UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

HAVANA DOCKS CORPORATION,

Case No.: 19-cv-23588-BLOOM/LOUIS

Plaintiff,

vs.

MSC CRUISES SA,
MSC CRUISES SA CO, and
MSC CRUISES (USA) INC.

Defendants.
_____/

SECOND AMENDED COMPLAINT

Plaintiff Havana Docks Corporation ("Plaintiff") hereby sues MSC Cruises SA, MSC Cruises SA CO, and MSC Cruises (USA) Inc. ("MSC Cruises USA") (collectively "Defendants" or "MSC Cruises"), pursuant to the Cuban Liberty and Democratic Solidarity Act ("LIBERTAD Act"), for trafficking in Plaintiff's confiscated property located in Cuba.

INTRODUCTION

The LIBERTAD Act was enacted to assist the Cuban people in regaining their freedom and prosperity, strengthen international sanctions against the communist Cuban Government, and to deter the exploitation of wrongfully confiscated property in Cuba belonging to United States nationals. Although every U.S. President has suspended the right to bring an action under the LIBERTAD Act since its enactment in 1996, the Defendants have been on notice since 1996 that trafficking in property

confiscated by the communist Cuban Government without the authorization of the owner of a certified claim to such property would subject them to liability under the LIBERTAD Act. As of the date of filing this Complaint, the United States Government has ceased suspending the right to bring an action under the LIBERTAD Act, which therefore permits Plaintiff to seek damages for the Defendants' conduct in exploiting Plaintiff's wrongly confiscated property.

PARTIES

1. Plaintiff, Havana Docks Corporation, 215 Southland Drive, Lexington, Kentucky, 40503, is a Delaware corporation and a U.S. National under 22 U.S.C. § 6023(15)(B).

2. MSC Cruises SA is a corporation chartered and located in Switzerland with its registered address at Avenue Eugène-Pittard 40, 1206 Geneva, Switzerland. MSC Cruises SA owns and operates cruise ships which, after November 1, 1996 traveled to Cuba, including the cruises to Cuba from Miami that used the Subject Property to embark and disembark passengers in Havana. MSC Cruises SA also operates through its subsidiaries and joint ventures, including the subsidiaries owning or leasing the ships of its fleet that have provided cruises to Cuba from Miami. MSC Cruises SA controls and decides the destinations and itineraries of its cruise ships.

3. MSC Cruises SA CO is a Florida corporation doing business and maintaining its principal place of business at 6750 N. Andrews Ave., Suite 100, Ft. Lauderdale, Florida 33309. MSC Cruises SA CO is a wholly owned subsidiary of MSC Cruises SA. MSC Cruises SA operates and conducts its business in Florida through

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MSC Cruises SA CO. MSC Cruises SA and MSC Cruises SA CO operated the Defendants' cruises from Florida to Cuba that embarked and disembarked passengers on the Subject Property.

4. MSC Cruises USA is a Delaware Corporation doing business and maintaining its principal place of business at 6750 N. Andrews Ave., Suite 100, Ft. Lauderdale, Florida 33309. MSC Cruises (USA), Inc. is a wholly owned subsidiary of MSC Cruises SA. MSC Cruises USA sold and marketed Defendants' cruises from Miami to Cuba.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question jurisdiction), because Plaintiff's claim arises under 22 U.S.C. § 6021, *et seq*., and the amount in controversy exceeds the sum or value of $50,000, exclusive of interest, costs, and attorneys' fees.

6. This Court has personal jurisdiction over MSC Cruises SA pursuant to Florida Statute § 48.193(1)(a)(1) because the cause of action arises from operating, conducting, engaging in, or carrying on a business or business venture in the state of Florida. MSC Cruises SA is also subject to personal jurisdiction under Florida Statute § 48.193(2) as MSC Cruises SA is engaged in substantial and not isolated activity within the State of Florida, including by using the State of Florida as the homeport for ships that provided cruises to Cuba from Florida. Further, the standard ticket contract for all United States-based cruises operated by MSC Cruises SA contains a forum selection clause requiring "any dispute of any kind or nature whatsoever . . .

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between Passenger and" MSC Cruises SA "be resolved exclusively by the United States District Court for the Southern District of Florida." MSC Cruises SA is a named defendant to approximately 50 lawsuits filed in the Southern District of Florida in the past three years.

7. Venue is proper in the Southern District of Florida under 28 U.S.C. § 1391(b)(1), because the Defendants reside in the Southern District of Florida, and under 28 U.S.C. §§ 1391(b)(2) and 1391(d), because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in the Southern District of Florida.

THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT

8. The LIBERTAD Act was enacted on March 12, 1996. One of the LIBERTAD Act's purposes is to "protect United States nationals against confiscatory takings and the wrongful trafficking in property confiscated by the Castro Regime." 22 U.S.C. § 6022(6). Title III of the LIBERTAD Act ("Title III") establishes a private right of action for money damages against any person who "traffics" in such property as defined by 22 U.S.C. § 6023(13). *See* 22 U.S.C. § 6082. Title III's effective date, August 1, 1996, was never suspended. Liability for trafficking under Title III therefore attached irreversibly beginning November 1, 1996.

FACTUAL ALLEGATIONS

9. Plaintiff, a U.S. national as defined by 22 U.S.C. § 6023(15), is the rightful owner of an interest in and certified claim to certain commercial waterfront

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real property in the Port of Havana, Cuba identified specifically by the Republic of Cuba ("Cuba") as the Havana Cruise Port Terminal (the "Subject Property").

10. Plaintiff and its predecessor in interest constructed and managed the Subject Property. The Subject Property was continuously, owned, possessed, used, and managed in Cuba by Plaintiff from 1917 until the communist Cuban Government confiscated it in 1960.

Cuba's Confiscation of the Subject Property

11. The communist Cuban Government confiscated the Subject Property on October 24, 1960. The communist Cuban Government maintains possession and control of the Subject Property and has not paid any compensation to Plaintiff for its seizure.

12. More specifically, the communist Cuban Government nationalized, expropriated, and seized ownership and control of the Subject Property. The Subject Property has not been returned and adequate and effective compensation has not been provided. Further, the claim to the Subject Property has not been settled pursuant to an international claims settlement agreement or other settlement procedure.

13. Plaintiff never abandoned its legitimate interest in and claim to the Subject Property.

The Certified Claim

14. Plaintiff's ownership interest in and claim to the Subject Property has been certified by The Foreign Claims Settlement Commission of the United States

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("FCSC"). A copy of the FCSC's Certified Claim ("Claim No.CU-2492") is attached hereto as **Exhibit A**. Claim No. CU-2492, which has no time limit and has not expired, provides an itemized listing of the property interests certified by the FCSC, as follows:

> Upon consideration of the entire record, the Commission finds that the valuation most appropriate to the property and equitable to the claimant is that shown in the Balance Sheet for the year ended 1959, supported by the Trial Balance for December 31, 1958. These financial statements reflect the following book values adopted by claimant corporation:

Land and Concession	$ 2,000,000.00
San Francisco and Machina Piers	4,758,829.00
Santa Clara Pier	2,110,845.00
Equipment	419,056.00
Office Furniture and Fixtures	90,616.00
Railroad Tracks	22,883.00
Total	$ 9,402,229.00

15. After taking into account amortization, depreciation, accrued interest, and other adjustments, the FCSC's final decision certified the loss at "Nine Million One Hundred Seventy-nine Thousand Seven Hundred Dollars and Eighty-eight Cents ($9,179,700.88) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement." (**Exhibit A** at 3.)

16. The largest portion of the loss certified in Claim No. CU-2492 consisted of the structures on the San Francisco, Machina, and Santa Clara Piers. (**Exhibit A** at 9.)

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17. A concession was one of the several property interests certified. The concession granted the Plaintiff a term of 99 years for the use of, improvement, construction upon, operation and management of the Subject Property. The Plaintiff used, operated, managed and made significant improvements on the Subject Property from 1905 until 1960, when it was confiscated by the communist Cuban Government. The concession never expired by its term. It was confiscated by the Cuban Government in 1960. Thus, when the Subject Property was confiscated in 1960, Havana Docks still had a balance of 44 years of concessionary rights remaining; those 44 years of concessionary rights still remain in balance, and Havana Docks has never been indemnified by the Cuban Government or anyone for the loss of that property interest. As a result, under the terms of the concession and Cuban law in force at the time, Havana Docks still retains, to this day, a reversionary interest of 44 years remaining in the Subject Property (i.e., a future or contingent possessory right).

18. Further, the concession granted to the Plaintiff the contractual right to be indemnified for the value of the work constructed by it on the Subject Property in the event of expropriation, as follows:

> *Seventh:* If during the continuance of the concession the works may be expropriated by virtue of Article 50 of the Law of Ports, the government or its departments will indemnify the concessionary to the value of the work constructed by it, including the Custom House Inspectors Department and the wharf on the north side of the pier, but not the value of the machinery, rolling stock, equipment and apparatus referred to in the preceding clause, in case the concessionary may decide to remove them.

(See **Exhibit B**)

19. This indemnity right gave the Plaintiff an interest in the Subject

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Property that was not time-limited. As an express term of the concession, the indemnity right—which by the terms of the concession was not time limited—was certified by the FCSC. The "value of the work constructed by" Havana Docks and its predecessor-in-interest include the value of the San Francisco, Machina and Santa Clara Piers, as reflected in the certified claim. This claim to indemnity remains unpaid. The LIBERTAD Act expressly contemplates this type of property interest and recognizes such an unpaid debt as an obligation that attaches to the confiscated property, as would a mechanic's lien: the LIBERTAD Act defines the term "confiscated" to include "the failure of the Cuban Government to pay, on or after January 1, 1959-- . . . a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban Government." 22 U.S.C. § 6023(4)(B)(ii) (emphasis added); *see also* 22 U.S.C. § 6023(12)(A) (defining "property" to include "any property. . . whether real, personal, or mixed, and any present, future, or contingent right, security, or other interest therein, including any leasehold interest" (emphases added)).

20. Plaintiff has never received any compensation nor been indemnified for the expropriation of the Subject Property, including for the concession or any other property interests.

21. Under the LIBERTAD Act, Plaintiff's ownership of Claim No. CU-2492 is a property interest in the Subject Property entitling the Plaintiff to sue under Title III against whomever traffics in the Subject Property. 22 U.S.C. § 6082(a)(1)(A).

22. The terms of Claim No. CU-2492 expressly state that the claim does not

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expire until "the date of settlement." (ECF No. 24-1, at 4, 13.) That date has not yet come. The certified claim is still actionable. Claim No. CU-2492 has not time limit.

MSC Cruises' Trafficking in the Confiscated Subject Property

23. On information and belief, after November 1, 1996, the Defendants knowingly and intentionally commenced, conducted, and promoted their commercial cruise line business from Miami to Cuba using the Subject Property by regularly embarking and disembarking their passengers on the Subject Property without the authorization of Plaintiff or any U.S. national who holds a claim to the Subject Property.

24. On information and belief, after November 1, 1996, the Defendants also knowingly and intentionally participated in and profited from the communist Cuban Government's possession of the Subject Property without the authorization of Plaintiff or any U.S. national who holds a claim to the Subject Property.

25. Defendants have had constructive knowledge of Plaintiff's publicly available certified claim to the Subject Property, Claim CU-2492, since the FCSC completed the Cuban Claims Program on July 6, 1972.

26. Defendants had actual knowledge of Plaintiff's certified claim to the Subject Property, Claim CU-2492, since at least February 11, 2019, due to a notice letter sent by Plaintiff to them pursuant to 22 U.S.C. § 6082(a)(3)(D).

27. On information and belief, Defendants trafficked in the Subject Property until at least June 2019.

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28. The Defendants' knowing and intentional conduct with regard to the confiscated Subject Property is trafficking as defined in 22 U.S.C. § 6023(13)(A).

29. As a result of the Defendants' trafficking in the Subject Property, the Defendants are liable to Plaintiff for all money damages allowable under 22 U.S.C. § 6082(a).

CLAIM FOR DAMAGES

TITLE III OF THE LIBERTAD ACT

30. Plaintiff incorporates by reference paragraphs 1 through 29 as if fully stated herein.

31. This claim is brought pursuant to Title III of the LIBERTAD Act, 22 U.S.C. § 6082.

32. As set forth in Title III and alleged above, after November 1, 1996, the Defendants did traffic, as that term is defined in 22 U.S.C. § 6023(13)(A), in the Subject Property which was confiscated by the communist Cuban Government on or after January 1, 1959 and are therefore liable to Plaintiff, who owns the claim to the Subject Property for money damages.

33. Plaintiff is entitled to all money damages allowable under 22 U.S.C. § 6082(a), including, but not limited to, those equal to the sum of:

a. The amount greater of: (i) the amount certified by the Foreign Claims Settlement Commission, plus interest; (ii) the amount determined by a special master pursuant to 22 U.S.C. § 6083(a)(2); or (iii) the "fair market value" of the Subject Property, plus interest;

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b. Three times the amount determined above (treble damages); and

c. Court costs and reasonable attorneys' fees.

34. As of the date of filing this Complaint, the United States Government has ceased suspending the right to bring an action under Title III, 22 U.S.C. § 6085, which therefore permits Plaintiff to seek the relief requested herein.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the Defendants as follows:

A. Ordering the Defendants to pay damages (including treble damages);

B. Ordering the Defendants to pay pre- and post-judgment interest on any amounts awarded;

C. Order the Defendants to pay attorneys' fees, costs, and expenses; and

D. Ordering such other relief as may be just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues so triable, and a trial pursuant to Rule 39(c), Federal Rules of Civil Procedure, as to all matters not triable as of right by a jury.

Dated: October 8, 2020.

Respectfully submitted,

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Attorneys for Plaintiff Havana Docks Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed with the Clerk of the Court. I also certify that the foregoing document is being served this October 8, 2020, on all counsel of record or pro se parties either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: s/ Roberto Martínez
Roberto Martínez

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EXHIBIT A

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

IN THE MATTER OF THE CLAIM OF

HAVANA DOCKS CORPORATION

Under the International Claims Settlement Act of 1949, as amended

Claim No CU -2492

Decision No. CU -6165

Counsel for claimant: Davis Polk & Wardwell by Douglas M. Galin, Esquire

Appeal and objections from a Proposed Decision entered April 12, 1971. Oral hearing requested.

Oral argument September 15, 1971 by Douglas M. Galin, Esquire

FINAL DECISION

The Commission issued its Proposed Decision on this claim on April 21, 1971, certifying that claimant suffered a loss of $7,669,420.88 within the scope of Title V of the International Claims Settlement Act of 1949, as amended, resulting from actions of the Government of Cuba.

Claimant, through counsel, objected to the Proposed Decision, and requested an oral hearing which was held on September 15, 1971. In support of the objections claimant submitted an affidavit of John C. Hover, a member of counsel's firm.

In the objections, claimant stated that the concessions and dock facilities had a higher value than the amount determined by the Commission, and that an item of $10,280.00 for handling charges was improperly denied.

Full consideration having been given to claimant's objections, the supporting affidavit, counsel's argument at the hearing, and the entire record, the Commission now finds that in view of the considerable

increase of land values along the Havana waterfront between 1934 and 1960, the value of claimant's concession and tangible assets should be increased from $7,184,360.18 to $8,684,360.18.

Regarding the appraisal of Luis Parajon who valued the above properties at $16,180,000.00, the Commission holds that this appraisal cannot be relied upon to the exclusion of other evidence of record because, inter alia, it does not specify the size and value of the land and improvements thereon separately and individually; and because its findings are based on generalities, not appropriate in this type of evaluation of valuable improved real property.

The Commission further considered claimant's objections with respect to the item of $10,280.00 for handling charges, and finds that these are, in fact, storage charges for unclaimed merchandise, due and payable by the Government of Cuba, and that they should be included in the loss, which is restated as follows:

		Date of Loss
Concession and tangible assets	$8,684,360.18	October 24, 1960
Securities	184,005.70	August 6, 1960
Accounts receivable	301,055.00	October 24, 1960
Debt of Cuban Government	10,280.00	October 24, 1960
Total loss	$9,179,700.88	

The interest at the rate of 6% per annum will be included in the instant case as follows:

FROM	ON
August 6, 1960	$ 184,005.70
October 24, 1960	8,995,695.18

Accordingly, the Certification of Loss in the Proposed Decision is set aside; the following Certification of Loss will be entered; and the remainder of the Proposed Decision, as amended herein, is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that HAVANA DOCKS CORPORATION 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 Million One Hundred Seventy-nine Thousand Seven Hundred Dollars and Eighty-eight Cents($9,179,700.88) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

SEP 28 1971

Lyle S. Garlock, Chairman

Theodore Jaffe, Commissioner

CU-2492

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

IN THE MATTER OF THE CLAIM OF

HAVANA DOCKS CORPORATION

Under the International Claims Settlement Act of 1949, as amended

Claim No. CU-2492

Decision No. CU-6165

Counsel for claimant: Davis, Polk & Wardwell
By Peter H. Madden, Esq.

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 HAVANA DOCKS CORPORATION for $9,915,879.00, based upon the asserted ownership and loss of its assets nationalized by the Government of 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)(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 record shows that in 1917 claimant corporation was organized under the laws of the State of Delaware. Claimant's Vice-President and Assistant Comptroller stated that at all times between August 14, 1917 and the presentation of the claim, more than 50 percent of the outstanding capital stock of all classes has been owned by persons who were United States nationals, and that at the time of filing the claim, of 35,505 outstanding shares of stock of HAVANA DOCKS CORPORATION only 1,003 or approximately 3% of the total outstanding shares were held by persons who were not nationals of the United States. The Commission therefore holds that claimant is a national of the United States within the meaning of Section 502(1)(B) of the Act.

Claimant states that on the basis of a concession granted by the Government of Cuba, it owned and operated, at the entrance of the harbor of Havana three piers: the "San Francisco", "Machina" and "Santa Clara" linked with a large marginal building. The piers and buildings were used for warehousing purposes, cargo deposits, and for merchandise provisionally stored pending Customs clearance. Each pier consisted of a two-story concrete building with an apron equipped with platforms, and a double railroad track to permit direct unloading of cargo from ships to railroad cars and vice versa. All official port authorities were located within the

marginal building, such as the Customs House of Havana, the Inspector General of the Port, the Immigration Department and other governmental agencies. Elevators, escalators, portable cranes, tractors, trailers, fork lift trucks, and other port and dock equipment were part of claimant's installations on the piers and in the warehouses, which were located in the center of harbor activities of the port of Havana.

Based upon the record, the Commission finds that on September 7, 1934, claimant HAVANA DOCKS CORPORATION obtained from the Government of Cuba the renewal of a concession for the construction and operation of wharves and warehouses in the harbor of Havana, formerly granted to its predecessor concessionaire, the Port of Havana Docks Company; that claimant acquired at the same time the real property with all improvements and appurtenances located on the Avenida del Puerto between Calle Amargura and Calle Santa Clara in Havana, facing the Bay of Havana; that in June, 1946, the property was encumbered with a mortgage in favor of certain bondholders for the amount of $1,600,000.00 in accordance with Public Instrument of June 1, 1946, recorded in Havana on July 25, 1946; and that claimant corporation also owned the mechanical installations, loading and unloading equipment, vehicles and machinery, as well as furniture and fixtures located in the offices of the corporation.

The record further shows that the Cuban assets of claimant corporation were nationalized by Resolution No. 3, published in the Official Gazette of October 24, 1960, pursuant to Law No. 851 of July 6, 1960, and that the facilities of the company were physically occupied by agents of the Cuban Government on November 21, 1960. Accordingly, the Commission finds that the Cuban assets of HAVANA DOCKS CORPORATION were nationalized by the Government of Cuba on October 24, 1960.

Claimant states that the corporation suffered the following losses:

Land and Concession	$ 2,000,000.00
Buildings	6,892,557.00
Personal property, equipment, etc.	595,315.00
Securities (1000 common stock shares of Cuban Telephone Company)	100,000.00
Debts owed by nationalized enterprises and by the Government of Cuba.	328,007.00
	$ 9,915,879.00

In support of this valuation of losses claimant submitted, among other things, the following evidence:

(1) Trial balance as of December 31, 1958;

(2) Balance sheets for the years 1956, 1957, 1958 and 1959;

(3) Auditor's report as of December 31, 1958;

(4) An evaluation of the properties by Mr. Louis Parajon, a civil engineer and former professional appraiser in Cuba; and

(5) An inventory of the equipment, furniture and fixtures as of December 31, 1959.

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.

The record contains a report of the Office of the Property Register of Havana which shows that in 1928, the concession, then owned by the Port of Havana Docks Company, had an assessed market value of $600,000.00, and that a subsequent assessment established the value of the concession at $5,000,000.

Upon consideration of the entire record, the Commission finds that the valuation most appropriate to the property and equitable to the claimant is that shown in the Balance Sheet for the year ended 1959, supported by the Trial Balance for December 31, 1958. These financial statements reflect the following book values adopted by claimant corporation:

Land and Concession	$ 2,000,000.00
San Francisco and Machina Piers	4,758,829.00
Santa Clara Pier	2,110,845.00
Equipment	419,056.00
Office Furniture and Fixtures	90,616.00
Railroad Tracks	22,883.00
Total	$ 9,402,229.00

The record indicates that the pier properties are stated at values appraised as of December 31, 1920, plus subsequent additions at cost. The terms of the concession granted by the Cuban Government were to expire in the year 2004, at which time the corporation had to deliver the piers to the government in good state of preservation. The equipment, office furniture were acquired more recently and are stated at cost. The appraiser, Louis Parajon states in his report that in 1960 the concession, real property, office and general equipment had a value of $16,180,000.00 after depreciation, which is considerably more than what the claimant describes as the loss.

The Commission is aware that from 1920 to 1960 real property prices in Havana had increased, and that the values expressed in prices of the year 1920 may not have been realistic in 1960. The Commission, however, notes

that during the prior years claimant corporation allowed for depreciation of the real property and amortization of the concession approximately 1-1/2 per cent per year; and that nothing was added to show any appreciation of the property.

The Commission, therefore, concludes that it would be equitable and appropriate to consider as basic the year 1934 when HAVANA DOCKS CORPORATION obtained the concession for the operation of the docks; to deduct from that year up to the year 1960 one per cent (1%) yearly for amortization of the concession and for the depreciation of the buildings; and further deduct 25% from the stated value of the equipment, furniture and fixtures for wear and tear, assuming that most equipment was in operation during an average time of five years, when it was taken by the Government of Cuba.

The Commission finds that the amount of $2,000,000 includes not only the value of the concession but also the value of the land and of the piers alongside the property which, in the opinion of the Commission, had a value of $1,000,000 in the year 1960.

Amortization and depreciation is therefore applicable as follows:

(a) 1% per year from 1934 to 1960, or 26% on the following values:

Concession	$ 1,000,000	
San Francisco and Machina Piers .	4,758,829	(structures only)
Santa Clara Pier	2,110,845	(structures only)
Railroad Tracks	22,883	
Total	$ 7,892,557	

26% thereof . . . . . $ 2,052,064.82

(b) 25% from the value of the equipment, office furniture and fixtures of $509,672 . . . . . 127,418.00

Total depreciation $ 2,179,482.82

As stated above, the real property was encumbered with a mortgage of $1,600,000 in favor of certain bondholders, but the balance sheet for the year ended December 31, 1959 shows that this funded debt has been reduced to a balance of $38,386.00 as of that date. Consequently, from the value

of the property of		$ 9,402,229.00
must be deducted for depreciation	$ 2,179,482.82	
and the balance of the funded debt	38,386.00	2,217,868.82
resulting in the net value of the tangible property, including concession, of		$ 7,184,360.18

The Commission further finds that claimant corporation was the owner of 1,000 shares of common stock of the Cuban Telephone Company. The Commission has held that the Cuban Telephone Company was nationalized on August 6, 1960 by Resolution No. 1 published by the Government of Cuba pursuant to Law 851, and that the loss sustained by the holders of common stock shares amounted to $184.0057 per share. (See Claim of International Telephone & Telegraph Corporation, Claim No. CU-2615.) Accordingly, claimant suffered a loss as the owner of 1,000 common stock shares in the aggregate amount of $184,005.70.

The Commission further finds that the amount claimed of $328,007 for debts owed by nationalized enterprises and by the Cuban Government, included a debt of $99,097 due from the Government of Cuba, and accounts receivable of $218,630 due to claimant corporation from trade enterprises nationalized, expropriated or intervened by the Government of Cuba. The Commission, therefore, concludes that claimant is entitled to an additional certification of losses for accounts receivable in the amount of $317,727.00.

The Commission does not deduct liabilities of United States corporations and other entities, except for taxes due to the Cuban Government. (See Claim of Simmons Company, Claim No. CU-2303, 1968 FCSC Ann. Rep. 77.) In the present claim the record shows that taxes accrued at the end of 1959 due to the Cuban Government amounted to $16,672.00.

Therefore, from the sum of accounts receivable of	$317,727.00
the tax indebtedness of	16,672.00
is deducted, leaving a net amount of receivables of	$301,055.00

Included in the debt claim is also an amount of $10,280.00 for handling charges, but the evidence does not disclose that this amount was due from

enterprises nationalized, expropriated, intervened or taken by the Government of Cuba, or that the amount was a charge on property which was nationalized, expropriated, intervened or taken by the Cuban Government, as required by Section 502(3) of the Act. Accordingly, the claim for $10,280.00 for handling charges is denied.

Summarizing, claimant corporation suffered the following losses within the meaning of Title V of the International Claims Settlement Act of 1949, as amended:

		Date of loss
Loss of concession and tangible assets	$7,184,360.18	October 24, 1960
Loss of securities	184,005.70	August 6, 1960
Loss of accounts receivable	301,055.00	October 24, 1960
Total loss	$7,669,420.88	

The Commission has decided that in certifications of loss 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 case it is so ordered as follows:

FROM	ON
October 24, 1960	$7,485,415.18
August 6, 1960	184,005.70

CERTIFICATION OF LOSS

The Commission certifies that HAVANA DOCKS CORPORATION 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 Seven Million Six Hundred Sixty-Nine Thousand Four Hundred Twenty Dollars and Eighty-Eight Cents ($7,669,420.88) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

APR 21 1971

Lyle S. Garlock, Chairman

Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the overnment of Cuba. Provision is only made for the determination by the ommission of the validity and amounts of such claims. Section 501 of the tatute specifically precludes any authorization for appropriations for ayment of these claims. The Commission is required to certify its indings to the Secretary of State for possible use in future negotiations ith the Government of Cuba.

OTICE: Pursuant to the Regulations of the Commission, if no objections e filed within 15 days after service or receipt of notice of this posed Decision, the decision will be entered as the Final Decision of e Commission upon the expiration of 30 days after such service or receipt f notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 1.5(e) and (g), as amended (1970).)

EXHIBIT "B"

Year IV – No. 139 Havana, Thursday, December 14, 1905 Volume II – Page 4285

GACETA OFICIAL

OF THE
REPUBLIC OF CUBA

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[...]

PUBLIC WORKS DEPARTMENT

DECREE NO. 467

Having seen again the file opened at the Civil Government of the Province of Havana by reason of the application and project submitted by Mr. Sylvester Scovel related to an administrative concession for the construction of a jetty pier with machinery, a building for the Customs Department, a special department to be used by customs inspectors, and devices for loading and offloading, and all other accessory works in the port of this capital city.

Whereas: A decree from this Office of the President of February 27 last declared said works to be of public usefulness, providing that the concession necessary for the execution thereof be opened to public bidding on the basis of the petitioner's project upon appraisal of said project and the appropriate publishing having been made.

Whereas: An appraisal of the project having been made, the value thereof was set at fifty-nine thousand five hundred forty-seven pesos and forty-five cents ($59,547.45) Cy. and the conditions were set under which the concession was to be granted, the petitioner having represented his agreement with said appraisal and conditions.

Whereas: the ninth day of this month of November, at two p.m., was set for the bidding, notice of which was published in *Gaceta Oficial* and in the newspapers of this city, "Diario de la Marina," "Discusión," and "Mundo" in five consecutive issues and repeated during the first ten days of the months of July, August, September, and October last, as well as in the Paris newspapers "Le Figaro," "Le Matin," and "Le Temps" and "Le Journal"; in Berlin's "Track Kischer Kurier"; and in London and New York, where printed copies of the projects were sent and made available to the public, together with copies of the plans thereof.

Whereas: on the day and time and at the place indicated the Board that was to act in the public bidding in the presence of a Notary, prepared appropriate certificate; of the three [bids] that

were submitted, Mr. D. Aceituno's was the most advantageous; he offered a twenty-seven per cent (27%) reduction on the rates submitted by the original applicant and lowered to fifty (50) years the ninety-nine (99) years the latter had requested, and the original applicant insisted on the entirety of his project in regards to said features; and the other one, albeit it reduced to nine (9) years the term of the concession, only offered a six per cent (6%) rate reduction.

Whereas: the legitimate representative of Compañía del Puerto, the successor of Mr. Scovel, the author of the project, availing itself at the same proceeding of its preemptive right within the legal term therefor, accepted Mr. Aceituno's proposal on behalf of its constituent.

Whereas all requirements and formalities required by law for the granting of the concession in question have been met in this file.

Whereas according to the rules and regulations for the execution of the Public Works Act, the project approved must serve as the basis for the public bidding and proposals must address, first of all, rate reductions for the construction of the works, and, according to Article 8 of the Instruction, in order to process concessions to private persons of port works in this Island, the public bidding therefor must also address, first of all, a reduction of the rates and, secondly, of the term of the concession.

Whereas, in light of this, the declaration by the Board presiding over the public bidding that Mr. D. Aceituno's proposal is the most advantageous is legal and proper inasmuch as it abides by the legal provisions currently in effect and previously referred to, being the one that reduced the rates to the lowest level.

Whereas, Compañía del Puerto, as Mr. Scovel's successor, duly availed itself within the legal term of the preemptive right conferred upon it by Article 28 of the Rules and Regulations of the Public Works Act, and was fully subrogated in Mr. Aceituno, whose proposal it accepted and, therefore, it is proper that it be deemed the winner in the public bidding and that that the concession be granted to it.

In accordance with the provisions cited above and those contained in the General Public Works Act and in the Rules and Regulations for the Execution thereof; in the Ports Act, and in the Instruction therefor; and in the Law of September 11, 1879, on public bidding for works and services.

Upon the proposal by the Secretary of Public Works, an availing myself of the powers vested in me, I grant Compañía del Puerto, Mr. Scovel's successor, the concession necessary to carry out the works set forth in the project submitted by the aforesaid Mr. Scovel on August 22, 1904, subject to the following conditions:

1.- The works shall conform in all respects to the project submitted by the applicant, Mr. Sylvester Scovel, dated August 22, 1904, except as otherwise modified by the clauses below.

2.- This concession is deemed included among those contemplated in Articles 44 and 45 of the Ports Act of October 31, 1890, and Article 97 of the General Public Works Act of April 19, 1883, and is granted for a term of fifty (50) years, reckoned as of the date of the concession, and is subject to the provisions of Article 50 of the aforesaid Ports Act.

3.- Authorization is given for the establishment of the coal deposit referred to in the project and for the operations thereof on the south side of the jetty, but the concession-holder is obligated to avail itself of all possible means to prevent coal dust from getting inside the buildings of the Customs offices and buildings in the city or from becoming a nuisance to the public.

4.- The State assigns in usufruct during the term of the concession that part of the San Francisco docks, as well as the public domain area, that will be occupied by the project's works.

5.- As compensation and in payment for the occupation of this site and the inconvenience to general use caused by construction work, the concession holder undertakes:

(a) To freely assign to the State the building for the Customs Inspectors that is part of the project.

(b) To widen up to thirty-six (36) feet the entrance to the jetty, as shown in the plans of the project.

(c) To build on the jetty a twenty-four (24) feet wide street, paved in the same manner as all others in the project, running north to south on the jetty and separating it from the Customs Inspectors Department; the roof covering this street shall have a height of at least fifteen (15) feet.

(d) To place a platform scale at the entrance to the Customs Inspectors Department, at such location as the Administration of the Port's Customs may designate, of the make indicated by said Administration, which shall be used to weigh articles going from the public docks into said Department, whether using the concession holder's own means or on carts.

(e) To definitely assign to the State, free of charge, all expansions of passenger landing booths intended for the Customs Offices, albeit with the condition that said building may not be used for any purpose other than said offices.

(f) To set aside for public use the dock on the north side of the projected jetty, albeit with the condition that the concession holder, at any time during the concession when, at its discretion, should port traffic so require it, may install on said north side devices, equipment, and machinery for loading and offloading vessels and steamers, enlarging the building for this purpose so that it will be in keeping with the plant thus improved. It may exercise this right with two-month notice given to the Department of Public Works, submitting at the same time the respective plans, and the added works will then be included within the concession.

6.- In case that, in accordance with the provisions of Article 50 of the Ports Act, there should be a need to expropriate the works, the concession holder shall be entitled to remove from the jetty pier the machinery, rolling stock, equipment, and devices being used at the time.

7.- If at any time during the term of the concession the works were to be expropriated, also by virtue of the application of the aforesaid Article 50 of the Ports Act, the Government or its agencies shall indemnify the concession holder for the value of all works built by the latter, including the Customs Inspectors Department and the dock on the north side of the jetty, but not for the value of the machinery, rolling stock, equipment, and devices referred to in the previous clause, in case that the concession holder should decide to remove them.

8.- In the case of expropriation referred to in the previous two clauses, works shall be appraised through direct volume calculation, applying the prices set for the work units shown in the budget and after meeting the requirements established in paragraph 2 of Article 14 of the Instruction of the Ports Act of November 17, 1890.

9.- The State shall allow the concession holder free use of an ample space in the jobsite, as well as access thereto, to keep and handle tools and materials and for any other suitable operation related to the construction of the works.

10.- During the term of the concession, the concession holder shall, for its own account, maintain in good repair and in such condition the foundations, streets, buildings, and all other plant facilities that, upon the conclusion of said term, it may surrender the works to the Government in perfectly serviceable condition. Any repairs and renovations that it may be necessary to make to the building intended for Customs offices and on that part on the north side of the jetty dock set aside for the public shall be for the Government's account, as shall also be the maintenance of the pavement of the service shorefront all along the front the jetty on the land side.

11.- The concession holder shall not be responsible for any damages resulting from delays on its part in the construction of the projected plant when such delays should be caused by strike, shipwreck, hurricane, epidemic or any other instance of force majeure.

12.- The concession holder may, during the term of this concession, add to the machinery, devices, and equipment of the projected plant whatever he may deem necessary for the appropriate handling of said plant's traffic; it may also apply to said machinery, devices, and equipment any or all improvements which may from time to time be advantageous.

13.- The concession holder shall install the machines necessary to generate electricity using steam engines, but its right is reserved to acquire electric current under contracts with companies able to supply it, in which case it shall not be obligated to install the aforesaid machines or to use them, if they should be already installed.

14.- The means of execution, the agents, and all other employees for the construction, maintenance, and administration of the works shall be chosen by the concession holder.

15.- The concession holder may have free use of the elevated rail that goes by the Customs Inspectors Department and the right of ingress and egress to and from said building in order to do all repair and maintenance work it may deem necessary for the purposes of the concession.

16.- During the term of the concession, neither that part of the jetty pier, on the north side, intended for the public, nor the Customs Inspectors Department, may be set aside for any purpose different from the one assigned to them in this project. The State shall not allow mechanical services of the kinds that are comprised within the concession holder's operations to be provided on that part of the jetty.

17.- The concession holder makes a final assignment to the State of all works related to the expansion of passenger landing booths intended for the Customs Offices, albeit with the condition that said building may not be used for any purpose other than the establishment of said offices.

18.- Should it come to pass that the State abandons the use of the works referred to in the two previous clauses, the Government shall deliver the dock and the Customs Inspectors Department to the concession holder for the latter's use and operation during the term of the concession but shall retain ownership of the works related to the expansion of the Customs Offices building, albeit indemnifying the concession holder for the price thereof in accordance with the appraisal to be done at that time and depending on the condition in which they find themselves, and the Government may then use the building for any purpose it may deem suitable.

19.- The works that make up the project are granted for public service, subject to the rates accepted for them at the public bidding, whose bases and rules and regulations for their application are set forth in the project's documents; and no rate higher than the authorized one may be demanded, said rate to be posted in a conspicuous location. Dl. 85 1905 Art. 113, Ports Act.

20.- Application of these rates shall be governed by the accompanying rules and regulations, but, it being understood, only to the extent that they are not contrary to Customs rules, regulations, and ordinances, and all other provisions in effect on this matter or those of a general nature which may be issued in the future.

21.- Employees charged with the maintenance and policing of the State docks shall, upon notice from the concession holder, duly act pursuant to the provisions of Article 26 of the Rules and Regulations for the Maintenance and Policing of State Docks against vessel and merchandise consignees who allow refuse resulting from broken crockery, tiles, bricks, etc., as well as straw, cane, and other materials used as stowage on the vessels, to be thrown onto the jetty in violation of Article 4 of the aforesaid Rules and Regulations.

22.- Government vessels and those carrying items intended for the different agencies of the State shall have preferential docking, loading, and offloading rights, provided that the head of

the appropriate office should so request it, half of the rate established for other vessels being paid for this service.

23.- The concession holder may afford no preference for the use of the jetty and its devices --except in the case contemplated in the previous condition-- other than priority order, to which effect it shall keep a chronological register of all applications made to it, which it shall be obliged to exhibit to any who so requests.

24.- All provisions the concession holder may issue for jetty operations shall be in full harmony with Customs Rules and Regulations and Ordinances in effect or with those which may be issued in the future, as well as with the monitoring and intervention by Customs authorities.

25.- Before commencing the work, the Head Engineer of the District shall, in the presence of the concession holder, review the works to be done according to the project, a certificate of said proceeding to be issued in triplicate; one of the copies, with the corresponding plan, shall be submitted to the Department of Public Works for its approval and, once this has been obtained, another copy shall be delivered to the concession holder and the third shall be kept in the files of the Public Works Office of the District.

26.- The concession holder shall commence the work within a term of four (4) months reckoned as of the date of the concession, and shall do the work in the order and within the terms set forth below:

(1) The new Custom Offices shall unfailingly be ready for occupancy in thirteen months.

(2) The Customs Inspectors Department in the steel-and-concrete building, with its parcel-handling electrical mechanism, shall all be ready for use in thirteen months.

(3) The sidings [*chuchos viajadores*] and the five southerly transverse sections of the steel-and-cement building that include a portion thereof six hundred and forty (640) feet long, from east to west, by eighty (80) feet wide, from north to south, with installed fixed rails for the "locohoists," shall be ready for use in twenty-two (22) months.

(4) The next seven transverse sections of the building, with their complete equipment, ready for use, in twenty-eight (28) months.

(5) The rest of the landfill for the building and the public dock, in forty (40) months.

(6) Thus, operation of all parts of the projected plant can take place upon the expiration of the forty-month term.

27.- All deadlines mentioned in the previous article are understood to be reckoned as of the date of the concession.

28.- The Head Engineer of the Public Works District shall be in charge of inspecting the execution of the work and compliance with these conditions.

29.- The works having been completed, the Head Engineer shall make a detailed inspection thereof and, should he find that all the terms of the concession have been complied with and that said works are in perfectly serviceable condition, he shall so note for the record in a certificate to be issued in triplicate, one copy of which shall be forwarded to the Public Works Department for its approval, and once this has been obtained, the others shall be distributed in the manner indicated for the certificate of review of the project.

30.- All expenses incurred in connection with the review, inspection, and delivery of the works shall be for the account of the concession holder, as well as the costs of inspection at overseas factories of the steel intended for the building and machinery, to which effect the concession holder shall deposit at the location to be indicated to it, the sum of one thousand pesos ($1,000.00) per month for the duration of the inspection at the factories in order to cover the expenses thereof.

31.- This concession is understood to be granted with no prejudice to third parties, except as regards the right of ownership, and on the understanding that the concession holder is bound by such laws of a general nature as have been, or may in the future be, issued with respect to this class of concessions.

32.- This concession shall be terminated if the concession holder should default on any of these conditions, which are mandatory upon him, the consequences of such termination being those set forth in the General Public Works Act and its Rules and Regulations.

33.- Upon the expiration of the term of concession, the State shall replace the concession holder in the possession of the works and shall enter immediately into the enjoyment of the concession and the products thereof, with any and all of its machinery, rolling stock, equipment, devices, and improvements that may have been introduced. The concession holder shall have the obligation to surrender the works and the material for the operation thereof in good repair and serviceable condition.

Within the five years preceding the end of the concession, the Government shall be entitled to retain the liquid proceeds from the works and to use them to maintain the works in good repair, if the concession holder should attempt not to discharge this obligation fully.

Havana, November 29, 1905

T. ESTRADA PALMA,
President

Rafael Montalvo,
Secretary of Public Works

[…]

LOPEZ AND DURAN
INTERPRETING AND TRANSLATING
740 Malaga Avenue, Coral Gables, Florida 33134
Tel.: (305) 443-3432

CERTIFICATE OF ACCURACY

STATE OF FLORIDA)
) SS.
COUNTY OF DADE)

Before me, a notary public in and for the State of Florida at large, appears Nelson Duran, Ph.D., who is personally known to me, for and on behalf of Lopez and Duran Interpreting and Translating, who, after being duly sworn, deposes and says that the foregoing is a true and correct translation from the Spanish of the attached document consisting of eight (8) pages, and that this is the last of the attached.

Nelson Duran
Nelson Duran, Ph.D.

Sworn to and subscribed this 31st day of January, 2020.

Armando M. Escoto
Armando Escoto
Notary Public,
State of Florida at Large

My commission expires:

ARMANDO M. ESCOTO
MY COMMISSION # GG 076721
EXPIRES: June 24, 2021
Bonded Thru Notary Public Underwriters

The utmost care has been taken to ensure the accuracy of all translations. Lopez and Duran Interpreting and Translating and its employees shall not be liable for any damages due to negligence or error in typing or translation.

Año IV.—Núm. 139 Habana, Jueves 14 de diciembre de 1905. Tomo II.—Pág. 4285

GACETA OFICIAL DE LA REPÚBLICA DE CUBA

Puntos de suscripción

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PARTE OFICIAL

PODER EJECUTIVO

SECRETARÍA DE ESTADO Y JUSTICIA

DIRECCIÓN DE JUSTICIA

A propuesta de la Sala de Gobierno de la Audiencia de la Habana y de conformidad con el parecer del Secretario de Estado y Justicia, vengo en nombrar, Magistrado Suplente de la propia Audiencia, para el año de 1906, al señor Vidal Morales y Flores de Oliva.

Habana, Diciembre 11 de 1905.

T. ESTRADA PALMA,
Presidente.

Juan F. O'Farrill,
Secretario de Estado y Justicia.

A propuesta de la Sala de Gobierno de la Audiencia de la Habana y de conformidad con el parecer del Secretario de Estado y Justicia, vengo en nombrar, Magistrado Suplente de la propia Audiencia, para el año de 1906, al señor Luis Rosaínz.

Habana, Diciembre 11 de 1905.

T. ESTRADA PALMA,
Presidente.

Juan F. O'Farrill,
Secretario de Estado y Justicia.

A propuesta de la Sala de Gobierno de la Audiencia de la Habana y de conformidad con el parecer del Secretario de Estado y Justicia, vengo en nombrar, Magistrado Suplente de la propia Audiencia, para el año de 1906, al señor Juan de Dios García Kohly.

Habana, Diciembre 11 de 1905.

T. ESTRADA PALMA,
Presidente.

Juan F. O'Farrill,
Secretario de Estado y Justicia.

A propuesta de la Sala de Gobierno de la Audiencia de la Habana y de conformidad con el parecer del Secretario de Estado y Justicia, vengo en nombrar, Magistrado Suplente de la propia Audiencia, para el año de 1906, al señor Manuel Enrique Gómez.

Habana, Diciembre 11 de 1905.

T. ESTRADA PALMA,
Presidente.

Juan F. O'Farrill,
Secretario de Estado y Justicia.

A propuesta de la Sala de Gobierno de la Audiencia de Matanzas y de conformidad con el parecer del Secretario de Estado y Justicia, vengo en nombrar para el cargo de Juez Municipal Suplente de Macagua y por el tiempo que resta del bienio de 1905 á 1907, al señor José Rafael Martínez Cepero, que figura en el primer lugar de la terna respectiva.

Habana, 30 de Noviembre de 1905.

T. ESTRADA PALMA,
Presidente.

Juan F. O'Farrill,
Secretario de Estado y Justicia.

SECRETARÍA DE HACIENDA

SECCIÓN DE CONSULTORÍA Y BIENES DEL ESTADO.

Aviso

Acordado por esta Secretaría enagenar en pública subasta dos locomotoras sistema "Baldwin" marcadas con los números 1 y 2, nombradas "Wycoff" y "Capron", respectivamente, y diez y nueve planchas ó carros descubiertos para el servicio de transporte de mercancías, cuyo material procede del Ferrocarril de "Triscornia" en desuso, propiedad del Estado, y se encuentra depositado en los talleres del Ferrocarril de Cárdenas y Júcaro, por el presente se hace público para general conocimiento, y á fin de que los que quieran hacer

proposiciones acudan al acto que tendrá lugar á las dos de la tarde del día 22 del corriente mes en el local de la Sección de Consultoría y Bienes del Estado de esta Secretaría, presentando sus ofertas hasta las 2 y media ante la Comisión nombrada al efecto y con arreglo al pliego de condiciones siguiente:

1ª—Las proposiciones se presentarán por escrito en idioma castellano y en pliego cerrados, autorizadas con la firma entera del licitador, expresándose en ellas su domicilio, así como la conformidad y aceptación de todas las cláusulas del presente pliego y haberse reconocido las referidas locomotoras y planchas.—El hecho de presentarse la proposición implicará tenerse cabal conocimiento del estado en que se encuentra dicho material rodante.

2ª.—Para optar á la subasta será requisito indispensable consignar conjuntamente en la mesa de la Comisión el 10% del importe de la proposición, en moneda americana efectiva; cuya suma será devuelta inmediatamente de terminado el acto á los licitadores cuyas proposiciones hayan sido rechazadas, depositándose en Arcas Públicas hasta la resolución del señor Secretario de Hacienda las consignadas por los postores cuyas proposiciones hayan sido tomadas en consideración.

3ª.—Adjudicada la subasta se devolverán los depósitos constituídos á excepción del que corresponda al adjudicatario, cuyo depósito quedará en garantía del cumplimiento de la oferta y como parte del precio ofrecido, cuyo completo deberá realizarse dentro de los tres días siguientes al en que le sea notificada la adjudicación de la subasta.

Transcurrido dicho término sin cumplirse este compromiso podrá considerarse en quiebra la subasta con pérdida á favor del Estado de la cantidad depositada.

4ª.—Servirá de tipo para la subasta la suma de cuatro mil setecientos cincuenta pesos moneda americana ($4,750) por cada locomotora, y la de cuatrocientos pesos ($400) en igual moneda por cada una de las planchas ó carros descubiertos.

5.ª—No se admitirá proposición que sea inferior al tipo indicado; y en caso de presentarse dos ó más que sean iguales, se abrirá una puja á la llana por espacio de 10 minutos entre los autores de las mismas, y la Mesa determinará la que estime más conveniente con vista del resultado que se obtenga, la que será sometida á la resolución de la Secretaría de Hacienda, en unión de las demás proposiciones presentadas que hayan sido aceptadas igualmente.

6ª.—La recepción de las locomotoras y planchas que hayan sido adjudicadas la verificará el rematador directmente de la Administración del Ferrocarril de Cárdenas y Júcaro, en el lugar en que se encuentran depositadas; debiendo á ese efecto entenderse la entrega realizada por el Estado desde el momento de la adjudicación y una vez comunicada ésta á la citada Administración y al interesado.

7ª.—Los gastos de anuncios, otorgamientos de escrituras y demás que se originen con motivo [illegible] basta serán por cuenta y cargo del rematador.

8ª.—Queda reservado á la Secretaría de Hacienda el derecho de aceptar cualquiera de las proposiciones presentadas ó el de rechazarlas todas.

Habana, Diciembre 8 de 1905.—*Guiple y S.*, Sub-Secretario.

CERTIFICADOS DEL EJÉRCITO

Habiéndose comprobado en el expediente [illegible] al efecto, que el Certificado número 47,53[illegible] a favor del Soldado fallecido del Quinto C[illegible] Martínez, fué recojido indebidamente [illegible] de dicho Cuerpo por doña Pilar Martínez [illegible] por este medio á la expresada señora para q[illegible] término de 10 días, á contar desde la fec[illegible] blicación del presente anuncio, lo devuelva [illegible] cretaría con la advertencia de que transc[illegible] plazo sin efectuarlo se declarará nulo el r[illegible] mento expidiéndose en substitución del r[illegible] rrespondiente Atestado.

Habana, Diciembre 6 de 1905.—*Guiple y S.*, Sub-Secretario de Hacienda.

SECRETARIA DE OBRAS PUBLICAS

DECRETO Nº. 467.

Visto de nuevo el expediente instruído en el Gobierno Civil de la Provincia de la Habana, con motivo de la solicitud y proyecto presentados por el Sr. S[illegible] sobre concesión administrativa para la construcción de un muelle espigón con instalaciones mecánicas, edificio para Oficinas de Aduana, Departamento especial para el servicio de los Vistas, aparato para carga y descarga y demás obras accesorias en el puerto de esta Capital.

Resultando que por Decreto de esta Presidencia de 27 de Febrero último, fueron declaradas esas obras de utilidad pública, disponiéndose se procediera á la subasta de la concesión necesaria para su ejecución, bajo la base del proyecto del peticionario, previa la tasación de dicho proyecto y los anuncios correspondientes.

Resultando que verificada esa tasación fué apreciado el valor del proyecto en cincuenta y nueve mil quinientos cuarenta y siete pesos, cuarenta y cinco centavos ($59,547.45) Cy. y se fijaron las condiciones bajo las cuales debía otorgarse la concesión, habiendo manifestado el peticionario su conformidad con dicho avalúo y condiciones.

Resultando que fué señalado para el acto de la subasta el día nueve del corriente mes de Noviembre [illegible] dos P. M. en esta Secretaría, la cual fué anunciada en la GACETA OFICIAL y en los periódicos de esta Capital "Diario de la Marina", "Discusión" y "Mundo", en cinco números consecutivos, repitiéndose en la primera decena de los meses de Julio, Agosto, Septiembre y Octubre

bre próximo pasado, así como en los de París, "Le Figaro", "Le Matin" y "Le Temps" y "Le Journal"; en el "Track Kischer Kurier" de Berlín y en Londres y New York, donde se remitieron ejemplares impresos del proyecto y se facilitaron al público, como también la copia de los planos referentes al mismo.

Resultando que constituído en el día, hora y lugar señalado el Tribunal que debía entender en la subasta, con la asistencia de un Notario, se levantó la correspondiente acta, de las tres proposiciones que se presentaron, fué declarada más ventajosa la del señor D. Aceituno, que ofreció la rebaja de un veinte y siete por ciento (27%) en el tipo de las tarifas presentadas por el proyectista y redujo á cincuenta (50) años los noventa y nueve (99) que el mismo había solicitado, puesto que las obras se limitaban, la del peticionario, á insistir en su proyecto en toda su integridad, respecto de dichos extremos, y la otra si bien reducía á nueve (9) años el plazo de la concesión, solo hacía en las tarifas el rebajo de un seis por ciento (6%).

Resultando que la legítima representación de la Compañía del Puerto, sucesora del señor Scovel, autor del proyecto, haciendo uso en el mismo acto de la subasta del derecho de tanteo dentro del término legal, aceptó la proposición del señor Aceituno, para la Compañía su representada.

Considerando que en este expediente se han cumplido todos los requisitos y formalidades que exige la Ley para el otorgamiento de la concesión de que se trata.

Considerando que según el Reglamento para la ejecución de la Ley General de Obras Públicas, á la subasta debe servir de base el proyecto aprobado y las proposiciones deben recaer en primer término, sobre rebajas en las tarifas para el uso de la obra, y según el Artículo 8.° de la Instrucción, para tramitar las concesiones á particulares de obras de puertos de esta Isla, también debe versar esa subasta, en primer lugar sobre la rebaja de las tarifas, y del plazo de la concesión en el segundo.

Considerando que en este concepto la declaración de ser más ventajosa la proposición del señor D. Aceituno, hecha por el Tribunal de subasta, es legal y procedente, toda vez que está ajustada á las disposiciones legales vigentes, antes citadas, por ser la que redujo á más bajo tipo el de las tarifas.

Considerando que habiendo hecho uso en tiempo y forma legal la Compañía del Puerto, como sucesora del señor Scovel, del derecho de tanteo que le otorga el Artículo 38 del Reglamento de la Ley de Obras Públicas, quedó subrogado en un todo al señor Aceituno, cuya proposición aceptó, por lo que es procedente se le estime adjudicatario en la subasta, y se otorgue á su favor la concesión.

De acuerdo con las disposiciones citadas y las con[illegible] en la Ley General de Obras Públicas y en el [illegible]mento para su ejecución, en la de Puertos é Ins[illegible]n de la misma, y en la de 11 de Septiembre de [illegible] sobre subastas de obras y servicios.

De conformidad con lo propuesto por el Secretario de Obras Públicas, y haciendo uso de las atribuciones que me están conferidas, otorgo á la Compañía del Puerto, sucesora del señor Sylvester Scovel, la concesión necesaria para llevar á efecto las obras expresadas en el proyecto presentado por dicho señor Scovel de fecha 22 de Agosto de 1904, con sujeción á las siguientes condiciones:

1ª.—Las obras se ajustarán al proyecto presentado por el peticionario, señor Sylvester Scovel, que lleva fecha 22 de Agosto de 1904, en todo aquello que no resulte modificado en las siguientes cláusulas.

2ª.—Esta concesión se considera comprendida entre las que determinan los Artículos 44 y 45 de la Ley de Puertos de 31 de Octubre de 1900 y el 97 de la Ley General de Obras Públicas de 19 de Abril de 1883, y se otorga por el plazo de cincuenta (50) años, á contar de la fecha de la concesión, quedando sujeta á lo prevenido en el Artículo 50 de la citada Ley de Puertos.

3ª.—Se autoriza el establecimiento del depósito de carbón y las operaciones en el mismo en el costado Sur del espigón, de que trata el proyecto, pero en el concepto de que el concesionario queda obligado á poner todos los medios para evitar la invasión del polvo de este carbón en los edificios de las Oficinas de la Aduana, en los de la Ciudad ó molestias al público.

4ª.—Se cede por el Estado en usufructo durante el término de la concesión, la parte de los muelles de San Francisco, así como el área del dominio público que ha de ocuparse con las obras del proyecto.

5ª.—Como compensación y en pago de la ocupación de esta parte, así como del perjuicio que al uso general se causa por la ejecución de las obras, el concesionario se obliga:

(a) A ceder gratuitamente al Estado el edificio para el Departamento de Vistas que forma parte del proyecto.

(b) A ensanchar hasta treinta y seis (36) piés la calle de entrada del espigón, indicado en los planos del proyecto.

(c) A construir en el espigón una calle de veinte y cuatro (24) piés de ancho y de igual pavimentación que las otras del proyecto, que correrá de Norte á Sur de dicho espigón, separando á éste del Departamento de Vistas: el techo sobre esta calle, tendrá por lo menos quince (15) piés de altura.

(d) A colocar una báscula á la entrada del Departamento de Vistas en el lugar que designe la Administración de la Aduana del Puerto, del fabricante que indique dicha Administración, y que servirá para pesar los artículos que de allí pasaren á dicho Departamento, ya sea por medio de los aparatos del concesionario ó por carretones, desde los muelles públicos.

(e) A ceder definitiva y gratuitamente al Estado todas las obras de ampliación de la casilla de pasajeros, destinadas á las Oficinas de Aduanas, si bien con la condición de que ese edificio no podrá ser aplicado á otro objeto que á las mencionadas Oficinas.

(f) A destinar al uso público el muelle del costado Norte del espigón proyectado, si bien con la condición de que el concesionario en cualquier tiempo durante la concesión, cuando á su juicio el tráfico del puerto lo exigiese, podrá instalar en dicho costado Norte aparatos, equipos y maquinarias para la carga y descarga de buques y vapores, ampliando el edificio para este objeto, de manera que quedare ajustado á la planta así mejorada. Podrá ejercer este derecho, previo aviso de dos meses anticipadamente á la Secretaría de Obras Públicas, presentando al mismo tiempo los planos correspondientes, y entonces las obras adicionadas se incluirán dentro de la concesión.

6ª.—En caso de que con arreglo á lo dispuesto en el Artículo 50 de la Ley de Puertos hubiese necesidad de expropiar las obras, tendrá derecho el concesionario á retirar del muelle espigón la maquinaria, material rodante, equipos y aparatos que entonces se esté usando.

7ª.—Si en culquier tiempo durante el plazo de concesión se expropiasen las obras por virtud también de aplicación del citado Artículo 50 de la Ley de Puertos, el Gobierno ó sus dependencias, indemnizará al concesionario del valor de todas las obras construídas por él, incluyendo el Departamento de Vistas y el muelle del costado Norte del espigón, pero no el valor de la maquinaria, material rodante, equipos y aparatos á que hace referencia la cláusula que precede, en el caso en que el concesionario decidiese retirarlas.

8ª.—En el caso de expropiación á que se refieren las dos cláusulas anteriores, se valorarán las obras mediante cubicación directa de las mismas, aplicando los precios fijados á las unidades de obras que figuran en el presupuesto, y previos los requisitos prevenidos en el párrafo 2.º del Artículo 14 de la Instrucción de la Ley de Puertos de 17 de Noviembre de 1890.

9ª.—El Estado permitirá al concesionario el uso libre de un espacio amplio en el lugar de las obras, así como el acceso á él, para guardar y manipular herramientas y materiales y para cualquiera operación propia á la erección de las obras.

10ª.—Durante el plazo de concesión será de cuenta del concesionario mantener en buen estado de conservación los cimientos, calles, edificios, maquinarias y demás instalaciones de la planta, en tales condiciones, que al finalizar dicho plazo, éste entregue las obras al Gobierno en perfecto estado de servicio. Las reparaciones y renovaciones que haya necesidad de verificar en el edificio destinado á Oficinas de la Aduana, y en la parte del muelle espigón destinado al público, al costado Norte, serán de cuenta del Gobierno, así como la conservación del pavimento de la zona litoral de servicio en todo el frente del espigón con la parte de tierra.

11ª.—El concesionario no será responsable de los perjuicios que resulten por demora de su parte, en la construcción de la planta en proyecto, cuando esta demora fuese causada por huelga, naufragio, ciclones, epidemias ó cualquiera otra causa de fuerza mayor.

12ª.—Durante el plazo de concesión podrá el concesionario adicionar la maquinaria, aparatos y [illegible] la planta proyectada, con lo que juzgue nece[illegible] el oportuno manejo del tráfico de dicha plan[illegible] bién podrá aplicar á dicha maquinaria, aparato[illegible] cualquiera, ó todos los perfeccionamientos qu[illegible] po en tiempo resulten ventajosos.

13ª.—El concesionario instalará las máq[illegible] cesarias para la generación de electricidad, u[illegible] tores de vapor, pero se le reserva el derecho d[illegible] la corriente eléctrica por contrato con Comp[illegible] puedan facilitarla, en cuyo caso no estará obligado á hacer las indicadas instalaciones, ni á usarlas [illegible] ren hechas ya.

14ª.—Serán de la elección del co[illegible] medios de ejecución, los agentes y demás en[illegible] la construcción, conservación y Administración [illegible] obras.

15ª.—El concesionario podrá usar libremente [illegible] rail suspendido que pasa por el Departamento de Vistas, y el derecho de entrada y salida del mismo edificio, para hacer todos los trabajos de reparación y conservación que él estime necesarios para los fines de la concesión.

16ª.—Durante el plazo de concesión, no podrá destinarse á otro objeto que al que en este proyecto se les asignan, la parte del muelle espigón, al costado Norte, que se destina al público, ni el Departamento de Vistas. El Estado no permitirá que sobre dicha parte del espigón se presten servicios mecánicos de las clases que constituyen la explotación del concesionario.

17ª.—El concesionario cede en firme al Estado todas las obras de ampliación de la Casilla de Pasajeros destinada á Oficinas de la Aduana, si bien con la condición de que ese edificio no podrá ser aplicado á otro objeto que al establecimiento de dichas Oficinas.

18ª.—Si llegare el caso de que el Estado [illegible] se el uso de las obras á que se refieren las dos cláusulas que preceden, el Gobierno entregará al concesionario el muelle y Departamento de Vistas para su uso [illegible] ción durante el plazo de concesión, pero con[illegible] propiedad de las obras de ampliación del edi[illegible] Oficinas de Aduana, si bien indemnizando al [illegible] nario el importe de ellas conforme á tasació[illegible] tonces se practique, según el estado en que s[illegible] tren, y pudiendo entonces el Gobierno destina[illegible] ficio á cualquier uso que tenga por conveniente.

19ª.—Las obras que constituyen el proyecto [illegible] ceden para servicio público, con sujeción á la[illegible] aceptadas en la subasta respecto á las mismas, [illegible] ses y reglamentos para su aplicación, constan[illegible] documentos del proyecto, y no podrá exigirse [illegible] rifa que la autorizada, que deberá estar ex[illegible] público en sitio visible. Dic. 85. 1905. Art. 113. Ley Orto

20ª.—Regirá para la aplicación de estas [illegible] reglamento que las acompaña, pero entendié[illegible] únicamente, en cuanto no se opongan sus re[illegible] Reglamentos y Ordenanzas de Aduana y den[illegible] siciones vigentes sobre la materia, ó que en l[illegible] se dicten con carácter general.

21ª.—Los empleados encargados de la conservación y policía de los muelles del Estado, cuidarán, previa denuncia del concesionario, de proceder como corresponde con arreglo á lo dispuesto en el Artículo 26 del Reglamento para la conservación y policía de los muelles del Estado, contra los consignatarios de barcos y de mercancías que permitan arrojar sobre el espigón las basuras procedentes de roturas de lozas, tejas, ladrillos, etc., así como las pajas, cañas y demás que sirven para la estiva de los buques, que constituyen infracción del Artículo 4º. del expresado Reglamento.

22.ª—Tendrán derecho preferente para el atraque, carga y descarga en el espigón, las embarcaciones del Gobierno y las que conduzcan efectos destinados al Estado en sus diferentes ramos, siempre que así lo reclame el Jefe de la Oficina á quien corresponda, y abonándose por este servicio la mitad de la tarifa establecida para las demás embarcaciones.

23.ª—El concesionario no podrá dar otra preferencia para el uso del espigón y aparatos, salvo el caso de que trata la condición anterior que la corresponda á la prioridad de solicitud para lo cual llevará un registro cronológico de todas las peticiones que se le hagan, y que estará obligada á mostrar á los que lo soliciten.

24.ª—Todas las disposiciones que dictare el concesionario para las operaciones en el espigón, estarán en completa armonía con los Reglamentos y Ordenanzas de Aduana vigentes, ó con los que en lo sucesivo puedan dictarse, así como con la fiscalización é intervención de las Autoridades de Aduana.

25.ª—Antes de dar principio á los trabajos, el Ingeniero Jefe del Distrito practicará con asistencia del concesionario el replanteo de las obras que se han de ejecutar, con arreglo al proyecto, de cuya operación se extenderá acta por triplicado, uno de cuyos ejemplares con el plano correspondiente, se someterá á la aprobación de la Secretaría de Obras Públicas, y obtenida ésta, se entregará otro ejemplar al concesionario, archivándose el tercero en la Oficina de Obras Públicas del Distrito.

26ª.—El concesionario dará comienzo á las obras en el plazo de cuatro (4) meses, á contar desde la fecha de la concesión, y las ejecutará en el orden y plazo siguiente:

1º.—Las Oficinas nuevas de la Aduana quedarán indefectiblemente listas para ocuparse, á los trece meses.

2.º—El Departamento de Vistas en el edificio de acero y cemento con su mecanismo eléctrico para la manipulación de bultos, todo listo para usarse en trece meses.

3.º—Los chuchos viajadores y los cinco tramos transversales del Sur del edificio de cemento y de acero, que comprenden una porción del mismo de seiscientos cuarenta (640) piés de largo de Este á Oeste por ochenta (80) piés de ancho de Norte á Sur, con una instalación completa de rieles fijos de los "Locohoists" listos para usarse, en veinte y dos (22) meses.

4ª.—Los siguientes siete tramos transversales del edificio con sus equipos completos y listos para usarse, en veinte y ocho (28) meses.

5º.—El resto del relleno de tierra del edificio y muelle público, en cuarenta (40) meses.

6º.—De modo que se puede hacer la explotación de la planta proyectada en todas sus partes, al expirar el plazo de los cuarenta (40) meses.

27ª.—Todos los plazos que se mencionan en el artículo anterior, se entienden á partir de la fecha de la concesión.

28ª.—La inspección de la ejecución de las obras, así como del cumplimiento de estas condiciones, se hallará á cargo del Ingeniero Jefe de Obras Públicas del Distrito.

29ª.—Terminadas las obras, el Ingeniero Jefe hará un detenido reconocimiento de ellas, y si encontrase que en la ejecución se han cumplido todas las prescripciones de esta concesión, y que dichas obras se hallan en perfecto estado de servicio, lo hará así constar en acta que se extenderá por triplicado, una de las cuales se remitirá á la Secretaría de Obras Públicas para su aprobación, y una vez obtenida ésta, se distribuirán las otras en la forma indicada para el acta de replanteo.

30ª.—Todos los gastos que se originen en el replanteo, inspección y recepción de las obras, serán de cuenta del concesionario, así como los de la inspección en las fábricas en el extranjero, del acero destinado á los edificios y maquinarias, para lo cual el concesionario depositará en el lugar que se le indique, la cantidad de mil pesos ($1,000.00) mensuales mientras dure la inspección en las fábricas para responder á los gastos de la misma.

31ª.—Esta concesión se entiende hecha sin perjuicio de tercero, salvo el derecho de propiedad y en la inteligencia de quedar obligado el concesionario á cuantas disposiciones de carácter general se hayan dictado ó en lo sucesivo se dictaren respecto á esta clase de concesiones.

32.ª—Esta concesión caducará, si el concesionario faltase á cualquiera de estas prescripciones, que le son obligatorias, siendo las consecuencias de dicha caducidad, las que señala la Ley General de Obras Públicas y su Reglamento.

33.ª—Al expirar el plazo de concesión, el Estado reemplazará al concesionario en la posesión de las obras y entrará inmediatamente en el disfrute de ella y de sus productos, con toda su maquinaria, material rodante, equipos, aparatos y mejoras que puedan haberse introducido. El concesionario tendrá obligación de entregar las obras y su material de explotación, en buen estado de conservación y servicio.

En los cinco años que precedan al término de la concesión, el Gobierno tendrá derecho de retener los productos líquidos de las obras, y de emplearlas en conservación en buen estado, si el concesionario no tratase de llenar completamente esta obligación.

Habana, Noviembre 29 de 1905.

T. ESTRADA PALMA,
Presidente.

Rafael Montalvo,
Secretario de Obras Públicas.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

HAVANA DOCKS CORPORATION *Plaintiff(s)* v. MSC Cruises SA, MSC CRUISES SA CO and MSC CRUISES (USA) INC. *Defendant(s)*	)	Civil Action No. 19-cv-23588

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* MSC Cruises SA:

(1) c/o MSC Cruises SA Co.
6750 N. Andrews Ave., Ste. 100
Ft. Lauderdale, FL 33309

--and--

(2) Avenue Eugène-Pittard 40,
CH-1206 Geneva, Switzerland

-- and--

(3) c/o Secretary of State
P.O. Box 6327
Tallahassee, FL 32314

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Roberto Martínez, Esq.,
Colson Hicks Eidson
255 Alhambra Circle, PH
Coral Gables, FL 33134

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: 10/08/2020

Signature of Clerk or Deputy Clerk