAL INVESTMENT CORPORATION, as a qualified claimant, directly owned the ANTILLANA investment, it might possibly pursue such claim without regard to the per centum of stock held in ANTILLANA. (Sec. 505(b), supra.) Yet if CHASE INTERNATIONAL INVESTMENT CORPORATION in such case were not a qualified claimant under the Act, its possible American stockholders might have a claim against the Government of Cuba, and in such case might be bound to establish that 25% of the stock of ANTILLANA was American owned. (Sec. 505(c), supra.)

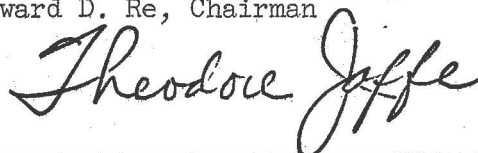
The Commission deems it unnecessary to make specific findings with respect to other elements of this claim.

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

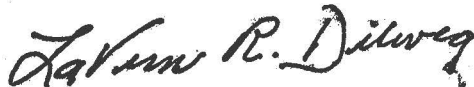
DEC 21 1966



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

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CU-0655