

**FOREIGN CLAIMS SETTLEMENT COMMISSION OF
THE UNITED STATES**

U.S. DEPARTMENT OF JUSTICE

1995 YEARBOOK

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES

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- - -

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LETTER OF TRANSMITTAL

To the President of the Senate and the Speaker of the
House of Representatives of the 104th Congress

The Foreign Claims Settlement Commission of the United States submits for your review its Annual Report for Calendar Year 1995.

Because of its status as an independent component within the United States Department of Justice, a summary of the Commission's activities during Fiscal Year 1995 will appear in the annual report of the Department. However, under the War Claims Act of 1948 and the International Claims Settlement Act of 1949, the Commission is also required to submit a separate annual report to Congress.

We appreciate Congress's continued support for the Commission's international claims programs.

Delissa A. Ridgway
Chair

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SECTION I: THE COMMISSION

A. Introduction

The Foreign Claims Settlement Commission of the United States is an independent quasi-judicial federal agency. The Commission's primary mission is to determine the validity and valuation of claims of United States nationals for loss of property in foreign countries, as authorized by Congress or following government-to-government claims settlement agreements. These losses have occurred either as a result of nationalization of property by foreign governments or from damage to and loss of property as a result of military operations during World War II. In addition, the Commission has adjudicated claims of United States military personnel and civilians captured or interned during World War II and the Korean and Vietnam conflicts.

The Foreign Claims Settlement Commission was created on July 1, 1954, by Reorganization Plan No. 1 of 1954, which abolished the War Claims Commission and the International Claims Commission and transferred their functions to the present Commission. In 1980, the Commission was transferred by Public Law 96-209 to the Department of Justice as a separate agency within the Department.

The Commission consists of a Chair, who serves on a full-time basis, and two Commissioners, who serve on a part-time basis. They are appointed by the President for fixed terms of office, normally of three years duration, and confirmed by the Senate. During 1995 Commissioner John R. Lacey was nominated by the President to serve an additional term of office ending September 30, 1998.

The Chair and Commissioners are responsible for the review of claims and the issuance of decisions. The Chair is vested with

sole administrative authority within the Commission, while the Department of Justice is responsible for providing administrative support services to the agency. The Commission employs a small staff of legal and administrative personnel.

In most instances, authorizing statutes provide for the deduction of a certain percentage from the claims funds for deposit as miscellaneous receipts in the United States Treasury to defray the administrative expenses of the Commission and the Department of the Treasury in carrying out the programs. The total administrative expenses of the Commission and its predecessors from the beginning of fiscal year 1950 through the end of fiscal year 1995 have amounted to approximately \$30 million. Over \$32 million has been recouped through the deductions from funds obtained from foreign governments in the same period.

The jurisdiction of the Commission and its two predecessor commissions has encompassed the administration of 42 claims programs in which more than 660,000 claims have been filed and awards granted in excess of \$3 billion.

B. Procedure and Administration of Claims Programs

By statute, the decisions of the Commission are final and conclusive on all questions of fact and law and are not subject to review by any other official, department, or agency of the United States, or by any court by mandamus or otherwise. This prohibition against judicial or other review makes it imperative that the Commission establish appropriate administrative and legal procedures to assure claimants a full and fair opportunity to present their claims.

When a claims program is commenced, appropriate claim forms and detailed instructions are forwarded to anyone who requests them or has at any time indicated to the Commission an

interest in filing a claim in that program. The Commission also seeks to publicize the program through publication in the *Federal Register* and releases to the news media, and by notifying relevant organizations and Congressional offices. The deadline for filing claims is established and publicized as well.

When a completed claim form with related exhibits, documents or other evidence is filed, the staff of the Commission undertakes a careful examination and, if necessary, seeks additional information or evidence from the claimant or other sources to enable the claimant to establish the requisite elements of United States nationality, ownership, value and the date and circumstances of the asserted loss. The adjudication of a claim is not considered to be an adversarial matter between the Commission and the claimant, and the staff of the Commission seeks to do all that is reasonably possible to assist each claimant in establishing a compensable claim. After a claim has been fully developed, it is presented to the Commission for adjudication.

Following a full review of the claim and all supporting material, the Commission issues a written "Proposed Decision." This Proposed Decision is forwarded to the claimant or claimant's counsel who is advised of the right to file objection within a specified period of time, if the claimant is dissatisfied and believes there is ground for a more favorable decision. The claimant may submit, in writing, any additional evidence and argument in support of the objection and may also request an oral hearing before the Commission to present oral evidence and argument in support of the objection. Thereafter, the Commission reconsiders the entire record and renders its determination by the issuance of a written "Final Decision."

If no timely objection is received on a claim, the Proposed Decision is automatically entered as the Commission's Final Decision. However, even after the issuance of a Final Decision, the

regulations of the Commission permit the filing of a petition to reopen a claim for further consideration based upon newly discovered evidence. Or, if information comes to the attention of the Commission from sources other than the claimant, the Commission may reopen a claim on its own motion to allow a more favorable decision.

In most instances, a time limit within which the Commission must complete adjudication of the claims is established by statute. After the specified date, the Commission no longer has authority to accept additional claims for adjudication or to reconsider any claim which has been determined in that particular program.

Decisions of the Commission set forth the reasons for the action taken and include specific findings of fact and conclusions of law determining each aspect of the claim, to fully apprise claimants of the basis of its decisions.

In most programs, the amount of funds available to pay the Commission's awards is limited, often resulting in pro rata payment of awards. The Commission therefore must ensure that the award entered in each claim is fully supported, and based upon the same criteria as all other awards.

Payment of awards to claimants is beyond the scope of the Commission's functions. The Commission's responsibility is discharged upon entry of a Final Decision and certification of any award to the Secretary of the Treasury, who has sole jurisdiction, under specific statutory authority, to make payments out of the funds established for that purpose.

In some instances, Congress authorizes the adjudication of claims before there are funds available to pay awards. In such cases, the Commission adjudicates the claims and certifies its decisions to the Secretary of State or Secretary of the Treasury, or

both, as a "pre-adjudication" or "pre-settlement adjudication" of the claims. The Department of State then can use the Commission's decisions as the basis for negotiating a claims settlement agreement with the responsible foreign government at some future date.

SECTION II: CURRENT YEAR'S ACTIVITIES

A. Final Report: Iran Claims Program

1. Introduction and Background

As reported in the Commission's Annual Report to Congress for 1990 (1990 Ann. Rep. 5), the United States concluded an agreement with the Government of Iran on May 13, 1990, providing for the lump-sum settlement of claims of United States nationals against Iran of under \$250,000 per claim (the "small claims"), which had been pending against Iran at the Iran-U. S. Claims Tribunal ("the Tribunal") at The Hague, Netherlands. *Settlement Agreement in Claims of Less Than \$250,000, Case No. 86 and Case No. B38* (the "Settlement Agreement"). The claimants had filed these claims through the Department of State following the signing of the Algiers Accords by the United States and Iran on January 19, 1981.

In addition to the unresolved small claims, the agreement covered a block of small claims that the claimants had withdrawn from the Tribunal, a second block that the Tribunal had dismissed for lack of jurisdiction, and a third block that had been filed with the Department of State too late to meet the filing deadline at The Hague of January 19, 1982 (the "late-filed" claims). Also included were certain claims of the United States based on loans that had been made to the Imperial Government of Iran by the U.S. Agency for International Development (AID). Under the terms of the agreement, Iran assented to the transfer of \$105 million to the United States in en bloc settlement of all of these categories of

claims. The United States and Iran submitted the Settlement Agreement to the Tribunal for approval. It was approved and became effective on June 22, 1990. Iran-U. S. Claims Tribunal Award No. 483.

On June 28, 1990, the Department of State formally transferred responsibility for the small claims to the Commission, as provided in the Settlement Agreement, and began transferring the files pertaining to the claims from The Hague to Washington. In addition, the Department issued a formal determination dividing the settlement fund between the small claims and the AID loan claims, allocating \$50 million to the former and \$55 million to the latter.

To ensure that the Commission would be able to implement an agreement settling the small claims, Congress had enacted legislation in 1985 giving the Commission standby jurisdiction to adjudicate the claims once an agreement was reached. Pub. L. 99-93, approved August 16, 1985, 99 Stat. 437 (50 U.S.C. 1701 note) (the "Iran Claims Act"). That jurisdiction became effective once the Settlement Agreement was approved by the Tribunal.

As discussed in Section I.B above, the Commission's regulations provide for the adjudication of each of the claims via the issuance of a Proposed Decision, which then becomes final within thirty days if no objection is received. In the Iran program, if a Final Decision entitled the claimant to an award, the Commission certified it to the Secretary of the Treasury for payment.

Claimants initially received payment of the principal amount awarded (that is, excluding interest) or \$10,000, whichever was less. In 1992, as authorized under subsection 8 (c)(2) of the International Claims Settlement Act of 1949 (ICSA), as amended (22 U.S. C. 1627 (c)(2)), the Department of Treasury distributed a second interim payment to eligible awardees equivalent to 7 percent of the unpaid principal amounts of their awards in excess of

\$10,000.00. **In March** 1994 the Department of the Treasury began making payments to cover the full principal amount of awards issued by the Commission. Payment of interest awards was deferred until after the claims program was completed on February 24, 1995.

2. Program Completion

The Commission completed adjudication of virtually all of the claims against Iran by December 1994. Only a small number of claims remained for final disposition in 1995. The Commission held three meetings in January and February, to render decisions and orders to resolve the few outstanding matters. At the last of those meetings, on February 24, the Commission voted to officially close the Iran Claims Program. The Chair then sent a letter to the Secretary of the Treasury informing him of the Commission's action.

In all, the Commission issued 1,066 awards to 1,075 claimants totalling \$41,570,936.31 in principal and \$44,984,859.31 in interest. A total of 578 claims were dismissed, either at the request of claimants or because, despite the Commission's best efforts, the claimants could not be located. The remaining group of 1,422 claims were denied.

Through investment in Treasury securities, the compensation fund (initially \$50 million) had grown to \$57,822,758.78 by the end of the claims program. However, since the aggregate total of the principal and interest awards amounted to over \$86 million, the Treasury Department was unable to pay the interest awards in full. Instead, interest awards were paid on a pro rata basis, amounting to

34.9602595 percent of each claimant's interest award. " By May 1995, the payment process had been substantially completed.

3. Highlights of Program

Probably the most significant aspect of the Iran Claims Program lay in the variety of types of claims that the Commission was required to adjudicate in the course of the program. Representative decisions on these various types of claims are reprinted in the Commission's Annual Reports for 1991 through 1994. While the Commission's previous programs generally have involved property expropriation claims, a substantial number of the claims against Iran were for breaches of contract and other commercial disputes involving the Iranian government and its "controlled entities." As a result, the Commission further developed its expertise in commercial law, including the law governing sales of goods under irrevocable letters of credit and other provisions of the Uniform Commercial Code. In addition, a number of claims were for balances due for shipments of products to Iran by sea, which required application of principles of admiralty and maritime law.

The program also presented a number of unusual, if not unique, types of claims and issues. These arose from the extraordinary nature of the relationship between the United States and Iran prior to 1979, the events and circumstances that precipitated the claims, and the comprehensive reach of the 1981 Algiers Accords and the 1990 Settlement Agreement. Some of these

"Under the ICSA, the Treasury Department was required to pay all principal amounts awarded before paying any part of an award of interest. The percentage reflects the actual pro rata payments after deduction of 1-1/2 percent from the fund to defray administrative expenses of the government in adjudicating and paying the claims.

were matters of first impression not only for the Commission but also for the law of international claims in general. In all respects, the legal analysis, interpretation and exposition produced by the Commission in the course of the Iran Claims Program should enhance the developing jurisprudence in the field of international claims arbitration and settlement.

4. Related Litigation

As noted in subsection 2 above, the settlement funds remaining in the Treasury after payment of the claimants' principal awards covered approximately 35 percent of the Commission's interest awards. Taking into account the fact that the Commission's interest awards were calculated using a 10 percent per annum simple interest rate (with actual payments at an effective rate of over 3 percent simple interest per annum), the level of the pro rata payments made in the Iran Claims Program compares quite favorably to those in other programs. *Compare* award amounts and settlement amounts reflected in "Table of Completed Programs," Section VI below.

Nevertheless, in April 1995 a group of some nineteen claimants (later increased to 22) filed suit in the United States Court of Federal Claims, alleging that the 1990 Settlement Agreement constituted a "taking" of their claims without just compensation, in violation of the Fifth Amendment to the Constitution, and seeking payment of the unpaid portion of their awards out of taxpayer funds. *Walter-A brahim Youri et al. v. United States, No. 95-299*. As of the end of 1995, the case had not yet been set for trial.

B. Claims of Holocaust Survivors Against Germany for Persecution by the Nazi Regime

In September 1995, the United States and the Federal Republic of Germany concluded an agreement to settle claims of

individuals who, as United States nationals, suffered “loss of liberty or damage to body or health” through persecution by the German Nazi regime, as a result of confinement in concentration camps. *Agreement between the Government of the United States of America and the Government of the Federal Republic of Germany Concerning Final Benefits to Certain United States Nationals Who Were Victims of National Socialist Measures of Persecution*, September 19, 1995. The text of the agreement is reprinted as Exhibit I below.

This settlement agreement provided for the immediate payment by the German government of a lump sum of 3 million Deutsche Mark (approximately \$2.1 million) in final settlement of the persecution claims of a small number of individuals known to the United States Government, whose claims had been presented to the German government. The settlement agreement further provides for a second round of negotiations between the United States and Germany, beginning in September 1997, to reach a final settlement of any and all other claims of eligible Holocaust survivors.

Following conclusion of the settlement agreement, the Commission worked with the Department of State to draft proposed legislation to authorize the Commission to identify additional eligible claimants and to adjudicate their claims, in preparation for the second round of negotiations contemplated in the agreement. The text of this proposed legislation is reprinted as Exhibit II, below. The proposed legislation was included in the Conference Report on the bill making appropriations for the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies for fiscal year 1996. However, the legislation was not enacted until January 1996.

EXHIBIT I

*Agreement between the Government of the United States
of America and the Government of the Federal Republic
of Germany Concerning Final Benefits to Certain
United States Nationals Who Were Victims of National
Socialist Measures of Persecution*

Entered into Force September 19, 1995

The Government of the United States of America and the Government of the Federal Republic of Germany have agreed as follows :

Article 1

This agreement shall settle compensation claims by certain United States nationals who suffered loss of liberty or damage to body or health as a result of National Socialist measures of persecution conducted directly against them. This Agreement shall cover only the claims of persons who, at the time of their persecution, were already nationals of the United States of America and who have to date received no compensation from the Federal Republic of Germany. This Agreement shall, inter alia, not cover persons who were subjected to forced labor alone while not being detained in a concentration camp as victims of National Socialist measures of persecution.

Article 2

1. For the prompt settlement of known cases of compensation claims covered by Article 1, the Government of the Federal Republic of Germany shall pay to the Government of the United States of America three million Deutsche Mark within 30 days of the entry into force of this Agreement.

2. For any possible further cases not known at the present moment, both Governments intend to negotiate two years after the entry into force of this Agreement, an additional lump sum payment

based on the same criteria as set forth in Article 1 and derived on the same basis as the amount under paragraph 1.

Article 3

The distribution of the amounts referred to in Article 2 to the individual beneficiaries shall be left to the discretion of the Government of the United States of America.

Article 4

1. Upon payment of the amount referred to in paragraph 1 of Article 2, the Government of the United States of America declares all compensation claims against the Federal Republic of Germany by the United States nationals benefiting under that paragraph for damage within the meaning of Article 1 suffered by those nationals to be finally settled.

2. Upon payment of the amount referred to in paragraph 2 of Article 2, the Government of the United States of America declares all compensation claims against the Federal Republic of Germany by United States nationals for damage within the meaning of Article 1 to be finally settled.

3. A United States national shall benefit from a payment under this Agreement only if that national executes a waiver of all compensation claims within the meaning of Article 1 against the Federal Republic of Germany and against its nationals (including natural and juridical persons). At the request of the Government of the Federal Republic of Germany, the Government of the United States of America shall transmit such waivers to the Government of the Federal Republic of Germany.

Article 5

This Agreement shall enter into force on the date of signature.

Done at Bonn on September 19, 1995, in duplicate in the English and German languages, both texts being equally authentic.

For the Government of the United States of America	For the Government of the Federal Republic of Germany
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Charles E. Redman	von Ploetz
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[Note: Related diplomatic notes exchanged the same date between the governments are not reprinted here.]

EXHIBIT II

Holocaust Survivors Claims Act

(Incorporated by reference in Section 211 of Pub. L. 104-99, 109 Stat. 26, 37-38 (1996))

Sec. 119

(a) **AUTHORITY OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION.** The Foreign Claims Settlement Commission of the United States (the "Commission") is authorized to receive and determine the validity and amount of claims by nationals of the United States against the Federal Republic of Germany covered by Article 2(2) of the Agreement Between the Government of the Federal Republic of Germany and the Government of the United States of America Concerning Final Benefits to Certain United States Nationals Who Were Victims of National Socialist Measures of Persecution, entered into force September 19, 1995 (the "Agreement"). In deciding such claims, the Commission shall be guided by the criteria applied by the Department of State in determining the validity and

amount of the claims covered by and settled under Article 2(1) of the Agreement.

(b) APPLICATION OF OTHER LAWS. Except to the extent inconsistent with the provisions of this section, the provisions of title I of the International Claims Settlement Act of 1949 (22 U.S.C. 1621 et seq.), except for section 7(b) (22 U.S. C. 1626 (b)), shall apply with respect to claims under this section. Any reference in such provisions to “this title” shall be deemed to refer to those provisions and to this section.

(c) CERTIFICATION AND PAYMENT.

(1) Not later than two years after the entry into force of the Agreement, the Commission shall certify to the Secretary of State, in writing, its determinations as to the validity and amount of the claims authorized for decision under subsection (a).

(2) In the case of claims found to be compensable under subsection (a), the Commission shall certify the awards entered in the claims to the Secretary of the Treasury in accordance with section 5 of Title I of the International Claims Settlement Act of 1949 (22 U.S. C. 1624). Such awards shall be paid in accordance with subsections (a) and (c)-(f) of section 7 of such title (22 U.S. C. 1626) out of a special fund established in accordance with section 8 of such title (22 U.S. C. 1627), following conclusion of the negotiations provided for in Article 2(2) of the Agreement.

(d) CONFIDENTIALITY OF RECORDS. Records pertaining to the claims received by the Commission pursuant to subsection (a) shall not be publicly disclosed and shall not be required to be disclosed pursuant to section 552 of title 5, United States Code.

(e) SEPARABILITY. If any provision of this section or the application thereof to any person or circumstances is held

invalid, the remainder of this section or the application of such provision to other persons or circumstances shall not be affected.

Excerpt from Conference Committee Report:

Sec. 119. The conference agreement includes new language that authorizes the U.S. Foreign Claims Settlement Commission to receive and determine the validity and amounts of claims by U.S. nationals against the Federal Republic of Germany covered by article 2(2) of the Agreement Between the United States and Germany Concerning Final Benefits to Certain United States Nationals Who Were Victims of National Socialist Measures of Persecution, which became enforceable September 19, 1995. In deciding claims under subsection (a) of this section, the conferees intend that the Foreign Claims Settlement Commission consider on the merits the claim of any person who has not benefited from the compensation provided under article 2(1) of the agreement. In applying the criteria set forth in article 1 of the agreement, the conferees expect the Commission will determine whether an institution should be considered a “concentration camp” based on whether the institution is recognized by relevant authorities as a concentration camp or whether conditions at the institution in question were comparable to conditions at a recognized concentration camp.

C. Claims Against Albania

On March 10, 1995, the United States and Albania signed an agreement providing for settlement of United States nationals’ property claims against Albania in exchange for a lump-sum payment by Albania to the United States of \$2 million. The agreement was approved by the Albanian Parliament and took effect on April 18, 1995. The text of the agreement is reprinted as Exhibit III, below.

Following the settlement agreement's entry into force, the Commission began preparations for conducting a program for adjudication of the claims covered by the agreement, exercising its authority under Title I of the International Claims Settlement Act of 1949, as amended. To prepare for the adjudication of claims, the Chair and the two Commissioners traveled to Albania in September for a week-long orientation mission, accompanied by the Commission's Chief Counsel. The Commission's business included meetings with the United States' Ambassador to Albania, as well as Consular and Economic/Commercial staffers at the Embassy; meetings at the National Archives and at district cadastral offices, to determine the availability of records of property ownership; consultations with Albanian officials at the national and district level; and familiarization tours of the Albanian countryside, as well as cities and towns including Tirana, Durrës, Elbasan, Pogradec, Korçë and Krujë, to assist the Commission in establishing property values.

To publicize the program to potential claimants, notice of the beginning of the program was published in the *Federal Register*, establishing October 31, 1995, as the deadline for submission of claims. That deadline was subsequently extended to December 31, 1995. In addition to publication in the *Federal Register*, the Commission mailed information about the program to all who registered claims with the Commission in its 1992 survey of claims or had otherwise previously expressed interest in pursuing claims against Albania. The Commission also mailed information about the program to a large number of Albanian-American organizations and publications and to mass media in cities known to have sizable Albanian-American communities. As of the end of 1995, nearly 300 claims had been filed.

EXHIBIT III

*Agreement Between the Government of the United States
of America and the Government of the Republic of
Albania on the Settlement of Certain Outstanding Claims*

Entered into Force April 18, 1995

The Government of the United States of America and the Government of the Republic of Albania, desiring to settle claims and outstanding financial issues, have agreed as follows:

Article 1

The claims settled pursuant to this agreement are:

(a) the claims of United States nationals (including natural and juridical persons) against Albania arising from any nationalization, expropriation, intervention, and other taking of, or measures affecting, property of nationals of the United States prior to the date of this agreement; and

(b) the claims of nationals of Albania (including natural and juridical persons) against the United States prior to the date of this agreement.

Article 2

Albania shall pay to the United States the sum of U.S. \$2,000,000 (two million dollars) (the settlement amount) as full and final settlement of the claims specified in article 1.

Article 3

1. Upon entry into force of this agreement, the United States shall inform the Tripartite Commission for the Restitution of Monetary Gold of its readiness to consent to the release to the Government of Albania, in accordance with the procedures

referred to in paragraph 2, of the appropriate amount of gold under Part III of the Agreement of Reparation of January 14, 1946 and the practices and procedures of the Tripartite Gold Commission. The parties understand that release of the gold to Albania requires the consent not only of the United States Government, but also of the Governments of France and the United Kingdom.

2. Simultaneously with the release to Albania of the gold referred to in paragraph 1, Albania shall pay to the United States the settlement amount. Procedures for the simultaneous release and payment will be agreed by the two parties.

Article 4

The United States shall be exclusively responsible for the distribution of the settlement amount referred to in article 2, to United States nationals for their claims as specified in article 1, in accordance with U.S. law.

Article 5

Albania shall afford United States nationals (including natural and juridical persons) with claims not settled by this agreement the same rights as it affords Albanian nationals under the laws of Albania to pursue and receive compensation, restitution, or any other local remedy available under its domestic restitution or compensation procedures.

Article 6

This agreement shall enter into force on the date on which the parties have notified each other that the necessary domestic requirements have been fulfilled.

In witness whereof, the undersigned, being duly authorized thereto by their respective Governments, have signed the present agreement.

Done at Tirana, in duplicate in the English and Albanian languages, both languages being equally authentic, this IOth day of March, 1995.

FOR THE GOVERNMENT
OF THE UNITED STATES
AMERICA:

Joseph E. Lake, Ambassador
Extraordinary and
Plenipotentiary

FOR THE GOVERNMENT
OF THE REPUBLIC OF
ALBANIA:

Dylber Vrioni, Deputy Prime
Minister and Minister of
Finance

AGREED MINUTE

During the negotiations of the agreement between the Government of the United States of America and the Government of Albania on the Settlement of Certain Outstanding Claims, signed today, recognizing the special factual circumstances involved, the following understandings, which shall be an integral part of the agreement, were reached:

1. For purposes of article 1, the term "United States nationals" shall include dual United States - Albanian nationals only if those nationals are domiciled in the United States currently or for at least half the period of time between when the property was taken and the date of entry into force of the agreement.

2. Recognizing that the Conservative Baptist Mission Society wishes to obtain restitution of its properties in Albania under Albanian law, rather than receiving compensation therefor under the agreement, and without prejudice to the validity of its claims, any claim by the Conservative Baptist Mission Society for

the following three parcels of property in or near Korcha, Albania shall be considered not to have been settled under articles 1 and 2: (1) the property situated on Rruga Dh. Cickes (now Rruga Niko Dodona) known as the American School, the Kennedy School or the Evangelical Mission; (2) the two-story residence formerly used for housing of a staff family, behind the main building of the American School; and (3) a 27-acre property, known as Kennedy Hill, located on St. Athanas hill overlooking the city of Korcha. These properties shall be restituted to the Conservative Baptist Mission Society under Albanian law.

3. Recognizing that Albania is administering a domestic program for compensation and restitution of certain properties, the United States and Albania agreed to exchange information concerning the claims brought under the Albanian program by United States nationals covered by the agreement, as well as information concerning any compensation or restitution provided, in order to assist in avoiding double recovery by claimants.

D. Other Activities

1. Claims Against Vietnam

In January 1995, the United States concluded a claims agreement with Vietnam, settling United States nationals' claims for a lump-sum payment by Vietnam to the United States of \$203,504,248.00. The text of this agreement is reprinted as Exhibit IV, below.

The Commission's Vietnam Claims Program (conducted from 1982 to 1986) found 192 claims to be compensable, with a value of just under \$100 million plus interest. The amount received under the settlement agreement enabled the Department of the Treasury to pay the principal amounts of the Commission's awards in full, and to make pro rata payments of 80.30534566 percent of the interest awards. A report on this program is

included in the Commission's Annual Reports to Congress for 1985 and 1986. (See also Section III, subsection A.7, below.)

EXHIBIT IV

*Agreement Between the Government of the United States
of America and the Government of the Socialist Republic
of Vietnam Concerning the Settlement of Certain
Property Claims*

Entered into force January 28, 1995

The Government of the United States of America ("United States") and the Government of the Socialist Republic of Vietnam ("Vietnam"), with a firm desire to reach an early settlement of property claims in order to develop bilateral economic and trade relations and in the context of the process of normalization of relations between the United States and Vietnam on the basis of equality and mutual benefit, have agreed as follows:

Article 1

The claims covered by this agreement are:

(a) the claims of the United States and of nationals of the United States (including natural and juridical persons) against Vietnam arising from the nationalization, expropriation, or taking of, or other measures directed against, properties, rights, and interests of the United States or United States nationals prior to the entry into force of this agreement; and

(b) the claims of Vietnam and of nationals of Vietnam (including natural and juridical persons) against the United States arising from the nationalization, expropriation, or taking of, or other measures directed against, properties, rights, and interests

of Vietnam or Vietnamese nationals prior to the entry into force of this agreement.

Article 2

1. In full and final settlement of the claims covered by this agreement, Vietnam shall pay the sum of U.S. \$208,510,481 (the “settlement amount”) to the United States and the United States shall unblock all assets of Vietnam that are blocked by the United States, in accordance with paragraph 3.

2. The United States shall be exclusively responsible for distribution of the settlement amount.

3. The United States agrees to unblock, within thirty days after entry into force of this agreement or the agreement concerning the transfer of diplomatic properties, whichever is later, all assets of Vietnam that are blocked by the United States, and Vietnam agrees that the settlement amount shall be paid simultaneously out of such assets. The United States also agrees to unblock, at the same time, assets of nationals of Vietnam.

Article 3

1. Upon payment of the settlement amount, this agreement shall constitute a full and final settlement and discharge of the claims covered by this agreement, and thereafter neither government shall present to the other, on its behalf or on behalf of another, any claim covered by this agreement.

2. Any title to, or right or interest of any kind in, properties included in claims covered by this agreement shall be transferred by operation of this agreement to the government against which the claim had been made upon payment of the settlement amount.

3. If any claim covered by this agreement is presented directly by a national of one country to the government of the other, that government will refer it to the government of the national who presented the claim.

Article 4

This agreement shall enter into force on the date of signature.

DONE at Hanoi this 28th day of January, 1995, in duplicate in the English and Vietnamese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF
AMERICA:

FOR THE GOVERNMENT
OF THE SOCIALIST
REPUBLIC OF VIETNAM:

Dennis Herter

Le Mai

2. Claims Against Iraq

During 1995, the Commission continued to work closely with the Office of the Assistant Legal Adviser for International Claims and Investment Disputes at the Department of State, to draft proposed legislation and pursue other efforts to resolve U.S. nationals claims against Iraq for property and financial losses arising out of the August 1990 invasion of Kuwait. The United Nations Compensation Commission (UNCC) in Geneva, Switzerland, which was constituted in the summer of 1991, currently has jurisdiction over the claims of U.S. nationals arising on or after August 2, 1990, along with those of nationals of other U.N. member countries.

While most post-invasion claims against Iraq are to be resolved through the UNCC, in April 1994 the House of Representatives passed H.R. 3221, which provided for the vesting of blocked Iraqi assets in the United States for satisfaction of claims by the U.S. Government and U.S. nationals which arose before August 1990, as well as all other claims outside the UNCC's jurisdiction. The bill provided for the Commission not only to adjudicate and authorize payment of non-UNCC claims from these vested assets, but also to adjudicate claims referred to it by the Department of State following action by the UNCC. However, the Senate did not vote on the bill prior to adjournment of the 103rd Congress.

In March 1995, the Administration submitted to the 104th Congress the proposed Iraq Claims Act of 1995, which was virtually identical to H.R. 3221. However, neither the Senate nor the House took action to introduce or otherwise act upon the Administration's proposal before the year's end.

There was some action, however, on related legislation. Both the House and Senate versions of the State Department authorization bill for 1996-97 (H. R. 1561) included provisions concerning claims against Iraq.

The version passed by the Senate in December 1995 provided for Commission adjudication of outstanding claims of U.S. nationals against the Government of Iraq, except for claims by "the United States Government or any officer or employee thereof acting in an official capacity" (including, for example, veterans). As 1995 ended, the two versions of the bill were to be referred to conference for reconciliation.

3. Claims Against Germany for Expropriation of Property by the former German Democratic

Republic

In May 1992, the United States and the Federal Republic of Germany signed an agreement under which Germany will pay compensation of up to \$190 million to the United States for property claims of United States nationals against the former German Democratic Republic ("GDR") which were adjudicated by the Commission in a claims program completed in 1981. (See Section II, subsection A.6, below.) Under this agreement, claimants were given a choice, or election, to either accept payment of their Commission awards under the agreement, or forgo payment in order to pursue claims in Germany for restitution of their property under the property claims program in Germany.

Claimants were notified of the agreement and the election process in May 1992, and received further relevant materials from the Department of the Treasury in August and September 1992. The deadline for notifying the Department of Treasury of their elections was December 31, 1992. During 1995, the Commission staff continued to assist the Department of State and Department of Treasury in implementing the settlement.

4. Helms-Burton Act/Claims Against Cuba

On September 21 and October 19, 1995, the House and the Senate, respectively, passed the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995 (also known as the Helms-Burton Act). As passed by the House, the legislation included as Title III a controversial provision which would authorize U.S. nationals whose Cuban property was confiscated by the Castro regime to bring federal court actions against foreign entities "trafficking" in those properties.

The legislation contemplated that, with limited exceptions, federal court actions against "traffickers" would adopt the

valuations determined in awards issued by the Commission in its Cuban Claims Program, conducted from 1965 to 1972. (See Section III, subsection A.5(b), below.) In cases where a plaintiff was not eligible to file a claim in the Commission's Cuban Claims Program (i. e., was not a U.S. national at the time of confiscation), the legislation would authorize the federal courts to appoint the Commission as Special Master to make determinations on issues such as ownership and valuation of property, for use in court actions. As 1995 drew to a close, the House and Senate versions were to be reconciled in conference.

5. Prisoner-Of-War And Civilian Internee Claims

During 1995, the Commission continued to have jurisdiction under Public Law 91-289 (50 U.S. C. App. 2005) to receive and adjudicate claims by United States Armed Forces personnel and civilians, or their survivors, for compensation based on inadequate food rations and inhumane treatment received while held as prisoners of war or internees during the Vietnam conflict. However, no new claims were received during the year.

The Commission also continued to serve as a repository of records on United States military veterans and civilians captured or interned during World War II, the Korean conflict, the U.S. S. Pueblo incident, and the Vietnam conflict. In this capacity, the agency responded during the year to numerous requests from veterans and their families for information needed to qualify for benefits under various state and federal programs, including medical benefits provided by the Department of Veterans Affairs.

SECTION III: SUMMARY OF PAST PROGRAMS

A. Claims Under The International Claims Settlement Act Of 1949

The jurisdiction of the Commission and its predecessor, the International Claims Commission, has encompassed the administration of twenty claims programs under the authority of the seven titles of the International Claims Settlement Act of 1949, as amended. Pub. L. 455, 81st Congress, approved March 10, 1950, 64 Stat. 12 (22 U.S. C. 1621 et seq.) (“the Act”). These programs have involved claims of U.S. nationals for losses in specific foreign countries as a result of the nationalization or other taking of property during specific periods of time by the governments of those countries. These twenty claims programs are briefly summarized below. Citations to the final reports on the programs, as well as relevant statistics, appear in Sections V and VI of this report.

1. Title I

(a) Yugoslavia - First Program

The provisions of Title I of the Act authorized the International Claims Commission to administer a program to determine claims of nationals of the United States for the nationalization or other taking of property included within the terms of the U. S.-Yugoslav Claims Settlement Agreement of July 19, 1948. That agreement resulted in a fund of \$17 million from which payments were made on the awards granted in the claims. The first Yugoslavia Claims Program was completed on December 31, 1954.

(b) Panama

Under section 4(a) of Title I of the Act, the International Claims Commission was authorized to adjudicate claims of nationals of the United States for the nationalization or other taking of property included within the terms of any claims settlement agreement thereafter concluded between the United States and a foreign government (exclusive of governments against which the United States declared the existence of a state of war during World War II). Pursuant to this authorization, the International Claims Commission administered a program to determine U.S. nationals' property claims against the Government of Panama upon the conclusion of a claims settlement agreement between the Governments of the United States and Panama on October 11, 1950. This agreement resulted in a fund of \$400,000 for payments on the awards granted in the claims. The Panamanian Claims Program was completed on December 31, 1954.

(c) Poland

On July 16, 1960, the Governments of the United States and Poland concluded a claims settlement agreement under which the Government of Poland agreed to pay the sum of \$40 million to the United States over a period of twenty years in full settlement and discharge of certain claims of nationals of the United States. The Commission was authorized to determine the claims covered by this agreement under the original provisions of section 4(a) of Title I of the Act. The Polish Claims Program was completed on March 31, 1966.

(d) Yugoslavia - Second Program

A second claims agreement was concluded between the Governments of the United States and Yugoslavia on November 5, 1964, covering claims against the Government of Yugoslavia which arose subsequent to the 1948 agreement (see subsection 1(a), above) and providing a fund of \$3.5 million for payments

on awards. The second Yugoslav Claims Program was administered by the Commission under authority of section 4(a) of Title I of the Act, adjudicating the claims filed pursuant to the agreement. The program was completed on July 15, 1969.

(e) China - Second Program

In 1972 the Commission completed the first China Claims Program, in which it adjudicated claims by United States nationals which arose between October 1, 1949 and November 6, 1966. (See subsection 5(a), below.) On May 11, 1979, an agreement was entered with the People's Republic of China settling claims of nationals of the United States arising through the date of that agreement. The Commission thereafter proceeded under section 4(a) of Title I of the Act to adjudicate claims by United States nationals which arose between November 6, 1966 and May 11, 1979. The Commission completed the second China Claims Program on July 31, 1981.

(f) Ethiopia

On December 19, 1985, the United States Government concluded a compensation agreement with the Provisional Military Government of Socialist Ethiopia for the settlement of claims against that government arising as a result of the nationalization, expropriation, or other taking of, or restrictive measures directed against, property rights or interests of United States nationals. The agreement provided for payment to the United States of a total of \$7 million as compensation for the claimants, the last installment of which was paid in January 1991.

Exercising its authority under section 4(a) of Title I of the Act, the Commission began adjudication of the claims covered by the settlement agreement on March 31, 1986, and set a program completion date of September 30, 1987. During the course of the

program, the Commission issued decisions on a total of 45 claims. It found 27 to be compensable, and made awards amounting to \$14,387,510.96 in principal and \$10,024,589.00 in interest. Following completion of the program on September 30, 1987, the Commission certified the awards to the Secretary of the Treasury for payment, in accordance with section 5 of the Act.

(g) Egypt

On June 29, 1990 the Commission completed the adjudication of claims against the Government of Egypt, pursuant to its authority under section 4(a) of Title I of the Act. The claims were based on uncompensated “nationalization, expropriation, confiscation and other restrictive measures of or against” U.S. nationals’ property between January 1, 1952 and October 27, 1976. Initial decisions on most of the claims had been issued by the Office of the Legal Adviser in the Department of State, following entry into force of the U.S.-Egyptian Claims Settlement Agreement of 1976. TIAS 8446, entered into force October 27, 1976. However, to expedite distribution of the amounts remaining from the original \$10 million paid to the United States under the agreement, the Legal Adviser requested, by letter dated May 11, 1989, that the Commission take jurisdiction over the claims and determine the claimants’ entitlement to share proportionately in those remaining funds. In most of the claims, this was accomplished by issuance of awards of interest, which had not been included in the awards made by the Department of State.

During the course of the program, the Commission issued decisions on a total of 85 claims, out of which 83 were found to be compensable. In these, it made awards, including principal and interest, in the total amount of \$5,189,236.64.

2. Title II

Title II of the Act provided for the vesting and liquidation of enemy assets which had been blocked by the United States during World War II, and for the deposit of the proceeds into separate special funds, according to the respective government ownership of those assets prior to blocking. Pub. L. 285, 84th Congress, approved August 9, 1955, Title II, 69 Stat. 562 (22 U.S. C. 1631). The proceeds were deposited into funds by the Department of the Treasury which were designated the Bulgarian Claims Fund, the Hungarian Claims Fund, and the Romanian Claims Fund, for payments on awards granted by the Commission in claims against those governments under Title III of the Act. (See subsection 3, below.)

3. Title III

(a) Bulgaria, Hungary, And Romania - First Programs

Title III of the Act authorized the Commission to consider claims of nationals of the United States for losses arising out of war damages, nationalization, compulsory liquidation, or other taking of property prior to August 9, 1955, by the Governments of Bulgaria, Hungary, and Romania. Pub. L. 285, 84th Congress, Title III, approved August 9, 1955, 69 Stat. 570 (22 U.S. C. 1641). The Commission was also authorized to consider claims of nationals of the United States for losses based on the failure of those governments to meet certain debt obligations expressed in the currency of the United States. Payments on the awards granted in these claims were made from the appropriate claims funds created under Title II of the Act. (See subsection 2, above.) The amounts available from these funds for payments were: Bulgarian Claims Fund - \$2,676,234.49; Hungarian Claims Fund - \$2,235,750.65; and Romanian Claims Fund - \$20,164,212.68. The Bulgarian, Hungarian, and Romanian Claims Programs were completed on August 9, 1959.

(b) Bulgaria And Romania - Second Programs

On July 2, 1963, the United States concluded a formal claims settlement agreement with the Government of Bulgaria. Under that agreement, the Government of Bulgaria paid the sum of \$400,000 in settlement of claims of nationals of the United States. This amount was deposited into the Bulgarian Claims Fund to supplement the amount derived from the prior liquidation of Bulgarian assets for payments on awards granted by the Commission in both Bulgarian claims programs. (See subsections 2 and 3(a), above.)

The United States also concluded a formal claims settlement agreement with the Government of Romania on March 30, 1960. That agreement provided for the payment of the sum of \$2.5 million in settlement of claims of nationals of the United States. This \$2.5 million was deposited into the Romanian Claims Fund to supplement the amount derived from the prior liquidation of Romanian assets for payments on awards granted by the Commission in both Romanian claims programs. (See subsections 2 and 3(a), above.)

An amendment to Title III of the Act authorized the Commission to consider claims against Bulgaria and Romania which arose after the first programs were authorized (see subsection 3(a), above) but prior to the conclusion of the claims settlement agreements with the governments of those countries. Pub. L. 90-421, approved July 24, 1968, 82 Stat. 420 (22 U.S.C. 1641). Those programs could not be administered under the authority of section 4(a) of Title I of the Act, for the United States had declared the existence of a state of war during World War II against those countries. The second Bulgarian and

Romanian Claims Programs were completed on December 24, 1971, as required by the statute.

(c) Hungary - Second Program

On March 6, 1973, the United States concluded a formal claims settlement agreement with the Government of Hungary under which that government agreed to pay the sum of \$18.9 million in settlement of claims of nationals of the United States. Payments on this amount were deposited into the Hungarian Claims Fund to supplement the amount derived from the prior liquidation of Hungarian assets for payments on awards granted by the Commission in both Hungarian claims programs. (See subsections 2 and 3(a), above.) The final payment was made on June 9, 1980.

As in the second programs for Bulgaria and Romania, the Commission did not have the statutory authority to implement this claims agreement by administering a claims program under section 4(a) of Title I of the Act, for the United States had declared the existence of a state of war against the Government of Hungary during World War II. Under an amendment to Title III of the Act, Congress authorized the Commission to determine claims of nationals of the United States against the Government of Hungary based on nationalization or other taking of property between August 9, 1955, the date on which the first Hungarian Claims Program was approved, and March 6, 1973, the date of the agreement with Hungary. Pub. L. 93-460, approved October 20, 1974, 88 Stat. 1386 (22 U.S. C. 1641). The Commission was also authorized to adjudicate certain claims which should have been filed in the first Hungarian Claims Program, but were not, due to an administrative error which caused notices of that program to be mailed to non-existent addresses. The second Hungarian Claims Program was completed on May 16, 1977.

(d) Italy - First Program

Title III of the Act also authorized the Commission to consider claims of nationals of the United States against Italy for losses resulting from war damages during World War II sustained in areas outside of Italy and territories ceded by Italy under the Treaty of Peace concluded on September 15, 1947. (Claims for losses arising from war damages sustained within Italy and territories ceded by Italy were compensated by Italy under the Treaty of Peace.) By an amendment to Title III, the Commission was authorized to reconsider claims filed by persons who were nationals of the United States on the date of authorization of the claims program, although not nationals of the United States on the date of the losses upon which their claims were based. Pub. L. 85-604, approved August 8, 1958, 72 Stat. 531 (22 U.S. C. 1641). Awards in these claims by the Commission were paid out of the Italian Claims Fund. That fund was established with the sum of \$5 million paid to the United States by the Government of Italy, pursuant to a Memorandum of Understanding concluded by the two governments which became effective on August 14, 1947. The Italian Claims Program was completed on August 9, 1959, as required by the statute. Reconsideration of the Italian claims was completed on May 31, 1960.

(e) Italy - Second Program

The second Italian Claims Program was administered pursuant to an amendment to Title III of the Act as, in effect, an extension of the first Italian Claims Program (see subsection 3(d), above). Pub. L. 90-421, approved July 24, 1968, 82 Stat. 420 (22 U.S.C. 1641). The Commission was authorized to consider claims of United States nationals who were eligible to file in the first Italian Claims Program, but who failed to file, as well as claims of United States nationals against Italy which arose in certain areas ceded by Italy under the Treaty of Peace, including the Dodecanese Islands. Excluded from consideration were

claims of persons who had previously received compensation in the first Italian Claims Program or under the Treaty of Peace with Italy. Payments on awards granted by the Commission in this program were made from the balance remaining in the Italian Claims Fund following payment of the awards granted in the first Italian Claims Program. This second program was completed on December 24, 1971.

(f) Soviet Union

The Commission administered a Soviet Claims Program pursuant to provisions of Title III of the Act, which authorized the Commission to consider claims of nationals of the United States arising prior to November 16, 1933, against the Soviet Government, and claims of United States nationals based on liens held on property in the United States assigned to the United States Government by the Government of the Union of Soviet Socialist Republics under the Litvinov Assignment of November 16, 1933. This program was completed on August 9, 1959.

Partial payments on awards in these claims were made out of the proceeds derived from liquidation of the assets acquired by the United States under the Litvinov Assignment. The funds so derived totaled \$8,658,722.43. The balance of the awards, however, remains unpaid and outstanding, pending conclusion of a final claims settlement agreement between the United States and what are now the republics of the former Soviet Union.

4. Title IV

Czechoslovakia - First Program

Upon enactment of Title IV of the Act, the Commission commenced a program to determine claims of nationals of the United States against the Government of Czechoslovakia based upon losses resulting from the nationalization or other taking of

property by that government. Pub. L. 85-604, approved August 8, 1958, 72 Stat. 527 (22 U.S. C. 1642). The funds for payment of awards granted by the Commission in these claims were derived initially in 1952 from the sale of certain Czechoslovakian assets in the United States which amounted to \$8,540,768.41. Subsequently, an additional claims fund in the amount of \$74,550,000 was obtained through conclusion of a claims settlement agreement with Czechoslovakia in 1982. (For information concerning the Commission's Second Czechoslovakian Claims Program, see subsection C.3, below.)

5. Title V

(a) China - First Program

The first China Claims Program was administered pursuant to an amendment to Title V of the Act. Pub. L. 89-780, approved November 6, 1966, 80 Stat. 1365 (22 U.S. C. 1643). That amendment authorized the Commission to determine claims of nationals of the United States against the Government of the People's Republic of China (PRC) based on: (1) losses resulting from the nationalization, expropriation, intervention, or other taking of, or special measures directed against, property by that government; and (2) the disability or death of nationals of the United States resulting from actions taken by or under the authority of that government. The program covered claims for losses which occurred between October 1, 1949, when the PRC government ascended to power, and November 6, 1966, the date the program was authorized.

When the program was authorized, no funds were available for payment on any losses certified by the Commission in the claims. The statute provided for the determination of the validity and amounts of such claims, and the certification of the Commission's findings to the Secretary of State for use in the future negotiation of a claims settlement agreement with the

Government of the People's Republic of China. The first China Claims Program was completed on July 6, 1972.

On May 11, 1979, the Governments of the United States and the People's Republic of China concluded a formal claims agreement settling claims of nationals of the United States which arose between October 1, 1949, and the date of the agreement. Pursuant to the provisions of this agreement, the Government of the People's Republic of China agreed to pay \$80.5 million to the United States for deposit in a China Claims Fund established by the Department of the Treasury. Under the agreement, the schedule of payments to the Department of the Treasury provided for an initial payment of \$30 million on October 1, 1979 and five annual payments of \$10.1 million on October 1 of each year thereafter, beginning in 1980 and ending in 1984. Pursuant to the statutory payment provisions in section 8 of Title I of the Act, payments were made from the China Claims Fund by the Department of the Treasury on the losses certified in this program, and also on the awards certified in the second China Claims Program. (See subsection I(e) above.)

(b) Cuba

Title V of the Act also authorized the Commission to consider claims of nationals of the United States against the Government of Cuba, based upon: (1) losses resulting from the nationalization, expropriation, intervention, or other taking of, or special measures directed against, property by that government; and (2) the disability or death of nationals of the United States resulting from actions taken by or under the authority of that government. Pub. L. 88-666, approved October 16, 1964, 73 Stat. 1110 (22 U.S. C. 1643). The program covered claims for losses which occurred between January 1, 1959, when the Castro regime took power, and October 16, 1964, the date the program was authorized.

When the program was authorized, there were no funds available for payment on any losses certified by the Commission, and the statute precluded Congress' appropriation of funds for such payments. Rather, the statute provided for the determination of the validity and amounts of such claims, and for the certification of the Commission's findings to the Secretary of State for use in the future negotiation of a claims settlement agreement with the Government of Cuba. The Cuban Claims Program was completed on July 6, 1972.

6. Title VI

German Democratic Republic (East Germany)

Title VI of the Act authorized the Commission to receive and determine claims against the German Democratic Republic for losses which arose from the nationalization, expropriation or other taking by that government of property interests of nationals of the United States. Pub. L. 94-542, approved October 18, 1976, 90 Stat. 2509 (22 U.S. C. 1644). When the program was authorized, no funds were available for payment of the awards issued by the Commission. The program was completed on May 16, 1981. The Department of State subsequently conducted negotiations with the German Democratic Republic--and, after unification, with the Federal Republic of Germany--to obtain a claims settlement to provide funds for the payment of awards. Those negotiations culminated in the signing of a settlement agreement on May 13, 1992. (See Section II, subsection D.3, above.)

7. Title VII

Vietnam

On February 25, 1986, the Commission completed a program to determine the validity and amount of claims of United

States nationals against the Socialist Republic of Vietnam arising from the nationalization or other taking of property on or after April 29, 1975, when the Government of the Republic of Vietnam (South Vietnam) was overthrown. The program was authorized under Title VII to the Act. Pub. L. 96-606, approved December 28, 1980, 94 Stat. 3534 (22 U.S. C. 1645). The Commission made determinations on 534 claims, granting awards to 192 claimants in the total principal amount of \$99,471,983.51. A claims settlement agreement was concluded with the Socialist Republic of Vietnam on January 28, 1995, to provide funds for the payment of these awards. (See Section II, subsection D. 1, above.)

B. Claims Under The War Claims Act of 1948

1. Title I

Pursuant to Title I of the War Claims Act of 1948 (Pub. L. 896, 80th Congress, approved July 3, 1948, 62 Stat. 1240 (50 U.S. C. App. 2001)), and amendments thereto, the Commission and its predecessor, the War Claims Commission, were authorized to administer ten prisoner-of-war and civilian internee compensation programs and four war damage and loss compensation programs:

(1) Claims of American citizens who were interned or in hiding in specified areas in the Pacific during World War 11 (Sec. 5(a) of the Act (50 U.S.C. App. 2004(a)));

(2) Claims of members of the Armed Forces of the United States who were imprisoned by the enemy during World War 11 and who were not fed in accordance with the standards prescribed by the Geneva Convention of July 27, 1929 (Sec. 6(b) of the Act (50 U.S.C. App. 2005(b)));

(3) Claims of religious organizations in the Philippines or their personnel for goods and services furnished to civilian American internees and members of the Armed Forces of the United States who were held as prisoners of war during World War II (Sec. 7(a) of the Act (50 U.S.C. App. 2006(a)));

(4) Claims of members of the Armed Forces of the United States who were mistreated while imprisoned by the enemy during World War II (Sec. 6(d) of the Act (50 U.S. C. App. 2005(d)));

(5) Claims of United States-affiliated religious organizations in the Philippines for damage or destruction of educational, medical and welfare institutions and other connected non-religious facilities during World War II (Sec. 7(b-c) of the Act (50 U.S.C. App. 2006(b-c)));

(6) Claims of civilian American employees of contractors interned by the Japanese forces during World War II (Sec. 5(f) of the Act (50 U.S.C. App. 2004(f)));

(7) Claims of civilian American internees in Korea during the Korean conflict (Sec. 5(g) of the Act (50 U.S. C. App. 2004(g)));

(8) Claims of members of the Armed Forces of the United States captured during the Korean conflict [Sec. 6(e) of the Act (50 U.S.C. App. 2005(e))];

(9) Claims of Americans who were captured and held as prisoners of war while serving in the Allied Forces during World War II (Sec. 15 of the Act (50 U.S.C. App. 2014));

(10) Claims of American merchant seamen interned during World War II (Sec. 16 of the Act (50 U.S.C. App. 2015));

(11) Claims of American citizens and business entities for losses as a result of the sequestration of accounts, deposits and other credits in the Philippines by the Imperial Japanese Government (Sec. 17 of the Act (50 U.S.C.App. 2016));

(12) Claims of non-United States affiliated religious organizations in the Philippines of the same denomination of religious organizations functioning in the United States or their personnel for the value of relief furnished American civilians and prisoners of war and for damage or loss of educational institutions and other connected non-religious facilities during World War II (Sec. 7(h) of the Act (50 U.S.C.App. 2006(h)));

(13) Claims based upon the death or imprisonment of Guamanians by the Japanese forces on Wake Island during World War II (Sec. 5(h) of the Act (50 U.S.C. App. 2004(h)));

(14) Claims of military and civilian personnel assigned to duty on board the U.S. S. Pueblo who were captured by the military forces of North Korea on January 23, 1968, and thereafter imprisoned by the Government of North Korea (Sec. 6(e) of the Act (50 U.S.C. App. 2005(e))).

2. Title II

Under the authority of Title II of the Act (Pub. L. 87-846, approved October 22, 1962, 76 Stat. 1107 (50 U.S. C. App. 2017)), the Commission administered the General War Claims Program. In this program, the Commission determined claims of nationals of the United States for loss or destruction of, or physical damage to, property located in certain specified areas of Europe and the Pacific and for certain deaths and personal injuries resulting from military operations during World War II. Section 615 of Public Law 94-542, approved October 18, 1976, allowed consideration of protests relating to awards in decisions

on these claims issued during the last ten calendar days of the program (May 7-17, 1967).

* * * * *

All of the above programs were completed by the dates specified by the Congress in the authorizing statutes. Citations to reports and statistics on the programs are included in Sections V and VI of this report.

Payments of claims and administrative expenses of all but three of the programs conducted under the War Claims Act were derived from the liquidation of Japanese and German assets under the control of the Attorney General of the United States (which had been blocked and vested in the United States during World War II under the Trading With the Enemy Act), rather than from monies appropriated from the general revenues of the United States. These funds were deposited in the War Claims Fund, a special fund established in the Department of the Treasury for this purpose. The three exceptions mentioned above are the prisoner of war and civilian internee claims programs involving the Korean conflict and the U.S. S. Pueblo incident. Funds for payment of claims and expenses of these programs were appropriated by the Congress.

C. Claims Under Other Statutory Authority

1. Philippines

The Commission was authorized to administer a Philippine Claims Program pursuant to Public Law 87-616, approved August 30, 1962, 72 Stat. 411 (50 U.S.C. App. 1751-1785 note). This statute provided for the recertification of the unpaid balances of awards previously granted by the United States-Philippine War Damage Commission under the Philippine Rehabilitation Act of 1946. This program was completed on December 23, 1964.

2. Lake Ontario

Public Law 87-587, approved August 15, 1962 (76 Stat. 387), gave the Commission the unique assignment of conducting a program to determine the validity and amounts of claims of citizens of the United States for damages caused during 1951 and 1952 by the Government of Canada's construction and maintenance of the Gut Dam in the Saint Lawrence River. The Commission's responsibility was to adjudicate the claims and report its findings and conclusions to the President of the United States for such action as he might deem appropriate. The statute further provided that, if an agreement was concluded between the Governments of the United States and Canada for arbitration or adjudication of these claims, the Commission would discontinue its activities and transfer its records to the Secretary of State.

The program was commenced in November 1962 and extensive research and development of claims was conducted. However, an agreement with Canada was concluded in March 1965 and, as directed by the statute, the Commission immediately discontinued the program and transferred its records to the Department of State.

3. Czechoslovakia - Second Program

In 1962, the Commission completed the first Czechoslovakian Claims Program, in which it adjudicated claims by United States nationals arising between January 1, 1945, and August 8, 1958. (See subsection A.4, above.) On December 29, 1981, Congress enacted the Czechoslovakian Claims Settlement Act of 1981 [Public Law 97-127, 95 Stat. 1675 (22 U.S. C. note prec. 1642)], approving a claims settlement agreement which had been reached between the United States and Czechoslovakia. Under that agreement, the Government of Czechoslovakia paid to the United States a total of \$81.5 million in settlement of all claims which had arisen up to the date of the agreement.

The claims statute directed that three funds be created out of the total settlement amount. The first fund, amounting to \$74.55 million, was set aside to make further payments on the unpaid balance of awards made in the previous program. A second fund of \$5.4 million was set aside to make ex gratia payments to certain claimants whose claims had previously been denied due to their lack of United States citizenship on the date of loss. The Commission was directed to redetermine the claims of those claimants and to find them valid if the owner of the confiscated property had become a United States citizen by February 26, 1948. A third fund in the amount of \$1.5 million was set aside to pay claimants who had suffered losses subsequent to August 8, 1958, and the Commission was directed to conduct a program to determine such claims. This program was completed on February 24, 1985.

SECTION IV: FUTURE PROGRAMS

A. Claims Against Iraq

As reported above, 1995 brought some action on legislation to authorize the Commission to adjudicate outstanding claims against Iraq. Although the Iraq Claims Act of 1995 submitted by the Administration was not introduced in either house of Congress, other legislation on the subject was passed by the Senate at the year's end, for referral to conference. (See Section II, subsection D.2, above)

B. Advisory Program

Under the Foreign Assistance Act of 1961, as amended by Pub. L. 88-205, approved December 16, 1963, 77 Stat. 386 (22 U.S. C. 2370), (the "Hickenlooper Amendment"), the President is authorized to suspend assistance to the government of any country which on or after January 1, 1962, has nationalized or expropriated the property of United States nationals, taken steps to repudiate or annul contracts with United States nationals, or imposed discriminatory taxation or restrictive conditions having the effect of seizing ownership or control of property of United States nationals, and has failed to take appropriate steps to discharge its obligations under international law.

The Hickenlooper Amendment extends the jurisdiction of the Commission from determination and adjudication of claims to an advisory capacity in the area of foreign expropriations and other seizures of American-owned property. Under the amendment, the Commission is authorized, upon the request of the President, to evaluate expropriated property, determine the full value of any property nationalized, expropriated, seized, or subjected to discriminatory actions, and to render an advisory report to the President within ninety days after such request. Unless authorized by the President, the Commission may not

publish its advisory report except to the citizen or entity owning the property at issue.

C. Outlook For 1996

The Foreign Claims Settlement Commission has a long and distinguished history, both as a source of advice and information within the United States Government on issues concerning U.S. nationals claims against foreign countries and, where appropriate, as a forum for the resolution of those claims. The Commission stands ever ready to serve the United States and its nationals, protecting the rights of U.S. citizens abroad and promoting the international rule of law.

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