GOVERNMENT
Storage
STATE UNIVERSITY LIBRARIES DOC EXP
Y 4
.F 76/1
C 51

90th Congress
1st Session

SUBCOMMITTEE PRINT

STAFF MEMORANDUM

BACKGROUND INFORMATION

RELATING TO

THE ADMINISTRATION OF INTERNATIONAL CLAIMS PROGRAMS

KSU LIBRARIES
A11900 906979

NOVEMBER 17, 1967

Printed for the use of the Committtee on Foreign Affairs

U.S. GOVERNMENT PRINTING OFFICE

86-636 WASHINGTON : 1967

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Subcommittee on Europe*

EDNA F. KELLY, New York, *Chairman*

WAYNE L. HAYS, Ohio
ARMISTEAD I. SELDEN, Jr., Alabama
CORNELIUS E. GALLAGHER, New Jersey
JOHN S. MONAGAN, Connecticut
LEE H. HAMILTON, Indiana
JOHN C. CULVER, Iowa

PETER H. B. FRELINGHUYSEN, New Jersey
EDWARD J. DERWINSKI, Illinois
JAMES G. FULTON, Pennsylvania
PAUL FINDLEY, Illinois
ROBERT TAFT, Jr., Ohio

Marian A. Czarnecki, *Staff Consultant*
Doris B. McCracken, *Staff Assistant*

*Includes the European "Captive Nations."

MEMORANDUM

NOVEMBER 17, 1967.

To: Hon. Edna F. Kelly, chairman, Subcommittee on Europe.
From: Marian A. Czarnecki, staff consultant.

This compilation has been assembled in accordance with your instructions in order to make available to the members of the Committee on Foreign Affairs and of the House of Representatives pertinent background information relating to the various international claims programs administered by the Foreign Claims Settlement Commission.

CLAIMS PROGRAMS ADMINISTERED BY THE FOREIGN CLAIMS SETTLEMENT COMMISSION UNDER THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949, AS AMENDED

BACKGROUND INFORMATION

The Foreign Claims Settlement Commission was established under Reorganization Plan No. 1 of July 1, 1954 as an independent agency of the Federal Government with jurisdiction to determine claims of U.S. nationals against foreign governments for injuries and losses sustained. The Commission is composed of three members, each appointed by the President. It combines the functions of the former War Claims Commission created under the War Claims Act of 1948 and the International Claims Commission established in the Department of State pursuant to the International Claims Settlement Act of 1949. Title I of the latter Act provided authority to administer the Yugoslav Claims Agreement of July 19, 1948 and other similar programs provided for under international agreements with the governments of countries with which the United States was not at war during World War II.

The International Claims Settlement Act of 1949 has been amended from time to time to provide for claims of United States nationals as new claims programs are created.

In adjudicating claims under the 1949 Act the Commission is directed to apply the "provisions of the applicable claims agreement" and the "applicable principles of international law, justice, and equity" with respect to claims under title I of the act, and with respect to claims under titles III, IV, and V, "applicable substantive law including international law." The well-established international law principle that claims, in order to be compensable, must have been owned by U.S. nationals from the date of loss to the date of filing a claim, has been adhered to by the Commission with respect to the nationality requirements of claimants under all programs.

PART I—CLAIMS PROGRAMS UNDER TITLE I OF THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949, AS AMENDED

A. YUGOSLAV CLAIMS AGREEMENT OF JULY 19, 1948

Under the terms of this agreement, the Government of Yugoslavia agreed to pay the United States $17 million in full settlement and discharge of all claims of U.S. nationals "on account of the nationalization and other taking by Yugoslavia of property and of rights and interests and with respect to property," which occurred between September 1, 1939 and the date of the agreement. Awards in the amount of approximately $18.8 million had been determined by the Commission upon the completion of the program on December 31, 1954.

B. PANAMANIAN CLAIMS CONVENTION OF JANUARY 26, 1950

The Commission made 62 awards in the principal amount of (441,891 out of a fund of $400,000 with respect to claims based upon the taking by the Government of Panama of certain parcels of land owned by American citizens. This program was also completed on December 31, 1954.

C. POLISH CLAIMS AGREEMENT OF JULY 16, 1960

On July 16, 1960, an agreement was signed by the United States and Poland whereby Poland agreed to pay the United States the sum of $40 million over a 20 year period in full settlement of all claims of U.S. nationals whose property, or rights and interest in property, were either (*a*) nationalized or otherwise taken by Poland; or (*b*) expropriated, or limited and restricted in their use or enjoyment under Polish laws, decrees, or other Government measures, and (3) debts owed to American citizens by enterprises which have been nationalized or taken by Poland and debts which were a charge upon, such as mortgages, owed to American citizens on property nationalized or otherwise taken.

There were 5,022 awards made under the Polish agreement in the principal amount of $100,736,781 at the close of the program on March 31, 1966.

D. YUGOSLAV CLAIMS AGREEMENT OF NOVEMBER 5, 1964

This is the second claims agreement concluded between the United States and Yugoslavia relating to the settlement of American-owned claims arising out of the nationalization or other taking of property owned by such persons which arose during the period July 29, 1948, the date of the first Yugoslav Agreement, and November 5, 1964. Approximately 1,800 claims have been filed under this agreement against an amount of $3.5 million which the Yugoslav Government has paid in full pursuant to the terms of the 1964 agreement. The Commission is presently adjudicating these claims. The program is scheduled for completion on July 15, 1969.

PART II—CLAIMS PROGRAMS UNDER TITLE III OF THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949, AS AMENDED

A. BULGARIA, HUNGARY, AND RUMANIA

Title III of the act which was added by Public Law 84–285, approved August 9, 1955, provided for claims of U.S. nationals based upon the failure of these governments to honor their obligations under the respective treaties of peace of September 15, 1947. Under the respective treaties, these governments were required to restore American-owned property or else provide compensation to the extent of two-thirds of the war damage suffered by such property. Title III authorized the use of proceeds from the liquidation of certain blocked assets in the United States to compensate U.S. nationals for these losses. Also provided under title III were claims of U.S. nationals based upon the failure of the postwar governments of Bulgaria, Hungary, and Rumania to pay compensation for property which was

nationalized or otherwise taken by such governments prior to August 9, 1955. This title also provides for claims based upon the failure of these governments to meet certain contractual obligations. The program was completed on August 9, 1959, pursuant to statutory time limitations as follows:

Country	Number of awards	Principal amount of awards
Bulgaria	217	$4,684,187
Hungary	1,153	58,181,408
Rumania	498	60,011,348

Under the terms of the Rumanian Claims Agreement of March 30, 1960, Rumania agreed to pay the United States an additional sum of $2.5 million which would provide for the final settlement of claims of U.S. nationals arising out of the nationalization or other taking of property belonging to such persons which occurred prior to the date of the agreement.

On July 2, 1963, the Governments of the United States and Bulgaria entered into a similar agreement providing for the payment to the United States by the Bulgarian Government the sum of $400,000 which would cover claims of U.S. nationals based on the nationalization or other taking of American-owned property prior to the date of the agreement.

In order to commence the processing of claims under the above agreements, certain changes are required in the act.

B. ITALY

The sum of $5 million was paid to the United States by Italy in accordance with the terms of the so-called Lombardo Agreement of August 14, 1947, with respect to claims of United States nationals arising out of the war with Italy and not otherwise provided for. Title III of the International Claims Settlement Act of 1949 as added by Public Law 84–285, approved August 9, 1955, conferred jurisdiction to the Commission to adjudicate claims of U.S. nationals against the Government of Italy, arising out of the war in which Italy was engaged from June 10, 1940, to September 15, 1947, and with respect to which provision was not made in the treaty of peace with Italy. The money received from Italy was placed in the Italian claims fund for the payment of claims as provided by statute. By the terms of the statute, the Commission compensated claimants for losses relating to property located outside of Italy and attributable to Italian military action (e.g., losses on the high seas, in Greece, Yugoslavia, and other areas in which Italy engaged in military action), and certain personal injury and similar nonproperty losses which arose in Italy. Claims for losses to property located in Italy proper and ceded territory were provided for under the Italian Treaty of Peace of September 15, 1947. Inasmuch as all awards approved under this program were paid the full amount the Congress, by the enactment of an amendment under Public Law 85–604, authorized the adjudication of claims filed by so-called late nationals whose claims were denied for that reason under the original act. However, after all such claims were completed there still remained a balance of approximately $1 million in the Italian claims fund.

H.R. 9063, introduced in the 90th Congress, provides for additional claims which would be paid out of the residual amount in the fund.

C. SOVIET UNION

Title III of the act also provided for claims of U.S. nationals against the Soviet Government arising prior to November 16, 1933, including claims based upon liens accruing in favor of a U.S. national in which a judgment or warrant of attachment was issued by a U.S. court on property collected or liquidated in the United States pursuant to the Litvinov Assignment dated November 16, 1933, whereby the United States accepted certain assets due the Soviet Government upon the recognition of that Government by the United States on November 16, 1933. Among the claims determined were those based on World War I damages and the confiscation of property belonging to U.S. nationals arising prior to November 16, 1933. There were 1,925 awards which were approved in the principal amount of $70,466,019 against funds in the aggregate amount of $8,658,722 received under the Litvinov Assignment. No additional en bloc settlement has been made by the Soviet Government for the settlement of American-owned claims arising since the Litvinov Assignment.

PART III—CLAIMS PROGRAM UNDER TITLE IV OF THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949, AS AMENDED BY PUBLIC LAW 85–604

A. CLAIMS AGAINST THE GOVERNMENT OF CZECHOSLOVAKIA

> Title IV of the International Claims Settlement Act of 1949 authorized the Commission to receive and determine the validity and amounts of claims of U.S. nationals against the Government of Czechoslovakia for losses resulting from the nationalization or other taking on and after January 1, 1945, of property including any rights or interests therein owned by U.S. nationals.

The funds used for compensating claims under this title resulted from the sale of a steel rolling mill and related equipment which had been ordered by Czechoslav interests prior to the Communist coup in Czechoslovakia. The sale of this mill equipment was ordered by the United States, since the export control laws in effect at the time prohibited the exportation of such equipment to Czechoslovakia. Argentina bought the equipment in 1954 for approximately $9 million.

Title IV of the act created a Czech claims fund in which the net proceeds of the sale of the steel mill equipment were to be transferred if no voluntary claims settlement agreement had been made by the Government of Czechoslovakia within 1 year after the date of enactment of title IV, August 8, 1958. Negotiations leading to such an agreement had been entered from time to time with the Czechoslovakian Government and some progress regarding the settlement of American-owned claims had been made. However, inasmuch as no claims agreement was concluded within the 1-year period, the net proceeds of the steel mill were transferred into the Czech claims fund. A total of 2,630 awards in the aggregate amount of $113,645,205 had been issued upon completion of the program on September 15, 1962.

PART IV—CLAIMS PROGRAMS UNDER TITLE V OF THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949, AS AMENDED BY PUBLIC LAW 88–666, APPROVED OCTOBER 16, 1964, AS AMENDED, AND PUBLIC LAW 89–780, APPROVED NOVEMBER 6, 1966

A. CLAIMS AGAINST THE GOVERNMENT OF CUBA

Title V was added to the International Claims Settlement Act of 1949 by Public Law 88–666, approved October 16, 1964. Certain technical amendments were added to title V under Public Law 89–262, approved October 19, 1965.

This title was enacted for the purpose of making a presettlement adjudication of claims of U.S. nationals against the Government of Cuba for losses resulting from the nationalization, expropriation, intervention, or other taking of, or special measures directed against, property owned by such nationals and for claims for disability or death resulting from actions taken by or under the authority of the Government of Cuba which have arisen since January 1, 1959.

A total of 5,095 claims have been filed against the Government of Cuba under this program which is to be completed by May 1, 1970.

B. CLAIMS AGAINST THE CHINESE COMMUNIST REGIME

Title V was amended further by Public Law 89–780, approved November 6, 1966, by providing for the same types of claims against the Chinese Communist regime arising since October 1, 1949. This program is presently in its initial stages.

Title V specifically precludes any authorization for appropriations for the payment of claims against the Government of Cuba and the Chinese Communist regime. The payment of awards made pursuant to this title are subject to future settlement.

The precedent for the adjudication of claims without payment was established under the Lake Ontario program as authorized under Public Law 87–587, approved August 15, 1962, where the purpose was to determine the validity and amount of damages suffered by certain American citizens who own property on the southern shores of Lake Ontario. No provision was made for any payment. The program was suspended, however, upon the signing of an agreement with Canada on March 25, 1965, where upon such claims were eventually transferred to an International Arbitral Tribunal established under the terms of the agreement. Certain advantages were gained regarding the early presettlement adjudication of these claims by this Commission. Similar advantages are expected to be gained in the presettlement adjudication of claims against the Government of Cuba and the Chinese Communist regime pursuant to title V of the act.

Part V—Claims Programs Administered by the Foreign Claims Settlement Commission Under the War Claims Act of 1948, as amended

A. CLAIMS UNDER TITLE I OF THE WAR CLAIMS ACT OF 1948, AS AMENDED

Under title I of the War Claims Act of 1948, the predecessor War Claims Commission initially adjudicated certain claims of American citizens who were interned or in hiding in specific areas in the Pacific during World War II; certain claims of American military personnel who were imprisoned by the enemy during World War II and were not fed in accordance with the precepts of the Geneva Convention of July 27, 1929; and certain claims of religious organizations in the Philippines or their personnel for expenditures incurred in aiding American military personnel or civilian American internees. Thereafter, that act was amended to cover claims of American military personnel who were mistrated during their imprisonment and claims of religious organizations in the Philippines or their personnel for certain property damages sustained during World War II (66 Stat. 47); claims of civilian American internees in Korea and American military personnel captured during the hostilities (68 Stat. 759); claims of American prisoners of war who served in Allied forces during World War II; claims of American merchant seamen interned during World War II; and certain claims for losses resulting from the sequestration of accounts, deposits, and other credits in the Philippines by the Imperial Japanese Government (68 Stat. 1033). By virtue of Public Law 87–617, approved August 31, 1962, the act was amended further to include claims for internment, death, injuries and disabilities incurred by Guamanians captured on Wake Island during World War II who were nationals of the United States though not citizens thereof.

These programs were completed according to law by the Foreign Claims Settlement Commission.

A trust fund known as the war claims fund was created pursuant to section 13, title I of the War Claims Act of 1948 for the purpose of paying claims as authorized under the act or as may be provided thereafter by the Congress. The war claims fund consists of the net proceeds of liquidated enemy assets which were seized and vested pursuant to the Trading With the Enemy Act. The proceeds of these assets have been transferred into the war claims fund from time to time by the Attorney General in the aggregate amount of $452.5 million for the payment of claims as authorized under the act. Included in this amount is $60 million in liquidated Japanese assets which were seized in the United States at the beginning of World War II as enemy property. The balance of the proceeds is derived from German assets.

Approximately $229 million of these proceeds have been disbursed in connection with the claims programs as authorized under title I of the War Claims Act. The remainder of the fund is being disbursed under title II, as explained below.

B. CLAIMS UNDER TITLE II OF THE WAR CLAIMS ACT OF 1948, AS AMENDED BY PUBLIC LAW 87–846, APPROVED OCTOBER 22, 1962

Title II of the War Claims Act authorized the Commission to determine the validity and amounts of claims of certain nationals of the United States which arose during World War II. The general categories of claims provided for under this statute are as follows:

1. Loss or destruction of, or physical damage to, property located in Albania, Austria, Czechoslovakia, the Free Territory of Danzig, Estonia, Germany, Greece, Latvia, Lithuania, Poland, or Yugoslavia, or in territory which was part of Hungary or Rumania on December 1, 1937, but which was not included in such countries on September 15, 1946, which loss, destruction, or damage occurred as a result of military operations of war or from special measures directed against property in such countries or areas because of the enemy or alleged enemy character of the owner;

2. Damage to or destruction of ships and ship cargoes as a result of military action by Germany or Japan;

3. Net losses of insurers under war-risk insurance contracts covering ships; and

4. Loss or damage on account of the death, injury, or permanent disability of civilian passengers on vessels attacked on the high seas by Germany or Japan, as well as the loss or destruction of property on such vessels owned by such civilian passengers.

The statute precluded the allowance of any claim unless the property upon which it is based was owned by a national or nationals of the United States on the date of loss, damage, or destruction and unless the claim was owned by a national or nationals of the United States continuously thereafter until the date of filing with the Commission.

Pursuant to statutory time limitations, the World War II claims program as authorized under title II of the War Claims Act of 1948, as amended by Public Law 87–846, was completed by the Foreign Claims Settlement Commission on May 17, 1967.

Upon completion of the war damage program under title II, 7,039 awards had been issued and certified to the Treasury Department for payment in the aggregate amount of $334,783,629. Additional certifications with certain Hungarian war damage awards amounted to $5,700,710.

As of June 30, 1967, a total of $223,750,000 had been deposited into the war claims fund for the payment of awards rendered under title II of the War Claims Act of 1948, as amended. It is currently estimated that an additional $25,650,000 will be made available during fiscal year 1968 raising the total to $249,400,000.

As of this date, all awards under title II in amount of less than $10,000 have been paid in full. All small business awards and death and disability awards also have been paid in full. The remaining awards are in the process of being prorated and paid.

Part VI—Claims Programs Administered by the Foreign Claims Settlement Commission Under Other Acts

A. LAKE ONTARIO CLAIMS PROGRAM

This program was created upon approval of Public Law 87–587 on August 15, 1962. The Commission was authorized thereunder to investigate claims of U.S. citizens who sustained damages in 1951 and 1952 to their property situated on the southern shore of Lake Ontario resulting from the artificial raising of the water level of the lake by the construction of Gut Dam by the Canadian Government in 1903. The legislation stems, in part, from the inability of the Governments of the United States and Canada to arrive at a negotiated settlement of claims of U.S. citizens which may have been caused by the operation of Gut Dam.

The act required the Commission to determine the validity and amount of damages suffered by U.S. citizens and, in addition, the Commission was required to submit a report to the President as soon as practical after all claims are determined for such action by the President as he may deem appropriate.

Unlike other programs administered by the Commission, no funds were made available to pay any claim. This act also provided that the Commission discontinue its investigation and determination of claims if the Government of Canada enters into an agreement with the Government of the United States providing for arbitration or adjudication of the claims filed.

The Commission withheld publication of decisions relating to this program in light of a possible international agreement.

On March 25, 1965, the United States and Canada signed an agreement to establish an international arbitral tribunal to hear and finally dispose of claims of U.S. citizens arising out of the operation of Gut Dam. Accordingly, the Commission discontinued its work under the act and transferred all its records relating to the program to the Secretary of State as required under the act.

B. PHILIPPINE WAR DAMAGE CLAIMS

Under Public Law 87–616, approved August 30, 1962, the Commission was authorized to administer a Philippine claims program which provided for the payment of the unpaid balances due on awards previously granted by the former Philippine War Damage Commission pursuant to the provisions of the Philippine Rehabilitation Act of 1946.

Under this program, 93,226 claims were received by the Commission and awards were granted on 76,250 claims. The Congress had authorized an appropriation for the payment of these unpaid balances not to exceed $73 million.

The program under Public Law 87–616 was completed on December 23, 1964 as required by the act.

CLAIM PROGRAMS UNDER THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949, AS AMENDED

TITLE I PROGRAMS COMPLETED

Country and type of claim covered	Starting date of program	Completion date of program	Source of funds for payment of claims	Amount of funds available or provided	Principal amount of awards approved	Number of awards	Number of claims wholly denied	Approximate percent of approved award paid
Yugoslavia: Nationalization or other taking of American-owned property prior to July 19, 1948, by Yugoslavia.	June 30, 1951	Dec. 31, 1954	Yugoslav Claims Agreement of July 19, 1948.	$17,000,000.00	$18,817,904.90	876	671	91 percent.
Panama: Based on the taking of certain property belonging to American citizens by Panama.	----do----	----do----	Panama Claims Agreement of Oct. 11, 1950.	400,000.00	441,891.84	62	5	90 percent.
Poland: Nationalization or other taking of American-owned property by Poland.	Sept. 1, 1960	Mar. 31, 1966	Polish Claims Agreement of July 16, 1960.	40,000,000.00	100,736,781.63	5,022	5,147	36 percent (estimated by Treasury) if entire $40,000,000 is paid. Thus far approximately 9 percent of unpaid balance over $1,000 has been paid.

CURRENT PROGRAMS UNDER TITLE I [2]

Yugoslavia: Nationalization or other taking of American-owned property arising since July 19, 1948.	Nov. 8, 1966	July 15, 1969 [1]	Yugoslav Claims Agreement of Nov. 5, 1964.	$3,500,000.00	----------	--------	--------	

TITLE III PROGRAMS COMPLETED

Bulgaria: (1) War damage claims, (2) nationalization or other taking of American-owned property, and (3) failure to meet certain contractual obligations.	Sept. 30, 1955	Aug. 9, 1959	Liquidated assets of Bulgaria blocked in the United States.	$2,613,325.59	$4,684,187.00	217	174	50 percent.
Hungary: Same types as Bulgaria	----do----	----do----	Liquidated assets of Hungary blocked in the United States.	1,653,647.09	58,181,408.00	1,153	1,572	1.5 percent.
Rumania: Same types as Bulgaria	----do----	----do----	Liquidated assets of Rumania blocked in the United States.	22,026,370.00	60,011,348.00	498	575	35 percent.
Italy: Principally, war damage claims arising outside of Italy caused by Italian military action.	----do----	May 31, 1960	Memo of understanding with Italy dated Mar. 29, 1957.	5,000,000.00	3,659,311.00	482	1,764	100 percent.
Soviet Union: Certain claims of U.S. nationals arising prior to Nov. 6, 1933 (included claims based on World War II takings and defaulted bond obligations).	----do----	Aug. 9, 1959	Litvinov assignments of Aug. 25, and Nov. 15, 1933.	8,658,722.43	70,466,019.00	1,925	2,205	8.5 percent.

See footnotes at end of table, p. 10

CLAIM PROGRAMS UNDER THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949, AS AMENDED—Continued

PROPOSED PROGRAMS UNDER TITLE III [3]

Country and type of claim covered	Starting date of program	Completion date of program	Source of funds for payment of claims	Amount of funds available or provided	Principal amount of awards approved	Number of awards	Number of claims wholly denied	Approximate percent of approved award paid
Bulgaria: Nationalization or other taking of American-owned property arising prior to July 2, 1963.	----------	----------	Bulgarian Claims Agreement of July 2, 1963.	$400,000.00	----------	--------	--------	
Rumania: Nationalization or other taking of American-owned property arising prior to Mar. 30, 1960.	----------	----------	Rumanian Claims Agreement of Mar. 30, 1960.	2,500,000.00	----------	--------	--------	
Italy: Principally claims arising in Dodecanese Islands and in other ceded territories.	----------	----------	Remaining balance in Italian claims fund.	1,088,000.00	----------	--------	--------	
TITLE IV PROGRAM COMPLETED								
Czechoslovakia: Nationalization or other taking of American-owned property.	Aug. 8, 1959	Sept. 15, 1962	Blocked Czech assets in the United States.	$8,540,768.41	[4] $113,645,205.41	2,630	1,346	5.3 percent.
TITLE V CURRENT PROGRAMS [2]								
Cuba: (1) Nationalization or other taking of American-owned property since Jan. 1, 1959, and (2) death and disability claims arising since Jan. 1, 1959.	Sept. 2, 1965	May 1, 1970	The act specifically precludes any authorization for appropriations for the payment of these claims. Awards are subject to future settlement.	----------	----------	--------	--------	
Communist China: (1) Nationalization or other taking of American-owned property since Oct. 1, 1949, and (2) death and disability claims arising since Oct. 1, 1949.	([5])	([5])	----do----------	----------	----------	--------	--------	

[1] Estimated.
[2] Incomplete.
[3] Legislation to implement these programs under title III is pending before the 90th Cong. under bill H.R. 9063.
[4] Includes both principal and interest inasmuch as payment priorities and limitations under this title were based on the total amount of awards whereby such priorities and limitations under titles I and III were based on initial and prorated payments on principal amount of awards, prior to making payments on awards of interest. Thus far no interest on awards has been made due to lack of funds with exception of Italian claims.
[5] Not established as yet.