UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

EXXON MOBIL CORPORATION Plaintiff, v. CORPORACIÓN CIMEX S.A. (Cuba); CORPORACIÓN CIMEX S.A. (Panama); and UNIÓN CUBA-PETRÓLEO Defendants.	)))))))))))	Case No. 19-cv-1277-APM

MICHAEL KRINSKY declares under penalty of perjury that the following is true and correct:

1. I am an attorney duly admitted to the practice of law in the State of New York, and I am lead counsel for the Defendants in the above-captioned action.

2. Exhibits 4 and 5 to Defendants' Historical Appendix A in Support of Motion to Dismiss the Action and for Other Relief are true and correct copies of a portion of the file of the Foreign Claims Settlement Commission ("FCSC") in Claim No. CU–0938, Decision CU–3838, Standard Oil Company, that was obtained by my law firm in 1988–89 under the Freedom of Information Act. They are part of Standard Oil's submission to the Department of State in 1961, which was included in the FCSC file.

3. Attached hereto as Exhibit A to this Declaration is a true and correct copy of a portion of the file of the Foreign Claims Settlement Commission in Claim CU–500, Decision No. 6066, Francisco Sugar Company, that was obtained by my law firm in 1988–89 under the Freedom of Information Act. It is part of the appraisal of the claimant's property done by Luis Parajon and submitted by the Francisco Sugar Company in support of its claim. I have

highlighted part of the text for the Court's convenience. Exhibit A also includes a copy of the FCSC decision.

Executed on: June 9, 2020
Andes, New York

By: Michael Krinsky
Michael Krinsky

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DECLARATION OF MICHAEL KRINSKY - EXHIBIT A

PARAJON

[Handwritten by RBSKL]

depreciate values are utilized throughout, lessens the possibility of error. Values do not depend so much on the manufacturer of a specific piece of machinery.

Values are always debatable. Even replacement costs may vary several percentage points, depending on the manufacturer or seller of the equipment, and the particular time of the purchase.

I expect the margin of error in this valuation to be less than 10% as an average in the individual items shown. In every case an effort has been made to remain very conservative, and the overall valuation will be a low one because despite all the research there inevitably will be many items and properties not remembered and therefore not included.

All values shown are actual values. They have been arrived at by first determining the replacement cost of the property involved, and then applying a factor of depreciation. The replacement value has been determined from that of a similar piece of property, which would be used in 1959 if replacement were contemplated. The reason for the 1959 date is that it is the year when values were not yet distorted in Cuba.

Several problems arise immediately from the above statement as for example the meaning of the word similar. There is practically no similar piece of machinery identical to those used thirty or more years ago. New units to perform the

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same function are far more efficient, smaller, requiring less maintenance. They are probably of higher speed. The old piece may have been entirely discontinued as the whole design or even concept may have radically changed. This would normally call for a lower value for these parts, but not always, as is the case of narrow gauge railroads, where the replacement of a rail is very expensive due to the scarcity of these rails.

Another problem arises in attaching a value to smaller pieces that are very numerous, like the electric motors, or pumps, regulators, valves etc. It is usually not the same price if $ 200,000 worth of motors are bought at one time, than if a single $ 50.00 motor is purchased.

Depreciation is even more debatable. It is a more complex subject, and obsolescence is not the only factor that enters into it. Excepting very few things, as a railroad embankment which actually improves with age, all others lose value during the course of their lives. Physical deterioration gradually destroys the life of an object or make the business of preserving it so expensive as to render the whole maintenance problem uneconomical.

Expenditures on repairs do not completely off set depreciation. Expenditures may maintain the operating usefulness of an object, and in some cases may even prolong its life, but only when they are very substantial in relation to its replacement value.

No comparison has been attempted with resale values, and none should be attempted. This value depends on supply and demand which makes it very inaccurate for valuation purposes. Return on invested capital has only been used in the appraisal of the land and cultivations, as this is the only possible scientific way of establishing value. The method is fully explained elsewhere in this report. Installation and construction costs have been estimated as of October 1959.

Buildings have been valued on the basis of square foot area of construction, and a unit price per square foot has been established in each case. Depreciation has been then applied usually at a rate of between 10% and 40%. The exception has been the case with the field properties where some have had to be estimated.

Some of the mill machinery has been appraised in groups as there was not enough information to permit individual machinery appraisal. Depreciation averages 35%.

This appraisal does not include inventories of materials and supplies, nor small tools, sugars or molasses, and in general nothing not expressly included, because they are itemsmy information and or knowledge does not enable me to value with certainty.

It has been made from sources I believe accurate, but no responsibility is accepted for them nor representation is made

as to ownership or anything else except values, which I believe are fair and reasonable.

Summary of abbreviations used in this report:

Caballería (cab) is 33.1 acres

Kilometer (KM) is 1,000 meters
3,280 feet.
0.62 miles.

Meter is equivalent to 3.28 feet.

Square meter is equivalent to
10.68 square feet.

Arroba (@) is equal to 25 pounds.

E

Centrals Francisco and Elia were actually one single sugar estate with two sugar mills on it.

Situated in the Province of Camagüey, between the Main Highway and the south coast, about 40 Km. from its own deep water port. Elia is only 12 Km. away from Guáimaro, a town on the Main Highway 650 Km. east of Havana. There was a n airport at the Francisco Batey, with one strip one mile long where the Cubana Airlines DC 3 used to land.

Francisco had a grinding capacity of 575,000 arrobas of cane per 24 hours, and Elia 530,000 which made them very similar in grinding capacity. Both produced sugars with high polarization, over 97.

During the 1959 crop, Elia produced 488,462 bags, and Francisco 655,325 bags. This year Francisco ranked 16 among the 161 Mills, and Elia 23, in terms of sugar production.

Central Francisco was built in 1902, and Elia was probably older, but Elia was practically rebuilt in most of its essentials in the 1940's.

Being operatde by the same Company, they were both very well and similarly maintained.

D

FRANCISCO SUGAR COMPANY

INVERSIONES AGRICOLAS SANTA ISABEL S.A.

MANUEL A. LAGE S. en C.

CIA. MARITIMA GUAYABAL S.A.

Summary of values:

Lands and cultivations:	$ 19,110,000.00
Railroad system:	9,600,000.00
Port at Guayabal:	3,746,000.00
Francisco and Elia Mills:	13,900,000.00
Distillery, yeast plant and other properties:	1,300,000.00
Fiels properties and agricultural machinery:	2,300,000.00
T O T A L :	$ 49,956,000.00

Lands and cultivations:

The lands owned by the Francisco Sugar Company, and or, its wholly owned subsidiaries, Inversiones Agrícolas Santa Isabel S.A., Manuel A. Lage S. en C. and Cia. Marítima Guayabal S.A. together with the cane, forests, and other cultivations planted thereon, may be described as follows:

Total area:		3,025.835 caballerías
Cane lands		1,275,230 cabs.
Pasture lands		1,316.034 cabs.
Reforestation		13.500 cabs.
Forests		306.650 cabs.
Reserve lands		50.000 cabs. ✓
Industry:		
Port	0.2500 cabs.	
RR and roads	33.4710 cabs.	
Elia batey	7.2300 cabs.	
Francisco batey	20.5654 cabs.	
Rep. Rionda	1.1400 cabs.	
Primadera	1.7060 cabs.	
Sevilla Distill.	0.0586 cabs.	
Total for Industry:		64.421 cabs.
T O T A L :		3,025.835 cabs.

D

Valuation:

The cane lands were of excellent quality as shown by the agricultural yield obtainable from them of 60,000 arrobas of cane per caballería.

To determine the value of these lands use has been made of the rent produced by them as determined by the Cuban Sugar co-ordination Law, which stipulated that the rent to be paid to the land owner was 5% of the value of the sugar harvested from the caballería.

Therefore as the price of sugar in 1959, according to the Cuban Ministry of Agriculture was 3.891 cents, or $ 0.973 per arroba, and as the combined industrial yield for the 1959 crop (abnormally low) was 11.80% for Francisco and Elia, then the value of the sugar produced is calculated as follows:
60,000 arrobas of cane produced per caballería x 11.80% x $ 0.973 per arroba are $ 6,888.00 per caballería.

The rent to be paid by law by the farmer was 5% of the above amount, and 5% of $ 6,888.00 is $ 344.40.

This rent capitalized at a rate of 6% would give a value per caballería of $ 5,750.00 and is the value that will be used for the lands planted with cane and harvested in the 1959 crop.

The fields not harvested in this crop although as good as

those harvested, are not being valued at the same amount, solely in order to be consistent with the above reasoning, in as much as they did not produce any rent that year, and a value of 60% of the harvested fields is used. The figure therefore will be $ 3,450.00 per caballería.

Pasture lands:

These lands had been improved with good pastures, and were always well maintained. Their value will also be determined as above by means of the rent they were producing.

In the late fifties, the prevailing rent for pasture land was at least $ 1.25 per animal per month, and assuming the normal population of 25 animals per caballería, the rent would then be $ 375,00 per year, and per caballería. Again using a capitalization rate of 6% this means a value of $ 6,250.00 per caballería.

Reforestation:

These were the product of a program instituted in 1949, and where about 270,000 trees were growing of these varieties, among others: eucaliptus, caoba, ocuje, majagua, majagüilla, sabicú, bacona, cedro, roble, ácana, caoba de Honduras, bijaragua, guana y fustete. Valued at $ 350,000.00

Forests:

Natural forests, of native woods. Valued at $ 750,000.00

Reserve lands:

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For different reasons, not in use at the time. Valued at $ 1,000.00 per cab.

Valuation of cane stools:

The only cane the Company owned was through its wholly owned subsidiaries, Inversiones Agrícolas Santa Isabel S.A., and Manuel A. Lage S. en C.

During the 1959 crop these two subsidiaries operated the cane fields and at the end the situation was as follows:

	Harvested	Not harvested
Sta. Isabel:	14,800,000 @	3,200,000 @
Lage:	8,700,000 @	2,000,000 @
T O T A L S :	23,500,000 @	5,200,000 @

To value the cane stools, use has been made of the profit allowed by the Cuban Government to the farmer in order to pay taxes.

The average of this profit for the years 1956 to 1959 was 96.66 cents for 100 arrobas of cut cane. This figure capitalized at 10%, on the assumption that agriculture is a business which carries far more risk than ownership of land, gives a value of $ 9.66 for 100 arrobas, of cut cane. Including the value of the molasses, to which the farmer was also entitled, and rounding the figure, the value becomes $ 10.00, and it shall be used for all the harvested cane. For the unharvested, which produced no profit that

year, a value of only $ 5.00 per 100 arrobas shall be used, although the cane was as good as the other cut one.

Lands and cultivations: Summary of values.

Francisco Sugar Company.

Inversiones Agrícolas Santa Isabel S.A.

Manuel A. Lage S. en C.

Cane lands, harvested:	950	cabs at	$5,750	$ 5,463,000.00
Cane lands, unharvested:	325	"	3,450	1,121,000.00
Pasture lands:	1,316.034	"	6,250	8,225,000.00
Reforestation:	13.500	"		350,000.00
Forests:	306.650	"		750,000.00
Reserve lands:	50.000	"	1,000	50,000.00
Industry:	64.421	"		541,000.00
Cane:				2,610,000.00
Total for land and cultivations:				$ 19,110,000.00

D

Port at Guayabal:

The Company had owned some facilities at this port for several years, and in 1956 we understand, obtained a concession from the Cuban Government to develop jointly with the Government a modern port for handling sugar and general cargo, and then operate the facilities that would be built there.

Not entering at all into the question of finance or ownership and limiting this report only to the appraisal of the physical facilities these were as follows:

One pier approximately 453 x 96 meters of concrete construction built on piles.

A wharf running parallel to the shore in two sections, one 183 x 90 meters, and the other 180 x 18 meters, with railroad lines, and built partially on piles.

Two old molasses tanks, and one new tank with a total capacity of 4,000,000 gallons.

One canal which was dredged as part of this project, and which lead to the above mentioned pier, 2 Km long, with a depth of 32'.

One alcohol tank, with a capacity of 3,000,000 gallons.

One oil tank, all steel also with a capacity for 67,000 barrels.

One concrete and steel warehouse for sugar in bulk, that would have been able to store 70,000 tons of sugar, equivalent to 500,000 bags.

B

Equipment, like gantry cranes and other for the shipping of sugar in bulk, and partially constructed structures or in process like railroad lines not yet in place, have been valued considering the amount already spent on them, as this Terminal for all practical purposes was completed.

Value of the above described construction, already erected, or in process, including equipment paid for, all legal and financing expenses, engineering fees, but not land which has been appraised under the Land and cultivations heading, at actual costs, without depreciation as it was so new that was not finished,

$ 3,746,000.00

B

Railroad system:

Francisso and Elia Mills owned a system of 283.2 Kilometers of standard gauge railroad, plus 16 more Kilometers of also standard gauge switches.

This system was very well maintained, by the Mill personnel assigned to this system.

In addition there was the following equipment:

Elia Division:

Four steam locomotives.

One small steam locomotive.

299 cane cars of 30 tons each

4 flat cars

4 caboose cars

4 wooden flat cars.

12 tank cars.

2 track cars.

Francisco Division:

9 Diesel locomotives.

313 cane cars also 30 tons.

81 flat cars

2 box cars

12 góndolas

1 railroad crane

B

1 steam hammer

14 track cars.

20 tank cars.

Total depreciated value: $ 9,600,000.00

B

Sevilla Distillery:

This plant, was built in 1943, as several others in Cuba, when, because of war conditions the scarcity of fuels was very acute, and it became very profitable to operate these plants.

It had a daily capacity of 16,000 gallons of absolute alcohol. In 1959 it enjoyed a quota of 2,000,000 in the 133 days it was producing, working 24 hours a day.

When it was built it only had two distillation columns, but a third one was added afterwards.

It had the following equipment:

Building
Agitators, alcohol tanks, for receiving and storage.
Pumps, valves, pipes.
Electrical installation.
Scales and weigh tanks.
Jet mixers.
Gin plant.
Laboratory, furniture and fixtures.
Yeast tanks.
Fermentation equipment.
Condensers.
Two alcohol tanks.
Distillation columns and equipment.

Benzol equipment.

Yeast Plant:

In 1955 a plant with a capacity of 2,000 short tons of yeast, was built. It had the following equipment:

One holding tank.
One level tank.
Three centrifugals.
One reslurry tank.
Two sludge trailers.
One secondary mixer.
Four yeast separators.
One mixing tank.
One drum dryer.
Bagging equipment, conveyors, hopper;
liquor, slurry and yeast pumps.
Instruments, agitators, compressors,
filters and other equipment.

Depreciated value of Distillery and yeast plant:	$ 900,000.00

Other properties:

Under this heading there are included some pieces of equipment not easily identifiable as belonging to the Francisco or Elia Divisions.

They are the following:

Furniture and fixtures.
Laboratory equipment.
Water and sewerage.
Telephone lines and equipment
Lighting, and power lines and equipment in the field.
Tools, and medical and hospital supplies.
Drinking water treatment plant
Several concrete mixers, rock crushers, concrete block machines.

Depreciated value $ 400,000.00

Distillery and yeast plants:	$ 900,000.00
Other properties:	400,000.00
Total for Distillery, yeast plant and other properties:	$ 1,300,000.00

B

Field buildings and agricultural machinery:

These properties, in the field or utilized there are owned either by Francisco Sugar Company or its subsidiaries as described below:

Owned by Inversiones Agrícolas Santa Isabel S.A.:
600 dwellings of different types in the field.
100 plows, 50 graders, seven tractors, 5 cultivators
5 power graders.
Irrigation equipment, pipes, canals, ditches, tanks, reservoirs, pumps, motors, wells and cane hoists, and cane scales.

Owned by Manuel A. Lage S. en C.:
140 dwellings, pipings, pumps, wells, fences, and other irrigation and agricultural equipment.

Owned by Francisco Sugar Company; used by either the Francisco or Elia Divisions:
Trucks, jeeps, tractors, bulldozers, caterpillars, road building equipment.
50 buildings in the field.
20 buildings used by the railroads.

Depreciated value $ 2,300,000.00

Gauges, indicators, molasses tanks, syrup settling tanks, air compressors, pan charging tanks, condensation, syrup and other pumps.

Total value: $ 650,000.00

Crystallizers, centrifugals, weighing and stacking equipment:

Thirty two crystallizers, of 1,250 cubic feet each, used for massecuite, molasses and seed.

Eight Hepworth centrifugals 40"x24" belt driven.
Four Hepworth 40"x24" electrically driven by G.E. motors.
Two Cresson-Morris 40"x24" also electrically driven by individual Westinghouse motors.
Sixteen Hepworth 40"x24", belt driven
Four Hepworth 40x"x24", belt driven.
Four Hepworth 40"x24", individually driven by G.E. motors.
Six Hepworth 40"x24" high speed, electrically driven.
Three automatic Richardson scales, conveyors, sewing machines, sugar troughs, molasses troughs, receiving tanks, sugar washers, conveyors, elevators, sugar bins, platform scales belt conveyors, sugar coolers, fans, air ducts

B

FRANCISCO SUGAR MILL

Summary of values

Capacity: 575,000 arrobas per 24 hours.

Batey and factory buildings:	$ 2,700,000.00
Cane handling equipment:	110,000.00
Cane milling equipment:	1,300,000.00
Boiler and furnace plant:	850,000.00
Clarification plant:	400,000.00
Evaporation plant:	650,000.00
Crystallizers and Centrifugals:	620,000.00
Factory pumps:	120,000.00
Factory pipe lines and valves:	200,000.00
Electric Plant:	500,000.00
Mechanical, Locomotive and other shops:	250,000.00
	7,700,000.00

Batey and factory buildings:

Scale and cane conveyor building, steel.
Mill building proper, steel and galvanized iron
Boiler house, steel and galvanized iron.
Electric plant, steel.
Clarification, evaporation and centrifugals.
Acid house.
Ice Plant.
Carpenter shop.
Water purification plant.
Mill supply storehouse.
Huacales factory.
Dryer building.
Shops and foundry.
Laboratory.
Steel water tanks.
Locomotive oil tank.
Two steel oil tanks for 750,000 gallons each.
Sugar warehouses:
There are five warehouses, one of them adjacent to the Mill house, is of the same steel construction. There is another also of steel, and a thirs built of bricks, all of them with galvanized iron roofing.
There are two of frame construction and galvanized iron roofing.

Their measurements are as follows:

One is 94 x 32 meters.

One 58 x 14 "

One 15 x 20 "

One 92 x 20 "

One 75 x 22 "

Molasses tanks:

Two tanks 50' x 28' with a capacity of 400,000 gallons, each.

Two tanks 43' x 28' with a capacity of 300,000 gallons each.

Two tanks 93' x 25' 8" with a capacity of 1,300,000 gallons.

Batey buildings and structures:

Manager's house, brick.

Assistant Manager's house.

Another comparable dwelling

Guest house.

Twelve dwellings for junior management, some frame and tiles.

Hospital, brick and tile.

Doctor's dwelling.

Police headquarters

Stables building.

B

Office building

Mess Hall.

Garage.

Eleven barracks.

Two hundred and twenty five dwellings,

mostly frame, some brick.

Several school buildings.

Kingston Subdivision.

Buenavista subdivision.

Base ball field.

Post Office

Drug Store.

Cane car repair shop.

Cooling ponds.

Rain water deposit.

Filter house.

Motor repairs shop.

Machine shop and foundry

Lumber deposit.

Materials warehouse.

Ice plant.

Gin factory building.

Rock crusher.

Dry cleaning building.

Traffic building.

Telephone equipment repair shop.

Laboratory

Pañol building.

Old Pañol building.

There were several other smaller ones.

Fences, piping, power lines, lighting lines and fixtures, roads, sidewalks, landscaping of grounds, sewerage and water supply, telephone lines and equipment, railroad lines and switches, airport with landing strip of one mile in length.

Total value: $ 2,700,000.00

B

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

IN THE MATTER OF THE CLAIM OF

THE FRANCISCO SUGAR COMPANY
and
COMPANIA GANADERA EL INDIO, S.A.

Under the International Claims Settlement Act of 1949, as amended

Claim No. CU-2500

Decision No. CU 6066

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of $58,505,859.00 was presented by THE FRANCISCO SUGAR COMPANY based upon the asserted loss of property and investments in Cuba. COMPANIA GANADERA EL INDIO, S.A., which is a wholly-owned subsidiary organized in the United States, is joined herein as co-claimant.

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.

An officer of THE FRANCISCO SUGAR COMPANY which was organized in 1899 under the laws of the State of New Jersey has certified that at all times pertinent hereto at least 50% of its outstanding capital stock has been owned by United States nationals and that on June 27, 1967 holders of 348,102 shares of the 350,301 shares outstanding were residents of the United States who are presumed to be United States nationals. The Commission holds that THE FRANCISCO SUGAR COMPANY and its wholly-owned subsidiary, COMPANIA GANADERA EL INDIO, S.A. qualify as nationals of the United States within the meaning of Section 502(1)(B) of the Act.

The losses for which claim is made are as follows:

Land	$13,053,882.00
Buildings, equipment and other non-current assets	42,134,290.00
Net current assets	1,652,385.00
Securities (non-affiliated companies)	121,400.00
Investment - Cubana Primadera	1,543,902.00
Total	$58,505,859.00

The record establishes and the Commission finds that THE FRANCISCO SUGAR COMPANY was the owner of land and two sugar mills in Cuba and the sole stockholder of the following Cuban enterprises, Inversiones Agricolas Santa Isabel, S.A., Manuel A. Lage y Cia. S. en C., and Cia. Maritima Guayabal, S.A. The Commission further finds that the property of both claimants and the Cuban subsidiaries was taken by the Government of Cuba on August 6, 1960 under Resolution No. 1. The Cuban firms were organized under the laws of

Cuba and do not qualify as corporate "nationals of the United States" defined under Section 502(1)(B) of the Act, supra. In this type of situation, it has been held that an American stockholder is entitled to file claim based upon an ownership interest therein. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.) Therefore THE FRANCISCO SUGAR COMPANY is entitled to file a claim for its interest in the Cuban companies.

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.

According to the evidence of record, FRANCISCO owned sugar mills at Elia and Francisco and with its two Cuban subsidiaries owned 3,025.835 caballerias of land, an alcohol distillery and yeast plant, approximately 177 miles of railroad track with the necessary rolling stock, warehouses, airfields, and complete facilities for operating the mills at the towns of Francisco and Elia. Land was also owned by FRANCISCO at the port of Guayabal where the other Cuban subsidiary operated under a concession from the Cuban Government, having dredged the port to a depth of 33 feet and erected a pier, warehouses and tanks for carrying out its shipping operations.

Claimant EL INDIO, S.A. organized under the laws of the State of Delaware in 1953 was engaged in cattle raising, and bred and developed cattle on land leased from its parent company.

In support of the amount claimed, claimants have submitted three appraisals of the land, cultivations, buildings, installations, equipment and machinery. The record also contains affidavits of company officers, a report of losses submitted to the Department of State in August, 1960, financial statements and photographs of Central Elia and Central Francisco.

On the basis of all the evidence of record, the Commission finds that the value of the fixed assets of FRANCISCO and its Cuban subsidiaries on August 6, 1960 were as follows:

Lands and cultivations		$19,110,000.00
Railroad System		9,600,000.00
Port at Guayabal		3,746,000.00
Francisco Mill		
Batey & Factory Buildings	$2,700,000.00	
Cane Handling Equipment	110,000.00	
Cane Milling Equipment	1,300,000.00	
Boiler & Furnace Plant	850,000.00	
Clarification Plant	400,000.00	
Evaporation Plant	650,000.00	
Crystallizers & Centrifugals	620,000.00	
Factory Pumps	120,000.00	
Factory Pipe Lines & Valves	200,000.00	
Electric Plant	500,000.00	
Mechanical & Locomotive Shops	250,000.00	7,700,000.00
Elia Mill		
Batey & Factory Buildings	1,850,000.00	
Cane Handling Equipment	80,000.00	
Cane Milling Equipment	1,000,000.00	
Boiler & Furnace Plant	800,000.00	
Clarification Plant	320,000.00	
Evaporation Plant	500,000.00	
Crystallizers & Centrifugals	600,000.00	
Factory Pumps	100,000.00	
Factory Pipe Lines & Valves	200,000.00	
Electric Plant	550,000.00	
Mechanical & Locomotive Shops	200,000.00	6,200,000.00
Distillery & Yeast Plant		900,000.00
Other Properties, Power Lines, etc.		400,000.00
Field Installations & Agricultural Machinery		2,300,000.00
Total		$49,956,000.00

The Commission further finds that on August 6, 1960, the current assets of claimant FRANCISCO and its subsidiaries exceeded its liabilities by the amount of $1,652,385.00 and that the total value of the property of FRANCISCO and its Cuban subsidiaries taken by the Government of Cuba on August 6, 1960 was $51,608,385.00. Inasmuch as the Commission does not deduct liabilities

of United States nationals except for taxes due the Cuban Government (see Claim of Simmons Company, Claim No. CU-2303), claimants were requested by letter of March 2, 1970 to submit separate information concerning FRANCISCO's subsidiaries. However no reply was received and the determination of liabilities is based upon the consolidated report for August 7, 1970 (claimant's Exhibit 8).

COMPANIA GANADERA EL INDIO, S.A.

According to the information filed with the Department of State in 1960 EL INDIO did not own any land but operated its cattle raising business on land leased from FRANCISCO and its Cuban affiliates. On August 6, 1960, EL INDIO was the owner of 9,317 head of cattle, of which 241 were pure Santa Gertrudis breed and the remainder part Santa Gertrudis, and 144 horses and mules. The amount of $746,000.00 is asserted as the value of the livestock at the time of loss.

On the basis of the evidence herein and other evidence available to the Commission concerning the value of livestock, the Commission finds that the value placed on these cattle is a fair and reasonable one and concludes that EL INDIO suffered a loss in the amount of $746,000.00 for the taking of its livestock on August 6, 1960 within the meaning of Title V of the Act.

Investments

Claimant FRANCISCO has asserted claims totalling $1,665,302.00 for its investments in Cia. Cubana Primadera, S.A., Ferrocarriles Occidentales de Cuba, S.A., Cuban Venezuelan Oil Voting Trust, Trans-Cuba Oil Company and Kenaf Corporation.

On the evidence of record, the Commission finds that FRANCISCO owned shares of the listed corporations on August 6, 1960 as follows:

Cia. Cubana Primadera, S.A.	306,000 Common Stock Shares
	9,980 Preferred Shares
Ferrocarriles Occidentales	1,089 Shares
Trans-Cuba Oil Company	15,000 Shares
Cuban Venezuelan Oil Trust	10,000 Shares
Kenaf Corporation	5,686 Shares

In the Claim of Martha P. Balme, Claim No. CU-8162, the Commission determined that the value of preferred stock of Cia. Cubana Primadera on

August 7, 1960 was $92.1936 per share, with the common stock having no value. The Commission therefore finds that FRANCISCO as the owner of 9,980 preferred shares suffered a loss in the amount of $920,092.13 for its ownership interest in Cia. Cubana Primadera, S.A. when its Cuban assets were taken on August 6, 1960.

In the Claim of Ruth Anna Haskew, Claim No. CU-0849, the Commission held that the value of the common stock of Ferrocarriles Occidentales de Cuba, S.A., which enterprises were required to purchase under Cuban laws, was the original cost price. Claimant paid $100.00 per share or a total of $108,900.00 and the Commission finds that claimant suffered a loss in the amount of $108,900.00 for its ownership interest in Ferrocarriles Occidentales de Cuba, S.A. on August 6, 1960.

In the Claim of D. R. Wimberly, Claim No. CU-3417 and Claim of Felix Heyman, Claim No. CU-0412, the Commission determined the values of shares of the Trans-Cuba Oil Company and the Cuban Venezuelan Oil Voting Trust to be $0.1198 and $0.11971 per share, respectively, on November 23, 1959 the date the properties of those companies were taken by the Government of Cuba. Accordingly, the Commission finds that FRANCISCO suffered a loss in the amount of $1,797.00 for its interest in the Trans-Cuba Oil Company and $1,197.10 for its interest in Cuban Venezuelan Oil Voting Trust on November 23, 1959.

Concerning the Kenaf Corporation, the Commission held in the Claim of Manati Sugar Company, Claim No. CU-2525, that stockholders of this New York corporation could file a claim for their ownership interest since the company was dissolved in 1962 after assets valued at $22,382.95 were taken by the Government of Cuba on May 25, 1960. Accordingly, the Commission finds that FRANCISCO as the owner of 5,686 shares or 13.703% of the outstanding stock suffered a loss in the amount of $3,067.14 on May 25, 1960 within the meaning of Title V of the Act.

RECAPITULATION

Accordingly, the claimants suffered the following losses within the meaning of Title V of the Act:

THE FRANCISCO SUGAR COMPANY		
Net Assets with Subsidiaries	August 6, 1960	$51,608,385.00
Cia. Cubana Primadera	August 6, 1960	920.092.13
Ferrocarriles Occidentales	August 6, 1960	108,900.00
Trans-Cuba Oil Company	November 23, 1959	1,797.00
Cuban Venezuelan Oil Trust	November 23, 1959	1,197.10
Kenaf Corporation	May 25, 1960	3,067.14
		$52,643,438.37
COMPANIA GANADERA EL INDIO, S.A.		
Livestock	August 6, 1960	$746,000.00

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
THE FRANCISCO SUGAR COMPANY	
November 23, 1959	$ 2,994.10
May 25, 1960	3,067.14
August 6, 1960	52,637,377.13
	$52,643,438.37
COMPANIA GANADERA EL INDIO, S.A.	
August 6, 1960	$746,000.00

CERTIFICATIONS OF LOSS

The Commission certifies that THE FRANCISCO SUGAR COMPANY suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Fifty-two Million Six Hundred Forty-three Thousand Four Hundred Thirty-eight Dollars and Thirty-seven Cents ($52,643,438.37) with interest at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that COMPANIA GANADERA EL INDIO, S.A. 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 Hundred Forty-six Thousand Dollars ($746,000.00) with interest at 6% per annum from August 6, 1960 to the date of settlement.

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

FEB 9 1971

Lyle S. Garlock, Chairman

Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimants establish retention of the securities or the loss here certified.

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

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended (1970).)