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Subject: Interview with Abelardo Moreno about Claims Dialogue
Attach: Moreno Article Translation.docx

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Hello L Colleagues,

Wanted to share a doc containing an interview (with an unofficial translation) of Vice Minister Abelardo Fernandez with the Cuban press about the claims dialogue.

The original source is: <http://www.cubadebate.cu/noticias/2016/08/01/abelardo-moreno-solo-estamos-conversando-sobre-las-compensaciones-mutuas-cuba-eeuu/#.V6EEdnR-zf>

Kind Regards,

Juan A. Clar | United States Department of State | Bureau of Western Hemisphere Affairs | Office of the Coordinator for Cuban Affairs (CCA) [REDACTED] | [REDACTED]

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Los diálogos sobre las compensaciones mutuas entre Cuba y Estados Unidos están en las etapas iniciales, tienen un carácter meramente informativo y es uno de los temas más complejos en el proceso de normalización de las relaciones bilaterales, aseguró este lunes el Vicecanciller cubano Abelardo Moreno, en un encuentro con periodistas en La Habana.

Last Monday, Vice Minister Abelardo Moreno said in a press conference in Havana that "The mutual compensation talks between Cuba and the U.S. are currently in their initial stages, have a merely informational character, and are one of the most complex topics in the normalization process."

"Es un tema de muy elevada complejidad, tanto política como técnica y jurídica", que debe funcionar en "dos direcciones" con un reconocimiento de la integralidad de este proceso para ambas partes, precisó el jefe de la delegación de Cuba que asistiera, el pasado jueves, a la segunda reunión informativa entre representantes de los gobiernos de Cuba y los Estados Unidos sobre el tema de las compensaciones mutuas, celebrada en Washington.

"It is a highly complicated topic at a political, technical and legal level that should occur in a two way street, recognizing the holistic aspect of this process for both sides"-expressed the head of delegation, who last Thursday attended the second informational meeting between U.S. and Cuban officials in Washington, DC.

"Obviamente (este tema) tiene un vínculo directo con el bloqueo y como todos ustedes saben la normalización de las relaciones entre ambos países será muy difícil, sino imposible, mientras siga vigente el bloqueo contra Cuba", afirmó.

"Obviously this topic has a direct link with the embargo, and like you all know, normalization of both countries' relationship will be very hard, if not imposible, as long as the embargo against Cuba is not lifted"- he declared.

En el Salón Azul de la sede de la Cancillería cubana, donde usualmente se reciben las delegaciones oficiales que visitan la Isla, Moreno aseguró que en este encuentro se dio continuidad al realizado en La Habana en diciembre de 2015 y solo se intercambió información sobre las reclamaciones de ambos naciones, en particular sus antecedentes, características y bases jurídico-legales, con el objetivo de preparar el proceso de negociación sobre este tema. Moreno confirmó que no se puede adelantar aún cómo terminará el proceso de intercambio entre ambos países, porque "todavía no se ha decidido" cómo proseguirán los encuentros futuros. Sin embargo, admitió que las reuniones continuarán en los próximos meses.

In the Blue Room of the Cuban Foreign Ministry, where delegations are hosted, Moreno assured that this encounter was a follow up to the one from December 2015 in Havana, **and there was only an information exchange about both countries' claims-** in particular their backgrounds, characteristics, and legal-basis-with the goal of preparing a negating process. Moreno confirmed that the process cannot be rushed yet, because "it has not been decided" on how to proceed on future encounters. However, he mentioned that meetings will occur within the upcoming months.

"Hay muchos elementos que están en juego en una discusión como esta", y recordó que este es un asunto estrechamente ligado con las leyes del bloqueo económico, comercial y financiero, impuesto por Estados Unidos contra Cuba desde hace más de cinco décadas, y que virtualmente han impedido la ejecución de buena parte de las medidas anunciadas por la administración de Barack Obama para la Isla.

"There are many issues at stake in negotiations such as this one". He emphasized that this matter is strictly bound to the embargo legislation (economic, commercial and financial) imposed against Cuba for more than five decades, which virtually has prevented the execution of a large portion of the measures announced by the Obama Administration.

Moreno reafirmó que Cuba no aceptará soluciones unilaterales de ningún tipo, que no satisfagan plenamente los intereses cubanos. "Creemos que las condiciones han sido creadas para continuar con este proceso informativo y al menos para Cuba fue muy ilustrativo y esperamos que para la parte estadounidense también lo haya sido".

Moreno reaffirmed that Cuba will not accept unilateral solutions of any kind, that do not satisfy the interests of the Cuban people. "We believe that the conditions to continue this informational process have been created, and for Cuba, the meeting was very illustrative, and we hope it was also helpful for the U.S. side.

Estados Unidos reclama a Cuba más de 1 900 millones de dólares en compensaciones a estadounidenses cuyas propiedades en la Isla fueron expropiadas en las décadas de 1950 y 1960, según la Comisión de Liquidación de Reclamaciones en el Exterior (FCSC, por su sigla en inglés).

The U.S. is claiming more than 1.9 billion USD in compensation for U.S. assets expropriated in the 1950s and 1960s, according to the FCSC.



Abelardo Moreno en conferencia de prensa en la Cancillería cubana. Foto: Ismael Francisco/ Cubadebate

También exige unos 2 200 millones de dólares en fallos de tribunales de EE.UU. que se establecieron sin la presencia de Cuba, además de "entre 100 y 200 millones de dólares" por "intereses mineros" que el Gobierno estadounidense tenía en la isla.

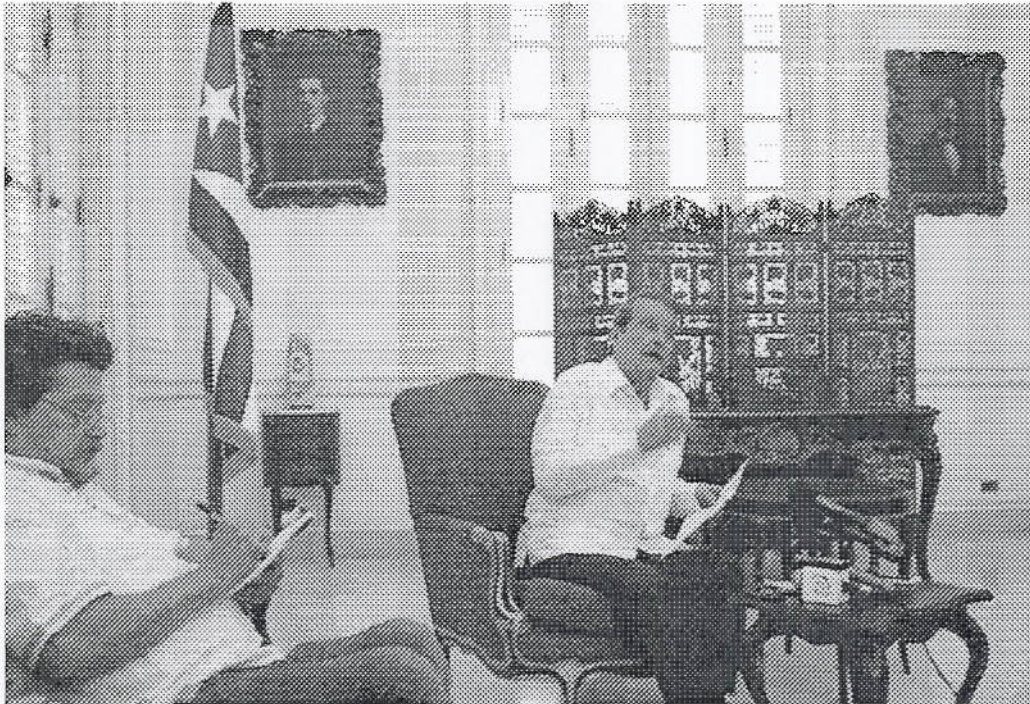
In addition, the U.S. claims 2.2 billion in U.S. court settlements that were adjudicated without Cuba's presence, and between 100 and 200 million USD for "mining interests" that the USG had in the island.

Por la parte cubana están vigentes demandas amparadas por los tribunales locales en los años 1999 y el 2000, que cifran la reclamación de la Isla en unos 300 mil millones de dólares, por daños económicos y humanos, una cifra que podría ser más alta si se actualiza el costo por daños y perjuicios del bloqueo estadounidense al pueblo cubano en lo que va de siglo.

There are claims pending from the Cuban side, as declared by local tribunals in 1999 and 2000, which quantify claims to approximately 300 billion USD for human and economic damages, a figure that could be higher if it is updated to include damages on the Cuban people resulting from the economic embargo.

"Las demandas del pueblo cubano no son negociables... Son decisiones judiciales que tienen que ser cumplidas", enfatizó.

The claims from the Cuban people are not negotiable... They are judiciary decisions that need to be fulfilled.



"Es un proceso en dos direcciones", explicó Moreno, quien encabezó la delegación cubana que viajó a Washington el pasado jueves para asistir a la segunda reunión de intercambio sobre el tema de las compensaciones mutuas entre Cuba y EEUU. Foto: Ismael Francisco/ Cubadebate

Moreno recordó que "el gobierno revolucionario siempre tuvo la voluntad política de compensar a las personas naturales y jurídicas extranjeras cuyas propiedades pasaron al Estado cubano", pero el bloqueo de EEUU impidió esas fórmulas compensatorias, precisó.

Moreno reminded us that "the revolutionary government always had the political will to compensate natural citizens and foreign entities whose properties became part of the Cuban state", but the U.S. embargo prevented these compensation formulas.

Sin embargo, sí se mantuvo el diálogo con Canadá y otras cinco naciones europeas que tenían propiedades en la Isla y resolvieron el diferendo con Cuba en esta materia.

However, Canada and other five European nations that owned property in the islands solved their claims with Cuba.

**A continuación, las palabras de Abelardo Moreno en la conferencia de prensa:
Abelardo Moreno:**

Below are Abelardo Moreno's words for the press conference:

Buenas tardes a todos. El objetivo de este encuentro con ustedes es informarles sobre la reciente discusión que sostuvimos la semana pasada en Washington sobre el tema de las compensaciones mutuas entre Cuba y los Estados Unidos. Ahí, es obvio, que esta es una discusión que está encaminada, como otras, al proceso de normalización de relaciones entre Cuba y los Estados Unidos, pero debo decir que **es un tema de muy elevada complejidad, tanto política, como técnica, como jurídica, hay muchos elementos que están en juego en una discusión de este carácter.**

Good afternoon. The objective of this encounter is to inform you about the recent discussion we had last week in Washington about the topic of U.S.-Cuba claims. Obviously, this discussion, just like others, is geared towards normalizing U.S.-Cuba relations, but I must say that **it is a very complicated topic at a political, technical and legal level, and there are many elements at stake in such discussions.**

Creo que a ustedes no se les escapa que un elemento que **está directamente vinculado con este tema es el bloqueo** económico, comercial y financiero, impuesto por los Estados Unidos contra Cuba desde hace más de cinco décadas. En ese contexto, quiero recordar que desde hace más de veinte años el bloqueo ha recibido el rechazo de la comunidad internacional, con sucesivas resoluciones aprobadas por la Asamblea General de la ONU, la última de ellas con el voto favorable de 191 de los 193 miembros de las Naciones Unidas.

I believe that this issue is directly linked to the economic, commercial and financial embargo imposed by the U.S. against Cuba more than five decades ago. In this context, I want to remind you that more than twenty years ago, the embargo has been rejected by the international community, with successive resolutions approved by the UN General Assembly, the most recent one having a favorable vote of 191 of the 193 members of the UN.

Además, déjenme hacerle propaganda también al informe que Cuba presenta todos los años. En ese informe ustedes pueden encontrar numerosos detalles, tanto este año como en los 20 años anteriores, sobre cómo ha venido operando el bloqueo de los Estados Unidos contra Cuba y cuáles han sido sus principales características y consecuencias.

In addition, let me remind you of a report that Cuba presents every year. In this report, you can witness numerous details, from this year, and previous years, about how has the embargo operated against Cuba, and what have been the main characteristics and consequences of the embargo.

En lo relacionado con estas conversaciones debo decirles que en el caso de Cuba se basan en las Demandas del pueblo de Cuba por daños humanos y económicos al gobierno de los Estados Unidos; estas son demandas presentadas en los años '99 y 2000, y sobre las cuales existen

dictámenes por parte de los tribunales correspondientes; ahí, en esas demandas, se incluyen las acciones de terrorismo, las acciones de guerra económica y sus efectos sobre Cuba —cuando hablo sobre Cuba no estoy hablando sólo del país, sino también los efectos sobre personas individuales en Cuba. Y los fundamentos jurídicos de dicha demanda fueron bien expuestos en las sentencias de los tribunales cubanos.

I must say that in relation to these conversations, the Cuban case is based on claims of the Cuban people for the human and economic damages inflicted by the U.S. government. Such claims, presented in years '99 and 2000, and adjudicated by tribunals, include terrorism, and the effects of economic warfare on Cuba. When I speak about Cuba, I am not only referring to our country, but also to the effects on individual Cuban nationals. The legal fundamentals of such claims were well exposed in the sentences of the Cuban courts.

Los tribunales cubanos fijaron un monto compensatorio de más de 300 mil millones de dólares por ambos conceptos, o sea, por daños humanos y daños económicos, y esos pronunciamientos de las instancias jurisdiccionales cubanas, obviamente, están acordes con la práctica y con el derecho internacional.

Cuban tribunals determined an amount of more than 300 billion USD to compensate for human and economic damages. Obviously, the verdicts of these Cuban courts are in accord with international law and practice.

Desde que fueron dispuestas las primeras leyes de nacionalización a inicios del proceso revolucionario, el Estado cubano siempre tuvo la **voluntad política de compensar a las personas jurídicas y naturales extranjeras cuyas propiedades pasaron a ser propiedad del pueblo de Cuba.**

Ever since the first Revolutionary nationalization laws were put into place, the Cuban state always had the **political will to compensate foreign entities and individuals whose properties shifted to the hands of the Cuban people.**

En el caso particular de los titulares de los Estados Unidos, las normas jurídicas que elaboramos en aquella época incluyeron formas para ejecutar en plazos bien definidos los procedimientos de compensación. Ahora, sin embargo, como ustedes conocen, la **actitud del gobierno de los Estados Unidos hacia Cuba desde aquellos primeros años, incluido el bloqueo, impidieron la aplicación práctica de esas fórmulas compensatorias que habíamos propuesto en aquel momento.**

In the particular case of U.S. assets, legal norms were established at that time and they included mechanisms to execute compensation proceedings in well-define periods of time. However, now, as you all know, the U.S. government's attitude towards Cuba during those years, including the embargo, prevented the application of the claims settlement mechanisms we had proposed at that time.

Cuba logró acuerdos de compensación con Canadá y con cinco países europeos, que significaron una solución real para las reclamaciones de las personas naturales y jurídicas de esos países por las propiedades que fueron nacionalizadas por el Estado cubano.

Cuba achieved claims settlements with Canada and five European countries. They all meant a real solution for claims of natural citizens and legal entities of those countries that had any properties nationalized by the Cuban state.

Ahora, yo creo que es necesario precisar que en el caso de los Estados Unidos nos encontramos con un proceso que es bien diferente a aquellos que se lograron, como dije, con Canadá y con cinco países europeos, ¿por qué?, porque este es un proceso en dos direcciones, aquí no sólo debe considerarse la compensación cubana por las nacionalizaciones al principio de la Revolución, sino sobre todo las reclamaciones de nuestro país por los daños económicos, igual por el bloqueo, lo que está incluso establecido por ley en nuestro país.

Now, I believe it is necessary to note that the process with the U.S. is very different to that of Canada and five European countries. Why? Because this is a "two-way" process. We cannot just consider Cuban compensation for nationalizations at the beginning of our Revolution, but also, and above all, all the claims related to economic damage and the embargo, which are already established by our country's laws.

Reitero, y luego de las conversaciones en Washington efectuadas el día 28 de julio creo que es importante reiterarlo, que estamos hablando de un proceso en dos direcciones, y a nuestro juicio, para llegar a una conclusión debe haber un reconocimiento de la integralidad de dicho proceso. Para Cuba no son aceptables soluciones unilaterales de ningún tipo que no satisfagan plenamente los intereses cubanos.

I reiterate, that after the conversations that took place in Washington on July 28th, it is clear that this will be a bi directional process, and in our judgement, to reach an agreement there must be a total recognition of such "two-way" process. **It is not acceptable for Cuba to have any unilateral solution that does not fully satisfy Cuban interests.**

Las dos reuniones informativas que han tenido lugar hasta el momento, la que se efectuó en diciembre del pasado año en La Habana, y esta que acaba de tener lugar, **han permitido una discusión profesional, constructiva, que ha posibilitado que las dos partes intercambiamos información y experiencias en procesos similares, así como posibles formatos y plazos para el proceso negociador del tema.**

Thus far, both informational meetings allowed us professional and constructive discussions. Such discussions have made possible for both sides the exchange of information about similar processes in both nations, and possible formats and timelines for negotiations.

Nosotros creemos que, finalmente, **que las condiciones han sido creadas para continuar con este proceso informativo**, y al menos para Cuba fue muy ilustrativo, y yo espero que para la parte norteamericana también haya sido igualmente ilustrativo.

Ahí ustedes tienen, ahí, una visión general de ese proceso y cómo se desarrolló, y ahora, si tienen algunas preguntas estamos dispuestos a responderlas.

We believe that the conditions to continue this informational process have been created, and for Cuba, the meeting was very illustrative, and we hope it was also helpful for the U.S. side. Now, we will take any questions you might have.

Sabemos que en estos días el Departamento de Estado ha hecho declaraciones anónimas sobre este tema, y sabemos que ha habido despachos de prensa sobre el mismo, y nos ha parecido bueno que ustedes conozcan también la visión que tenemos en Cuba al respecto. Adelante, por favor.

We know that in the past days, the Department of State has made anonymous declarations about this issue, and press releases as well. It is good, that you also hear the perspective we have here in Cuba about this issue.

Cubadebate.-Precisamente quisiera que se refiriera a las declaraciones anónimas que han hecho funcionarios estadounidenses. The Wall Street Journal citaba a alguien de la delegación de Estados Unidos que expresó su deseo de resolver las reclamaciones lo más rápido posible. ¿Puede ser así?

Cubadebate: Precisely, I would like you to refer to the anonymous declarations from U.S. officials. The Wall St. Journal quoted someone from the U.S. delegation who expressed his/her desire to solve claims as soon as possible. Can this occur in such fashion?

Abelardo Moreno: Mira, el problema radica en que no estamos negociando todavía, vamos a partir de ahí. Nosotros estamos ahora en conversaciones informativas. Es cierto que ellos han planteado

la necesidad de resolver el tema en la brevedad posible, pero como yo dije al principio, estas van a ser negociaciones sumamente complejas desde todo punto de vista, y hay que seguir los tiempos adecuados. O sea, no podemos forzar los tiempos antes de llegar a una conclusión.

Si aquí fuéramos a hablar nada más que de compensaciones unidireccionales eso sería muy fácil, pero el problema es que no estamos hablando de compensaciones unidireccionales. Estamos hablando de compensaciones mutuas, y por consiguiente, tiene que ser un proceso en que haya un acuerdo entre las dos partes que van a negociar ese tema.

Abelardo Moreno: Look, the problem lies in the fact that we are not negotiating yet. We are now having informational conversations. It is true that they expressed the need to solve this issue as quickly as possible, but like I said, these negotiations will be extremely complex from all angles, and we need to address them at an adequate time. I mean, we cannot force ourselves to reach a quick conclusion. If we were going to talk about unilateral compensations, then that would be really easy. However, the issue is that we are not talking about unilateral compensations. We are talking about mutual compensation, and therefore, it has to be a bilateral process.

CNN.-¿Cómo va a ser el acuerdo entre las partes?

CNN: How will the agreement between the two sides take place?

Abelardo Moreno: Mira, para poder llegar a un acuerdo, primero, como bien tú dices, hay que saber cómo se va a hacer ese acuerdo, y precisamente estas conversaciones informativas son para eso. Nosotros todavía no podemos decir, como tampoco lo puede decir la parte estadounidense, cómo será el acuerdo cuando quiera que este llegue, pero para poderlo saber y para poder avanzar hacia su consecución hay que hablar, y eso es lo que estamos haciendo ahora, hablando las dos partes para tratar de entendernos a nosotros.

Abelardo Moreno: Look, to reach an agreement, you need to know exactly how you are going to do an agreement. These informational conversations are precisely for that purpose. Neither us or our U.S. counterparts can say how will this agreement take place (whenever it takes places), but to do so, we have to talk, and that is what we are doing now. We are talking from both sides to gain a better understanding of each other.

¿Con qué frecuencia se reunirán las dos partes?

How often will the two sides meet?

Abelardo Moreno: Mira, no definimos la frecuencia. Estamos de acuerdo las dos partes en que deben ser reuniones regulares, o sea, que no puede ser una reunión hoy y otra para las calendas

griegas. Lo que pasa es que también acordamos que definiríamos la frecuencia y las fechas de la próxima reunión por la vía diplomática, que es como se acostumbra a hacer.

Abelardo Moreno: We did not define the frequency of the meetings. We both agree that they should be regular meetings, that it cannot be a meeting today and another one in an eternity¹. What happens is that we also agreed to define the frequency and dates of the next meeting through diplomatic channels, which is how we usually do it.

¿O sea, no van a ser, necesariamente, reuniones como hasta ahora?

So will there be meetings like the ones you have had as of now?

Abelardo Moreno: No lo sabemos, o sea, por la vía diplomática lo definiremos. Yo sé que el Departamento de Estado ha dicho que nos reuniríamos con más frecuencia. Puede ser una aspiración del Departamento de Estado y yo creo que es legítima, pero no se llegó a ningún acuerdo al respecto, sino ver por la vía diplomática cómo avanzaríamos.

Abelardo Moreno: We don't know and we will define it through diplomatic channels. I know that the Department of State has said that we will meet frequently. It can be a legitimate aspiration on their behalf, but we did not agree on a date yet. We will coordinate through diplomatic channels and see if we can achieve something.

-Señor Abelardo, ¿se ha hablado de un monto de ambas partes?

-Mr. Abelardo, have there been talks of a compensation amount from both sides?

Abelardo Moreno: Las demandas del pueblo cubano son muy claras, y las demandas son de más de trescientos mil millones de dólares, y el gobierno de los Estados Unidos, a través de la Foreign Claims Settlement Commission (FCSC), tiene también cifras que han presentado. Ahora tenemos que ver en las conversaciones cómo se compaginarán esas cifras, que obviamente son bien distintas, y sobre las cuales, también obviamente, hay diferencias de enfoques entre las dos partes.

Abelardo Moreno: The claims of the Cuban people are very clear, and they are valued at more than 300 billion USD. The U.S. government, through the FCSC has also presented its claims. Now we need to see how these figures fit into the conversations, which are obviously, quite different, and have different focal points for the two sides.

¹ *ad kalendas Graecas* was the actual idiomatic expression used.

¿Pero del lado de ellos no se ha presentado una cifra?

Have they presented any number?

Abelardo Moreno: No hemos llegado todavía a esa parte de la conversación. Repito, son negociaciones muy complejas que tienen que ir paso a paso, y cuya solución tiene que tener una naturaleza integral, en las dos direcciones, no en una sola dirección.

Abelardo Moreno: We have not reached that part of the conversation yet. I repeat, they are very complex negotiations that should go "step by step"², and their solution has to be holistic and in two directions.

Sistema Informativo de la Televisión Cubana. ¿En las conversaciones se ha establecido alguna diferencia entre las propiedades de los titulares estadounidenses y las propiedades de los cubanos que emigraron a principios de los sesenta, o se está hablando en sentido general?

Cuban TV: Have you established a distinction between the properties of U.S. nationals and properties of Cubans who migrated during the early 1960s?

Abelardo Moreno: Mira, ya eso es, ese es un tema que ya está resuelto desde hace mucho tiempo, o sea, en las listas que tiene la Foreign Claims Settlement Commission sólo se incluyen las propiedades de ciudadanos estadounidenses. O sea, los ciudadanos cubanos no tienen nada que ver con este proceso. Estamos hablando de propiedades de empresas y ciudadanos de los Estados Unidos; ya eso era algo bien definido.

Abelardo Moreno: Look, that issue was solved a long time ago. Thus, the FCSC's list only includes properties of U.S. citizens. Cuban citizens have nothing to do with this process. We are talking about properties of U.S. companies and individuals, as was previously defined.

-¿Pero se trata de ciudadanos norteamericanos del '59 o de los que ahora son ciudadanos de Estados Unidos?

But is it about U.S. citizens from 1959 or those who are current citizens?

² At the meeting Abelardo said "These arrangements can't occur in baby steps (pedacito a pedacito). We should not give priority to one claim over the other."

Abelardo Moreno: El Departamento de Estado está haciendo una revisión en este momento, según nos dijeron, para determinar si se trata de los que eran ciudadanos de Estados Unidos en 1959 o los que son ahora, eso está siendo revisado. Déjame aclararte, de ahí, desde el momento en que se establecieron las primeras reclamaciones hasta ahora, ha habido muchos cambios. Ha habido empresas que reclamaron en aquel entonces y que ya no existen; hay otras que se amalgamaron con grandes compañías; hay otras que cambiaron de nombre, igual que entre los reclamantes individuales. Entre las personas naturales hay quienes fallecieron y que tendrían ahora como reclamantes a sus herederos. O sea, hay una enorme gama de posibilidades, y según se nos informó, el Departamento de Estado de los Estados Unidos estará ahora haciendo las precisiones requeridas.

Abelardo Moreno: The U.S. Department of State is currently doing a revisión to determine if we are talking about U.S. citizens from 1959 or current citizens. Let me clarify that there have been many changes ever since the first claims were filed. There have been companies that back then made claims, but they don't even exist anymore. There are others from individuals, some of who are deceased and might have their heirs as claimants. Thus, there is a wide array of possibilities, and based on what we were told, the State Department is doing its due diligence.

Cubadebate. Se especula que se podrían combinar en una misma negociación los reclamos de ciudadanos particulares de EEUU. con los que se exigen entre sí los gobiernos.

Cubadebate: There are speculations that one could combine claims of U.S. nationals and claims demanded by both governments within the same negotiation package.

Abelardo Moreno: Las demandas del pueblo cubano no son negociables, las demandas del pueblo cubano tuvieron sentencia ante los tribunales, y las demandas no se negocian, ¿te das cuenta? No puedo decir, "Cuba reclamó en su demanda —que fue aprobada por un tribunal y sobre el cual hubo una sentencia—, x cantidad de dinero, ahora nosotros vamos a cambiar para esta otra cantidad". No, esas son decisiones judiciales que tienen que ser cumplidas por los personeros del gobierno de nuestro país.

Abelardo Moreno: The claims of the Cuban people are not negotiable. Their claims were adjudicated on Cuban tribunals, and they are not negotiable-do you realize that? I cannot say, "Cuba claimed in a suit (which was approved and adjudicated by a tribunal) X amount of money, and now we are going to change that amount." No, those are judiciary decisions that need to be fulfilled by our government officials.

Prensa Latina: ¿El hecho de que el tema de las compensaciones mutuas entre Cuba y los Estados Unidos no esté resuelto incidirá en el futuro en posibles y eventuales acuerdos económicos entre Cuba y Estados Unidos?

Prensa Latina: Will not resolving the claims issue between the U.S. and Cuba, affect possible and future economic agreements between the U.S. and Cuba?

Abelardo Moreno: Eso depende de Estados Unidos. Nosotros no hemos, hasta el momento, supeditado nada a la solución del tema de las compensaciones, lo que, obviamente, tiene un vínculo directo con el bloqueo. Creo que todos ustedes saben que la normalización de las relaciones entre ambos países será muy difícil, para no decir imposible, mientras que siga vigente el bloqueo contra Cuba.

Abelardo Moreno: That depends on the U.S. Thus far, we have not made anything contingent upon the solution of claims, which has an obvious link to the embargo. I think that all of you know that normalization between the two countries will be very difficult, if not impossible, as long as there is an embargo in place against Cuba.

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Discussion Topic: Cuba Claims

ACIL Meeting, June 26, 2015

Description:

In the course of nationalizing the Cuban economy in 1959 and the early 1960s, the Castro regime expropriated an array of property belonging to U.S. nationals. The lion's share of the property was owned by corporations—factories, mines, oil refineries, etc. The Foreign Claims Settlement Commission (FCSC) has completed two programs adjudicating claims related to these properties, in which it certified nearly 6000 awards with a principal value of approximately \$1.91 billion. Congress did not appropriate funds to pay these awards, and the claimants have not recovered any compensation to date. Following the President's recently announced policy changes in the U.S. relationship with Cuba, the Cuban government agreed to begin a dialogue on claims in the months following the reopening of our respective embassies. In preparation for this dialogue, L is exploring potential settlement mechanisms. L is interested in hearing views with respect to the following questions:

1. Given Cuba's limited resources, should the Department explore alternative financing mechanisms to fund a claims settlement process? Could such alternatives feasibly involve third parties, such as other states or other entities? Are there historical examples?
2. Should restitution of property or some sort of substitute restitution be considered?
3. Should we consider possible transfers of development rights as part of a solution? How could we ensure that any transfers of property or development rights would not encroach on the property rights of Cuban exiles who also hold claims to expropriated Cuban land?
4. Should we consider whether claims might be separated into different groups for purposes of exploring different means of resolution, which could take into account the varying interests of the different groups of claimants? How might that work?
5. Should we consider a claims tribunal (recognizing that the claims have already been adjudicated by the FCSC)? What are the benefits and disadvantages of establishing a claims tribunal? What characteristics should such a tribunal have?

Discussants:

L Moderators: Jeff Kovar (L/WHA); Lisa Grosh (L/CID). L will provide a short introduction on the status of the Cuba claims.

ACIL Experts: David Caron, Michael Matheson, Glenn Hendrix

Materials:

- A Report on Cuba Property Claims by Creighton University Law School
- FCSC's 1972 Final Report on the Cuban Claims Programs

From: Clar, Juan A [REDACTED]
Sent: Tuesday, August 2, 2016 5:21 PM
To: Grosh, Lisa J [REDACTED]; Heath, J. Benton [REDACTED] Simcock,
Julian C [REDACTED]; Gill, Ruchi Gugliani [REDACTED]; Kovar,
Jeffrey D [REDACTED]; Melamud, Anna [REDACTED]
Cc: WHA-CCA Economic Unit [REDACTED]; Perkins, Joan C
[REDACTED]
Subject: L CLEAR: Claims Dialogue Aide Memoire
Attach: XX. 2016-08-XX-Aide Memoire Claims Dialogue Draft.docx

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Dear L Colleagues,

I am attaching the Claims Dialogue Aide Memoire for clearance. For your reference, these type of documents tend to be short, concise and rarely exceed 2-3 pages. From the L side, CCA would be happy if you could please insert specific questions that you want the Cubans to address by the next meeting and vice versa.

Please let us know if you have any questions/comments, and ideally, we would like to have it cleared by tomorrow so we can send it to the Cubans this week.

Thanks and Regards,

Juan A. Clar | United States Department of State | Bureau of Western Hemisphere Affairs | Office of the Coordinator for Cuban Affairs (CCA) [REDACTED] | [REDACTED]

SBU

This email is UNCLASSIFIED.

From: Sherer, Joan M [REDACTED]
Sent: Tuesday, December 8, 2015 7:40 AM
To: Legal-L-Attorneys-DL [REDACTED]
Subject: L in the news

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Miami Herald (FL)
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December 7, 2015
U.S., Cuba to meet on claims
Mimi Whitefield; Miami Herald

What would have seemed impossible at this time last year — engagement with Cuba on claims for property of U.S. citizens and corporations that was confiscated after the 1959 Cuban Revolution — becomes a reality Tuesday when the United States and Cuba meet for talks on the issue in Havana.

To be negotiated are more than \$1.9 billion in for utilities, sugar mills, ranches, corporate holdings and personal property that were certified, most decades ago, by the U.S. Foreign Claims Settlement Commission, a Justice Department agency that adjudicates claims against foreign governments. In today's dollars those claims would be worth around \$8 billion.

The Cuban government also has counter-claims. It is seeking reparations for the adverse effects on its economy caused by the U.S. embargo as well as for what it calls human damages, resulting from the Bay of Pigs Invasion (176 deaths and more than 300 Cubans wounded), the 1976 terrorist shoot-down of a Cubana de Aviación plane that killed all 73 aboard, including 57 Cubans, and deadly CIA incursions on the island.

Cuba currently estimates accumulated damages for a half-century of U.S. hostility at \$833.75 billion. "The meeting is the first step in what we expect to be a long and complex process, but the United States views the resolution of outstanding claims as a top priority for normalization," the U.S. State Department said in a media note. "This initial meeting will allow the two sides to exchange information on a wide variety of claims."

They include claims of U.S. nationals that were certified by the Foreign Claims Settlement Commission, claims related to unsatisfied U.S. court judgments against Cuba, claims of the U.S. government, and Cuban government claims related to the embargo, according to the State Department.

The U.S. delegation will be led by **Mary McLeod**, acting **legal adviser** for the **Department of State**. Since the December 17 announcement by President Barack Obama and Cuban leader Raúl Castro that the two countries would work toward normalizing relations, the United States and Cuba have reestablished diplomatic ties, opened embassies and begun working through a number of thorny issues that separate them. But claims is the most difficult topic to date.
U.S., Cuba to meet on claims, 2015 WLNR 36211974

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"The announcement by President Obama started the ball rolling and I knew addressing the claims would be the natural progression. It's a great thing and long overdue," said Mauricio Tamargo, chairman of the Foreign Claims Settlement Commission from 2002 until 2010 and now with the Washington-based Poblete Tamargo law firm.

"The counter claims are part of the process and they don't surprise me. It's something both teams will have to work out," said Tamargo. "The Cubans aren't going to be easy customers here. They are looking for any type of bargaining chip or advantage they can find. I expect these will be tough negotiations."

"Some of the counter claims are pie in the sky and they don't hold up under international law," he said. "Damages arising from an embargo are not recognized under international law. The United States is allowed to have any type of trade restrictions on any government it wants and to protect its own citizens."

But in terms of the loss of life claims, Tamargo said, "depending on the facts surrounding each of those claims, they may have a better chance of validity."

All told, there are 5,913 claims, and the top 100 claims represent 90 percent of the value of all claims. Some claims are tiny, \$25 worth of stock in a confiscated company, for example. But a dozen claimants have losses certified at more than \$50 million each. There are 899 corporate claims worth \$1.677 billion and 6,015 claims valued at \$229.2 million. The Cuban Electric Co. with a certified loss of \$267.6 million, has by far the largest claim. Among the other large claimants are North American Sugar Industries, MOA Bay Mining Co., ITT, Exxon, Starwood Hotels & Resorts Worldwide, Texaco and The Coca-Cola Co.

Because many of the original personal claimants have died, their claims have passed to heirs. Some may not even be aware they have inherited claims and must be found, Tamargo said. He has suggested that the Foreign Claims Settlement Commission be reauthorized to recertify claims under the names of the new owners.

"I believe this should be done right now to save time once a settlement occurs," he said.

Not included are claims by Cubans who became U.S. citizens after they lost their properties.

But the State Department note seemed to indicate that judgments stemming from civil suits, primarily filed by Floridians who claimed they suffered as a result of Cuba's actions, would be discussed. Judgments in these cases now total billions of dollars. "As a matter of principle, Cuba never defended itself in these cases. A good bit of them, or perhaps all of them, were settled by default judgments," said George Harper, a Miami lawyer.

Harper argued three claims before the Foreign Claims Settlement Commission in 1972 stemming from his family's loss of a cattle ranch, homes and other property. In today's dollars, figuring 6 percent interest from the day of taking, those claims would be worth \$6.7 million, he said.

"The commission was very meticulous in valuing the claims," he said. Because his mother and maternal grandmother were Cuban and his father and grandfather American, Harper said, the commission cut those two claims in half because it was only adjudicating claims of U.S. citizens.

"We had a right to impose the embargo," he said. "They did not have the right to take over our properties without compensation."
U.S., Cuba to meet on claims, 2015 WLNR 36211974

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During a news conference held in August on the day the United States raised the flag and formally opened its embassy, Cuban Foreign Minister Bruno Rodriguez said that "Cuban laws have foreseen the compensation to owners whose properties were nationalized in the 1960s."

All owners were compensated, he noted, with the exception of American claimants. The possibility of paying them compensation, Rodriguez said, would "necessarily be part of a mutual process of negotiations — taking into account the compensation" that Cuba is seeking for economic and human damages.

Tamargo said he didn't believe the settlement agreements with some European countries and Canada would be acceptable to American claimants. "They were pennies on the dollar," he said.

Even though the Cuban economy is far from vibrant, Tamargo said Cuba does have enough money to pay the claims.

"Cuba does have the revenue stream now. In addition to that, it is most likely the embargo will be lifted as part of any settlement agreement. Lifting it would increase Cuba's revenue stream tremendously. It would probably quadruple it," he said.

Settling the claims also would eliminate the reason the United States phased in the embargo during the early 1960s. Other remedies for settling the claims might include a drawn-out payment plan, bonds or investment vouchers. But he added, "Most of the claimants don't have the ability to take advantage of such an investment opportunity."

Tamargo said that whatever agreement is reached by the two sides, it would have to be a fair agreement because it will have to be ratified by Congress. It will be something of a chain reaction. "Congress won't lift the embargo if they don't see it [a claims settlement agreement] as a fair deal," he said.

And if Cuba wants Americans to eventually invest in the island, there would need to be safeguards in the agreement to protect future U.S. investors, said Tamargo.

"That's the first question clients interested in Cuba ask: 'If I do invest, what's to keep them from confiscating property the same as they did 50 years ago?' It's clearly an impediment to investment," Harper said.

---- **Index References** ----

Keywords: (XC/any.company); (XC/any.private); (MC/HOT#6); (MC/HOT); (NT/NEC); (WD/Economy); (XC/any)
U.S., Cuba to meet on claims, 2015 WLNR 36211974

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BIOGRAPHY



Mauricio Tamargo is a Founding Partner of Poblete Tamargo - a solutions-driven law and public policy practice. The firm offers a wide-range of services in unique practice areas, with a concentration in providing regulatory and international litigation counsel.

With over 25 years of government affairs and public policy experience, Tamargo has advised and counseled winning strategies for individual clients, law firms, corporations, trade associations and government agencies on matters involving international law, congressional affairs, export controls and trade issues. Tamargo was named among the "100 Most Influential Hispanics" by Hispanic Business Magazine and he also maintains a National Security Clearance (Secret).

Tamargo previously served as Chairman of the Foreign Claims Settlement Commission of the United States at the Department of Justice ("FCSC") and held several senior congressional positions.

During his employment by Congress, Tamargo was Staff Director and Legal Counsel to three House Committee on International Relations Subcommittees: the International Operations and Human Rights, the International Economic Policy and Trade, and the Africa Subcommittees, while also serving as Chief of Staff and General Counsel to Congresswoman Ileana Ros-Lehtinen.

Important legislative accomplishments include assisting in drafting and participating in the bi-

cameral conference for the Helms-Burton Act or the Cuban Liberty and Solidarity Act of 1997, (Libertad).

While Chairman of the FCSC, Tamargo was re-nominated by the President as Chairman and confirmed by the U.S. Senate three times (under both Democratic and Republican Senate majorities) serving more than eight years.

At the FCSC Tamargo administered and implemented three claims programs, the Albania Claims Program, the Second Cuba Claims Program and the Libya Claims Program, adjudicating hundreds of property and personal injury claims which resulted in over \$400 million in compensation for U.S. citizens. During his FCSC years he also served as Chairman of the Guam War Claims Review Commission and as an Advisor to the U.S. Commission on Assistance to A Free Cuba.

Tamargo is a recognized authority in international law with particular expertise in international claims law and claims against foreign sovereigns. He testified before House Natural Resources, House Armed Services and Senate Judiciary Committees regarding claims and other legislative issues.

Tamargo is a Cuba-born Spanish speaker who earned a Bachelor of Arts from the University of Miami and a Juris Doctor from Cumberland School of Law. He is licensed to practice law in Florida and the District of Columbia and is a member of the US Court of Federal Claims, Supreme Court of the United States, American Bar Association, Cuban American Bar Association and District of Columbia Hispanic Bar Association.

May 2010



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JASON I. POBLETE

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Mr. Poblete is a Partner of Poblete Tamargo LLP -- a Washington, DC based law and public policy firm. After a successful career at a leading global law firm, the U.S. Congress, and in the political arena he, joined by a long-time friend and professional colleague, founded Poblete Tamargo where they advise a diverse group of clients with federal regulatory matters as well as issues involving the intersection of law and public policy.

Mr. Poblete is a trade security law expert, with extensive experience counseling clients on compliance with U.S. and foreign export control laws, economic sanctions, trade agreements, and customs. He has also counseled clients on the review process of the Committee on Foreign Investment in the United States. He has conducted, and has been part of, investigations and audits in the United States and in various foreign countries to ensure compliance with U.S. laws and regulations. A former senior Congressional Staffer with foreign policy and communications training and experience, Mr. Poblete helps clients successfully navigate the inter-agency processes with a special emphasis on the Departments of State, Treasury, and Commerce, as well as the U.S. Congress.

Prior to forming Poblete Tamargo, Mr. Poblete served as a Senior Associate in the Global Regulatory Litigation group of Reed Smith LLP -- a top-15 international law firm. At Reed Smith since 2003, he advised multinational firms and managed matters involving regulatory law or public policy before various federal agencies. Clients included individuals, non-governmental and international organizations, as well as telecommunications, defense, energy, pharmaceutical, shipping and software development companies. Mr. Poblete has also represented clients before international organizations and has testified before a Special Committee of the United Nations (UN) in New York.

He brings more than 20 years of public policy and political experience to his practice, helping clients manage both domestic and international matters. A former staff member to the Committee on House Administration, and Ways and Means Chairman Bill Thomas (R-Calif.), he was named several times by the editors of *Roll Call* newspaper as one of the "50 Most Influential Staffers on Capitol Hill."

Prior to his tenure on the Hill, he worked at the Republican National Committee (RNC) in various capacities during the Chairmanship of the Hon. Haley Barbour, former Governor of

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Mississippi, where in addition to his work in the communications department, also advised the Chairman and met with foreign conservative political leaders from Spain and Latin America. Jason worked on the staff or has served as a volunteer on numerous presidential and statewide campaigns in his home state of Florida and Virginia.

Mr. Poblete has been a frequent commentator on U.S. and international Spanish-language television and radio public affairs programs on networks such as *CNN*, *CNN Español*, *NBCTelemundo*, *USIA*, and various local radio stations in the U.S. and Latin America. For personal and professional need, he closely follows and has had a life-long interest in political, defense, economic, security developments in the Western Hemisphere, in the linkages between regions, and the transnational nature of current and emerging threats.

He graduated from the George Mason University School of Law (2005) and earned a master's degree from Georgetown University (1995) (specializing in international affairs and U.S. foreign policy in the Western Hemisphere) and a bachelor's degree in political science from Florida International University (1992) (regional concentration on Latin America and the Caribbean)—all while also working full-time.

He is a member of the District of Columbia Bar, the Defense Forum Foundation's Working Group on the Western Sahara, the Federalist Society, and is currently serving as a Co-Chair of the National Security Committee of the American Bar Association, Section of International Law.

Mr. Poblete is a life member of the National Eagle Scout Association (NESA) and the Order of Malta. He and his wife Yleem reside in Arlington, Virginia and are parishioners at the Cathedral of St. Thomas More.

BAR & COURT ADMISSIONS

- District of Columbia Bar
- U.S. Court of Appeals for the District of Columbia Circuit
- U.S. Court of Federal Claims
- U.S. District Court for the District of Columbia

LANGUAGES

- English
- Spanish

March 2014

OF THE UNITED STATES
WASHINGTON, D.C. 20577

RELEASE IN
FULL

IN THE MATTER OF THE CLAIM OF

CARTER H. OGDEN
ZELMA OGDEN

Claim No. CU -2339

Decision No. CU-1261

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimant: Rufus King, Esquire

Petition to reopen; Proposed Decision dated and entered February 14, 1968.
Final Decision entered September 22, 1971.

AMENDED FINAL DECISION

On February 14, 1968 the Commission issued a Proposed Decision denying the claim of CARTER H. OGDEN for lack of evidence. Subsequently satisfactory evidence was submitted and in the Final Decision of September 22, 1971 the Commission added as claimant ELMA OGDEN, whose correct name is now shown to be Zelma, claimant's first wife, who during her marriage acquired a one-half interest in the property subject of this claim under the community property law of Cuba. The losses of CARTER H. OGDEN and ZELMA OGDEN, were determined as follows:

<u>Item</u>	<u>Value of Each Claimant's Interest</u>	<u>Date of Loss</u>
1. Partnership in Ogden & Ogden	\$202,500.00	December 6, 1961
2. Improved real property	30,000.00	December 6, 1961
3. Unimproved real property	5,000.00	December 6, 1961
4. Personal property of residence	5,802.50	December 6, 1961
5. Stocks, bonds, concessions:		
(a) Petrolera Aventura	120,000.00	November 23, 1959
(b) Petrolera Arabia	4,458.16	November 23, 1959
(c) Inversiones Petroleras	750.00	November 23, 1959
(d) Republic of Cuba bonds	4,090.00	December 31, 1960
(e) and (f) Motembo and Santo Tomas concessions	1,012.16	November 23, 1959
6. Currency	3,400.00	August 9, 1961
	<u>\$377,012.82</u>	

After the issuance of the Final Decision, claimant CARTER H. OGDEN advised the Commission that he was divorced from his first wife Zelma Ogden since

August 22, 1957 and that he married his present wife Dorothy M. Moore on

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April 29, 1960. He also presented evidence that all properties acquired by him during his first marriage to Zelma Ogden remained his exclusive property after the divorce was granted. He submitted evidence that his second wife was a national of the United States since birth and petitioned the Commission to reopen the claim and to change the Certification of Loss from ELMA OGDEN as it then was entered, to Dorothy M. Ogden.

Due consideration having been given to the petition, the Commission finds that under the community property law of Cuba upon dissolution of the marriage the community property comes to an end, but if both spouses agree that the property shall remain in the ownership of one of the spouses, no separation of the property takes place. On the basis of the record in the instant case the Commission further finds that by an agreement submitted to the appropriate court in Cuba in 1957, ZELMA OGDEN received a lump sum of \$25,000.00 and an alimony allowance of \$500.00 per month during her lifetime or her remarriage, and that she asserted no further claim to the assets of the marriage partnership. The Commission therefore concludes that these assets remained the exclusive property of CARTER H. OGDEN.

All the circumstances surrounding this claim indicate that on April 29, 1960, at the time of the second marriage, certain portions of the property involved in this claim had already been taken by the Government of Cuba and that no additional property in Cuba was acquired by either CARTER H. OGDEN or Dorothy M. Ogden from the date of their marriage to the date of the loss. Consequently, the entire loss, previously determined as having been sustained by CARTER H. OGDEN and ZELMA OGDEN was, in fact, sustained by CARTER H. OGDEN alone, inasmuch as his property owned prior to his second marriage under the provisions of Cuban law did not become community property of his second marriage partnership.

It is therefore concluded that CARTER H. OGDEN suffered the following losses:

CU-2339

- 3 -

<u>Item</u>	<u>Value</u>	<u>Date of Loss</u>
1. Partnership in Ogden & Ogden	\$405,000.00	December 6, 1961
2. Improved real property	60,000.00	December 6, 1961
3. Unimproved real property	10,000.00	December 6, 1961
4. Personal property at Marianao residence	11,605.00	December 6, 1961
5. Stocks, bonds and concessions:		
(a) Petrolera Aventura	240,000.00	November 23, 1959
(b) Petrolera Arabia	8,916.32	November 23, 1959
(c) Inversiones Petroleras	1,500.00	November 23, 1959
(d) Republic of Cuba bonds	8,180.00	December 31, 1960
(e) and (f) mineral concessions	2,024.32	November 23, 1959
6. Currency	<u>6,800.00</u>	August 6, 1961
	\$754,025.64	

The accrued interest is to be computed as follows:

<u>FROM</u>	<u>ON</u>
November 23, 1959	\$252,440.64
December 31, 1960	8,180.00
August 6, 1961	6,800.00
December 6, 1961	<u>486,605.00</u>
	\$754,025.64

Accordingly, the claim of ZELMA OGDEN is hereby dismissed; the Certifications of Loss in the Final Decision of September 22, 1971 are set aside; the following Certification of Loss solely in favor of CARTER H. OGDEN will be entered; and in all other respects the Final Decision, as amended herein, is affirmed.

CU-2339

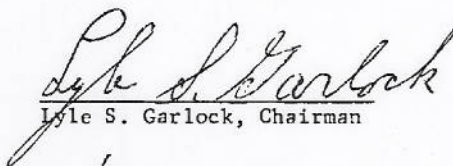
- 4 -

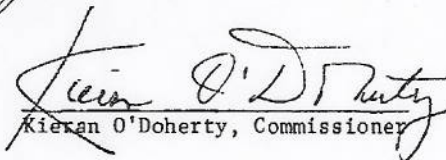
CERTIFICATION OF LOSS

The Commission certifies that CARTER H. OGDEN 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 Fifty-Four Thousand Twenty-Five Dollars and Sixty-Four Cents (\$754,025.64) 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 Amended Final
Decision of the Commission

JUN 30 1972


Lyle S. Garlock, Chairman


Kieran O'Doherty, Commissioner

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

CU-2339