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810/18/76

APPROVED
OCT 18 1976

THE WHITE HOUSE
WASHINGTON
October 17, 1976

ACTION

Last Day: October 19

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON *Pat Duern*
SUBJECT: S. 3621 - Amendment to the International Claims Settlement Act of 1949

*Posted
10/19/76*

*archive
10/19/76*

Attached for your consideration is S. 3621, sponsored by Senator Sparkman.

Upon the establishment of diplomatic relations between the U.S. and the German Democratic Republic in 1974, it was agreed that the two governments would enter into negotiations for the settlement of U.S. property claims. The Foreign Claims Settlement Commission estimates that approximately 6,000 Americans have been waiting 30 years for compensation for property losses in East Germany.

The enrolled bill would authorize the Commission to determine the validity and amount of claims against the German Democratic Republic which derive from the expropriation, nationalization or other taking of, or special measure directed against, property owned by nationals of the United States. The bill would allow the Commission four years to complete its work.

With one exception the enrolled bill is substantially the same as a draft bill that the State Department submitted to Congress earlier this year. That exception, an amendment by Senator Hruska, would direct the Commission to reconsider certain awards from previous claims programs. The Commission has stated that this amendment could be implemented within the Commission's present resources.

A detailed explanation of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus), NSC and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign S. 3621 at Tab B.

10/18/76



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

OCT 11 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3621 - Amendment to the
International Claims Settlement Act of 1949
Sponsor - Sen. Sparkman (D) Alabama

Last Day for Action

October 19, 1976 - Tuesday

Purpose

Authorizes the determination of claims of United States nationals against the German Democratic Republic.

Agency Recommendations

Office of Management and Budget	Approval
Department of State	Approval
Foreign Claims Settlement Commission	Approval
National Security Council	Approval(Informally)
Department of the Treasury	Approval
Department of Justice	Defers to State and the Foreign Claims Settlement Commission

Discussion

Upon the establishment of diplomatic relations between the United States and the German Democratic Republic in 1974, it was agreed that the two governments would enter into negotiations for the settlement of U.S. property claims. The Foreign Claims Settlement Commission (the Commission) estimates that approximately 6,000 Americans have been waiting 30 years for compensation for property losses in East Germany.

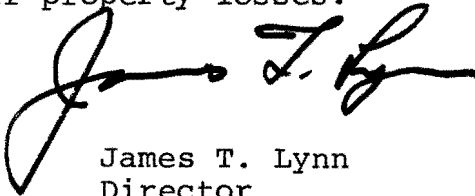
S. 3621 would authorize the Commission to determine the validity and amount of claims against the German Democratic Republic which derive from the expropriation, nationalization, or other taking of, or special measures directed against, property owned by nationals of the United States. This determination would be used by the Department of State in negotiating a lump-sum settlement agreement with the Government of the German Democratic Republic. The proceeds from such a settlement would be deposited in a special claim fund in the Treasury. The Treasury would make payments from the fund in accord with awards made by the Commission. Payment would be made in full for all Commission awards of amounts up to \$1,000, and payments would be made in proportion to the remaining balance in the claim fund for all amounts in excess of \$1,000.

The enrolled bill would allow the Commission four years to complete its work in validating claims and determining amounts of awards. Although S. 3621 would not authorize the appropriation of any public funds for payment of Commission awards, it would authorize appropriations for administrative expenses for Treasury and the Commission in carrying out their functions with respect to these claims. The bill would also direct the Secretary of the Treasury to transfer to the miscellaneous receipts of the Treasury 5 percent of any revenues paid into the special claim fund to offset administrative expenses.

With one exception. S. 3621 is substantially the same as a draft bill that the State Department submitted to Congress earlier this year. That exception, an amendment by Senator Hruska, would direct the Commission to reconsider certain awards from previous claims programs. The Commission has stated that this amendment could be implemented within the Commission's present resources.

In its enrolled bill letter, the Foreign Claims Settlement Commission strongly recommends your approval of H.R. 3621. The Commission does note, however, that funds authorized by H.R. 3621 for administrative expenses related to preadjudication of these claims against East Germany are not included in its FY 1977 appropriation. The Commission has requested a 1977 supplemental and an increased 1978 appropriation to cover these expenses, if you approve this bill. Finally, the Commission's letter states:

"The Commission considers it to be important that this claims program be inaugurated at an early date so that the Department of State may commence some meaningful negotiations with the German Democratic Republic. The preadjudication process will substantially shorten the period of time within which payments may be made to these American citizens who have waited for about 30 years for the receipt of compensation for their property losses."

A handwritten signature in black ink, appearing to read "James T. Lynn". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

James T. Lynn
Director

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 19

Date: October 11

Time: 1000pm

FOR ACTION:

~~NSE/S~~

Max Friedersdorff *mf*
Bobbie Kilberg *gk*

cc (for information):

Jack Marsh
Ed Schmults
Steve McConahey *dfu*

FROM THE STAFF SECRETARY

DUE: Date: October 13

Time: 500pm

SUBJECT:

S.3621-Amendment to the International Claims Settlement Act of 1949

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnstongground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



DEPARTMENT OF STATE

Washington, D.C. 20520

OCT 6 1976

Dear Mr. Lynn:

This is in reply to Mr. Frey's Enrolled Bill Request of October 4, 1976, inviting the recommendations of the Department of State on enrolled bill S. 3621 (H.R. 14642). The legislation was an Executive Proposal, and the Congress has adopted it without substantive change. Representatives of the Foreign Claims Settlement Commission and the Department of State spoke in support of this legislation, which had been initially drafted by the two agencies, when the legislation was before the Senate and House committees.

The legislation would add a new Title VI to the International Claims Settlement Act of 1949, authorizing the Foreign Claims Settlement Commission to receive and adjudicate claims of United States nationals arising out of the nationalization, expropriation or other taking, or special measures directed against their property by the German Democratic Republic. These provisions correspond closely to those of Titles IV and V of the Act, relating to the Czechoslovakian and the Cuban and Chinese claims programs. The legislation does not provide that the awards of the Commission respecting claims against the German Democratic Republic would be compensated out of public funds. The awards would, however, be used in our negotiations with the German Democratic Republic as a determination of the validity and amount of United States claims.

The Honorable
James T. Lynn,
Director, Office of
Management and Budget.

The Department of State favors this legislation and strongly recommends that the President sign the bill into law. I should add that Ambassador Cooper, who has been actively involved in this matter, firmly believes this legislation should be approved.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kempton B. Jenkins".

Kempton B. Jenkins
Acting Assistant Secretary
for Congressional Relations



OFFICE
OF THE CHAIRMAN

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES

WASHINGTON, D.C. 20579

October 6, 1976

Honorable James T. Lynn
Director
Office of Management and Budget
Executive Office of the President
Washington, DC 20503

Attention: Ms. Ramsey
Room 7201
New Executive Office Building

Dear Mr. Lynn:

In compliance with the request of Mr. James M. Frey, Assistant Director for Legislative Reference, dated October 4, 1976, the Foreign Claims Settlement Commission has examined the facsimile of the enrolled bill, S. 3621, 94th Congress, Second Session, entitled, "An Act to amend the International Claims Settlement Act of 1949, to provide for the determination of the validity and amounts of claims of nationals of the United States against the German Democratic Republic."

The bill was jointly submitted to the Congress for consideration on behalf of the Administration by the Department of State and the Foreign Claims Settlement Commission. Representatives of both agencies testified in favor of this proposal before the appropriate Committees of the House of Representatives and the Senate.

The purpose of the enrolled bill is to add a new title (Title VI) to the International Claims Settlement Act of 1949, as amended, to enable the determination by the Commission of certain claims of nationals of the United States against the German Democratic Republic which arose out of the nationalization, expropriation, or other taking of, or special measures directed against property owned by nationals of the United States. The Commission anticipates approximately 6,000 claims will be filed for such losses.

Presently, there are no funds available for the payment of claims that may be found valid under the terms of the enrolled bill. In effect, the bill authorizes a pre-settlement adjudication by the Foreign Claims Settlement Commission in order to ascertain the validity and amounts of claims of United States nationals. These findings are important for use by the

Department of State in future negotiations with representatives of the Government of the German Democratic Republic in an effort to reach an equitable settlement of those claims for the loss of American-owned property.

However, the bill does authorize the establishment of a claims fund in the United States Treasury to be composed of such funds as may be paid to the United States by the German Democratic Republic, pursuant to the terms of any claims settlement agreement that may be entered into by the two governments. This special fund will be used to pay claims as determined by the Commission and certified to the Secretary of the Treasury for payment. Also authorized under the bill is a deduction of 5% from any amount covered into the claims fund to reimburse the United States for administrative expenses incurred by the Commission and the Treasury Department in connection with the program.

No funds for the administrative expenses of the program are currently included in the FY 1977 appropriation. However, the enrolled bill does authorize such appropriation. The Commission plans to submit a supplemental budget request early in the First Session of the 95th Congress. Additionally, the Commission's FY 1978 budget request will include funds for the program.

The enrolled bill differs somewhat from the Administration's proposal in that section 615 of the enrolled bill entitled "Protests" was added on the floor of the Senate during the debate and passage of the bill in that chamber. This section provides for the reopening of claims on which awards were granted under Title II of the War Claims Act of 1948, as amended, during the last calendar days of the Commission's authority for that program under Public Law 87-846, approved October 22, 1962 (76 Stat. 1107). Any increase in awards which might be determined under this provision would be certified to the Treasury for payment out of any monies available in the War Claims Fund. The Commission does not anticipate any sizable new workload under the provisions of this section and, therefore, the activity generated will be handled by the present staff and without additional appropriations.

Under the provisions of section 615, the Commission has 30 days after enactment of the enrolled bill to publish notice in the Federal Register. Any protests must be filed within 90 days after publication of such notice. Such protests must be acted upon within 30 days after their receipt.

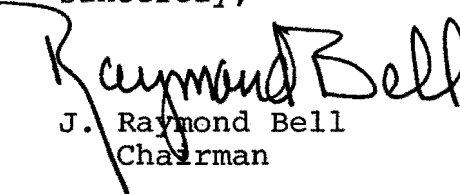
Hon. James T. Lynn

- 3 -

The Commission considers it to be important that this claims program be inaugurated at an early date so that the Department of State may commence some meaningful negotiations with the German Democratic Republic. The preadjudication process will substantially shorten the period of time within which payments may be made to these American citizens who have waited for about 30 years for the receipt of compensation for their property losses.

Therefore, the Foreign Claims Settlement Commission recommends that the President approve the enrolled bill, S. 3621.

Sincerely,



J. Raymond Bell
Chairman



THE DEPUTY SECRETARY OF THE TREASURY

WASHINGTON, D.C. 20220

OCT 7 1976

Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for Legislative
Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of S. 3621, "To amend the International Claims Settlement Act of 1949 to provide for the determination of the validity and amounts of claims of nationals of the United States against the German Democratic Republic."

We first note that the addition of the new title VI to the International Claims Settlement Act of 1949 is not to be construed as authorizing or as any intention to authorize an appropriation by the United States for the purpose of paying such claims.

Section 607(a) of the enrolled enactment would provide that the Secretary of the Treasury is authorized to establish in the Treasury a fund for the payment of unsatisfied claims as authorized by the new title. Section 607(b) would provide that the Secretary of the Treasury shall deduct from any amounts covered into the fund an amount equal to 5 percent thereof as reimbursement to the Government of the United States for expenses incurred in the administration of title VI. The amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts. We have no objection to these provisions of section 607.

The Department recommends that the enrolled enactment be approved by the President.

Sincerely yours,



George H. Dixon

Department of Justice
Washington, D.C. 20530

October 6, 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill (S. 3621), "To amend the International Claims Settlement Act of 1949 to provide for the determination of the validity and amounts of claims of nationals of the United States against the German Democratic Republic."

The bill would amend the International Claims Settlement Act of 1949, as amended, by adding thereto a new Title VI, to provide for the determination of certain claims of nationals of the United States against the German Democratic Republic arising from the nationalization, expropriation, or other taking of (or special measures directed against) property owned by nationals of the United States. The claims would be received and determined by the Foreign Claims Settlement Commission; the payment of awards thereunder would be made from funds to be paid to the United States by the German Democratic Republic pursuant to some future agreement.

The Department of Justice defers to the Department of State and the Foreign Claims Settlement Commission as to whether this bill should receive Executive approval.

Sincerely,



MICHAEL M. UHLMANN
Assistant Attorney General

To: J. Johnson
10-11-76
6:00 p.m.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 11 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 3621 - Amendment to the
International Claims Settlement Act of 1949
Sponsor - Sen. Sparkman (D) Alabama

Last Day for Action

October 19, 1976 - Tuesday

Purpose

Authorizes the determination of claims of United States nationals against the German Democratic Republic.

Agency Recommendations

Office of Management and Budget	Approval
Department of State	Approval
Foreign Claims Settlement Commission	Approval
National Security Council	Approval (Informally)
Department of the Treasury	Approval
Department of Justice	Defers to State and the Foreign Claims Settlement Commission

Discussion

Upon the establishment of diplomatic relations between the United States and the German Democratic Republic in 1974, it was agreed that the two governments would enter into negotiations for the settlement of U.S. property claims. The Foreign Claims Settlement Commission (the Commission) estimates that approximately 6,000 Americans have been waiting 30 years for compensation for property losses in East Germany.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 11

Time: 1000pm

FOR ACTION:

Max Friedersdorf
Bobbie Kilberg

cc (for information):

Jack Marsh
Ed Schmults
Steve McConahey

FROM THE STAFF SECRETARY

DUE: Date: October 13

Time: 500pm

SUBJECT:

S.3621-Amendment to the International Claims Settlement
Act of 1949

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

X

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

opposed Reply 10/12/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
for the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 11

Time: 1000pm

FOR ACTION:

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Act of 1949

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For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

x

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

Recommend Approval

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
for the President

EAST GERMAN CLAIMS PROGRAM

AUGUST 30 (legislative day, AUGUST 27), 1976.—Ordered to be printed

Mr. SPARKMAN, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany S. 3621]

The Committee on Foreign Relations, to which was referred the bill (S. 3621) to amend the International Claims Settlement Act of 1949 to provide for the determination of the validity and amounts of claims of nationals of the United States against the German Democratic Republic, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE AND PROVISIONS

The purpose of S. 3621 is to add a new Title VI to the International Claims Settlement Act of 1949 which would authorize the Foreign Claims Settlement Commission to receive and determine the validity and amounts of claims by nationals of the United States against the German Democratic Republic for losses arising as a result of the nationalization, expropriation, or other taking of property owned by U.S. nationals at the time of the loss. In this connection, under the provisions of the bill no claim could be favorably considered unless the property on which such claim is based was owned, wholly or partially, by a national or nationals of the United States on the date of the loss and continuously thereafter until the date the claim was filed. As defined in S. 3621, a national of the United States is a natural person who is a citizen of the United States or a corporation or other legal entity organized under the laws of the United States in which at least 50 percent of the outstanding shares of stock is owned by natural persons who are U.S. citizens. A 12-month filing period is provided and the Foreign Claims Settlement Commission is required to complete its affairs with respect to this claims program within three years after the

deadline filing date. According to the Commission, it is anticipated that as many as 5,000 claims may be filed under the program. The total value is unknown.

On September 4, 1974, when the United States and the German Democratic Republic established diplomatic relations, it was agreed that the two governments would enter into negotiations "for the settlement of claims and other financial and property questions which remain unresolved. . . . Included on the Agenda will be property and other questions which arose prior to or since 1945 which have not otherwise been settled, including losses by victims of Nazism." The Department of State feels that it may be in a better position to negotiate an adequate settlement if the scope of these claims has been authoritatively determined before negotiations are undertaken. Thus, the reason for this bill.

It is understood that the claims program proposed by S. 3621 would be similar in many respects to the Czechoslovakina claims program under Title IV of the International Claims Settlement Act, and in certain respects to the Cuban and Chinese programs under Title V of the Act. In this regard, the bill prescribes an award payment procedure which is similar to other titles of the International Claims Settlement Act. S. 3621 provides, however, that its enactment "shall not be construed as authorizing or as any intention to authorize an appropriation by the United States for the purpose of paying such claims."

COMMITTEE ACTION

The Committee on Foreign Relations held a public hearing on S. 3621 on August 24, 1976. At that time, testimony was received from J. Raymond Bell, the Chairman of the Foreign Claims Settlement Commission and Mr. Stephen Schwebel, Deputy Legal Adviser, Department of State. Their prepared statements are reprinted in the appendix to this report. On the same day, by voice vote, the Committee ordered S. 3621 reported favorably to the Senate.

COST ESTIMATE

Section 611 of S. 3621 authorizes the appropriation of such sums as may be necessary to enable the Foreign Claims Settlement Commission and the Treasury Department to pay their respective administrative expenses incurred in carrying out their functions in connection with the East German claims program. The Committee is informed that the Administration expects to request \$1.7 million to cover its administrative expenses for the four-year period necessary to complete the program.

SECTION-BY-SECTION ANALYSIS

Set forth below is a section-by-section analysis of S. 3621 which was submitted by the Executive Branch.

Section 600. Purpose of title

Section 600 states that the purpose of the draft bill, which adds a new Title VI to the International Claims Settlement Act of 1949, as amended, is to provide for the determination of the validity and

amounts of claims against the German Democratic Republic which have arisen out of the nationalization, expropriation, or other taking of, or special measures directed against property interests of nationals of the United States. This section also provides that the enactment of the proposed new Title VI shall not be construed as authorizing an appropriation or as any intention to authorize an appropriation of Federal funds to pay any claims of United States nationals against the German Democratic Republic.

Section 601. Definitions

(1) National of the United States.—This is defined as a natural person who is a citizen of the United States, or a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 percent or more of the outstanding capital stock or other beneficial interest of such corporation or entity. The term does not include aliens.

(2) Commission.—This means the Foreign Claims Settlement Commission of the United States, a quasi-judicial agency of the United States Government which has handled other claims programs under the International Claims Settlement Act.

(3) Property.—Section 601(3) gives a broad definition of the range of property interests covered by the proposed claims program. Section 601 is analogous to section 401 of Title IV (Czech claims) and Title V (Cuba and China claims).

(4) The term "German Democratic Republic" includes the government of any political subdivision, agency, or instrumentality thereof or under its control.

(5) The term "Claims Fund" means a special fund created in the Treasury Department from which awards, as authorized and certified by the Commission under this title, will be paid. The Claims Fund will consist of whatever money is realized under a formal agreement entered into between the Governments of the United States and the German Democratic Republic settling such claims.

Section 602. Receipt and determination of claims

Section 602 states that claims must be submitted within the period specified by the Commission which shall not be later than 12 months after publication of notice in the *Federal Register*. In determining the validity and amount of claims, the Commission is directed to apply "applicable substantive law, including international law." This requirement is similar to those contained in other titles of the International Claims Settlement Act of 1949, as amended.

Section 603. Ownership of claims

This section, which follows the pattern of previous U.S. claims programs, provides that a claim for property losses shall not be considered unless the property involved was directly or indirectly owned by a U.S. national on the date of the loss and continuously thereafter by one or more U.S. nationals until the date it is filed. In case a claim is owned jointly by a U.S. national and an alien, only the validity and amount of the U.S. national's interest in the property will be determined by the Foreign Claims Settlement Commission.

Section 604. Corporate claims

Section 604(a) provides that a claim under section 602, relating to receipt of claims, which is based upon the ownership interest in any corporation, association, or other entity which is a national of the United States (as defined in sec. 601) shall not be considered. In other words, stockholders or owners of a corporation may not file a valid claim based upon their individual interests. The claim must be filed by the corporation in its own behalf and treated as a corporate claim.

Section 604(b) states that a claim based upon a direct ownership interest in a corporation, association, or other entity which was not a national of the United States on the date of the loss, shall be considered and without regard to the percentage of ownership vested in the claimant. The effect of this provision is to permit a U.S. national to file a claim for his interest (no matter how small) in a foreign corporation which was taken by the German Democratic Republic.

Section 604(c) provides that a claim based upon an indirect ownership interest in a corporation, association, or other entity shall be considered only if at least 25 percent of the entire ownership interest thereof, at the time of the loss, was vested in nationals of the United States.

Section 604(d) states that the amount of both direct and indirect losses shall be calculated on the basis of the total loss suffered by the corporation, association, or other entity, and shall bear the same proportions to such loss as the ownership interest of the claimant at the time of loss bears to the entire ownership interest in the corporation, association, or other entity.

Section 605. Offsets

Section 605 is designed to prevent double benefits for the same loss or losses. In some cases claimants may have received compensation from the Federal Republic of Germany under the Equalization of Burdens laws or from the Foreign Claims Settlement Commission under Title II of the War Claims Act of 1948, as amended, especially in regard to the "special measures" provisions of section 202(a) which defines World War II losses as having occurred "as a direct consequence of . . . special measures directed against property because of the enemy or alleged enemy character of the owner, if such property was owned by a national of the United States at the time of loss." Under that program claims were found compensable under the "special measures" provision if they involved property of Americans that had been confiscated during World War II and which was located in an area under communist control at the end of hostilities and was not restored to its owner. This applied to property located in East Germany. Claimants were awarded compensation for damages to structures on land as well as for the land. Awards under the proposed bill are to be reduced by any payments the claimant may have received from other sources on account of the same loss.

Section 606. Consolidated awards

This section authorizes a consolidated award where an original single interest has vested in several persons. All such persons shall participate in proportion to their indicated interests, in any payments

that may be made under this title in all respects as if the award had been made in favor of a single person.

Section 607. Claims fund

Section 607(a) authorizes the Secretary of the Treasury to establish a claims fund in the Treasury Department for the payment of claims against the German Democratic Republic. The fund will consist of sums as may be paid to the United States by the German Democratic Republic pursuant to the terms of any claims settlement agreement between the two governments.

Section 607(b) authorizes a deduction of 5 percent from any amount covered into the Claims Fund for administrative expenses incurred by the Commission and Treasury Department with respect to the program.

Section 608. Award payment procedures

Section 608(a) directs the Commission to certify each award to the Secretary of the Treasury.

Section 608(b) directs the Secretary of the Treasury to make payments on account of the awards certified out of sums covered into the special claims fund in accordance with an established payment order of priority.

Section 609. Settlement period

This section provides that the program shall be completed within three years following the deadline for filing claims.

Section 610. Transfer of records

This section provides for the transfer to the Commission of records and documents relating to claims under this title.

Section 611. Appropriations

This section states that appropriations are authorized for the administrative expenses of the Commission and Treasury Department in carrying out the provisions of the title.

Section 612. Fees for services

This section prohibits the payment of attorneys and other fees on account of services rendered in connection with any claim in excess of 10 percent of the total award paid on account of the claim. This section is analogous to section 414 of Title IV of the Act.

Section 613. Application of other laws

This section incorporates, by reference, the following technical provisions of Title I of the International Claims Settlement Act of 1949, as amended:

Subsection 4(b) deals with the notice of the time when, and the limit of time within which, claims may be filed, which notice shall be published in the *Federal Register*, and the basis and the finality of the decisions rendered by the Foreign Claims Settlement Commission.

Subsection 4(c) relates to such matters as the administration of oaths, the issuance of subpoenas, the examination of witnesses, and contempt.

Subsections 4(d) and (e) deal with depositions and penalties, respectively.

Subsection 4(h) provides that the Commission shall notify all claimants of the approval or denial of their claims, and if approved, the amount for which the claims were approved. It also provides that any claimant whose claim is denied, or approved for less than the full amount, shall be entitled to a hearing, and states that the action of the Commission in allowing or denying any claim shall be final and conclusive on all questions of law and fact.

Subsection 4(j) directs the Commission to comply with the provisions of the Administrative Procedure Act of 1946 except as otherwise specifically provided by this title.

Subsection 7(c) provides that payments made pursuant to this title shall be made only to the person or persons on behalf of whom the award is made, except under certain conditions, e.g., persons deceased or under legal disability, termination of partnerships or corporations, receiverships, trustees, and assignments.

Subsection 7(d) bars recovery against the U.S. and its officers by persons other than the person to whom payment was made.

Subsection 7(e) provides that any person who makes application for any such payment shall be held to have consented to all of the provisions of this title.

Subsection 7(f) provides that "nothing in this title shall be construed as the assumption of any liability by the United States for the payment or satisfaction, in whole or in part, of any claim on behalf of any national of the United States against any foreign government." This serves to support the contention that funds of the United States should not be used for the purpose of paying claims of U.S. nationals against the German Democratic Republic.

Section 614. Separability

This is the customary separability clause which provides that if any provision of the proposed new Title VI shall be held invalid, it will not affect the validity of the remainder of the title.

APPENDIX

TESTIMONY OF J. RAYMOND BELL, CHAIRMAN, FOREIGN CLAIMS SETTLEMENT COMMISSION, AUGUST 24, 1976

Mr. Chairman and members of the committee, I appreciate this opportunity to appear before you today. I express the views of my fellow commissioners, as well as those of key members of our staff, in supporting S. 3621 and urging its earliest possible adoption.

S. 3621 simply proposes to add a new title to the International Claims Settlement Act of 1949, as amended, to enable the determination by the Commission of certain claims of nationals of the United States against the German Democratic Republic which arose out of the nationalization, expropriation, or other taking of, or special measures directed against property owned by nationals of the United States.

Our Commission estimates that there will be approximately 6,000 claims by American nationals who have waited at least 30 years to be compensated for the loss of their property in East Germany. Adoption of the proposed legislation will establish the mechanism for the orderly adjudication of such claims and thereby ease the hardships of claimants, many of whom have reached an age category which minimizes the number of years of life remaining during which they may enjoy whatever compensation they may ultimately receive.

Other titles of the International Claims Settlement Act of 1949, as amended, have dealt with claims of nationals of the United States against the Governments of Bulgaria, Communist China, Cuba, Czechoslovakia, Hungary, Italy, Poland, Rumania, the Soviet Union, and Yugoslavia.

The proposed program under the bill would be similar, in many respects, to the Czechoslovakian claims program under Title IV of the International Claims Settlement Act, and in certain respects to the Cuban and Chinese claims programs under Title V of that Act.

I believe it is important to detail some of the similarities of these prior programs and mention the historical background because they established a precedent for the enactment of S. 3621.

My statement also contains a detailed analysis of the important provisions of this proposal.

Title V of the Act which was enacted and approved on October 16, 1964, provided for the receipt and the determination of claims of nationals of the United States against the Government of Cuba, based on the nationalization or other taking of property by the Castro Government which occurred on or after January 1, 1959. Later, on November 6, 1966, this title was amended to include similar claims against the Chinese Communist regime arising since October 1, 1949.

Title V of the Act did not provide for the payment of losses suffered by American citizens. Like S. 3621, it provided only for a presettlement

adjudication of claims and for the certification of the Commission's findings to the Secretary of State. The stated purpose of the Congress in directing that the amounts of losses be certified to the Secretary of State was to provide him with appropriate information which would be useful in future negotiations of claims settlement agreements with friendly governments in Cuba and mainland China. Thus far, there has been no claims settlement agreement with either government. However, the Department of State has been furnished the detailed description of all American-owned property which had been confiscated in these countries and the exact amounts of the losses. This will be the bases for any future negotiations between the United States and the other two governments.

Also similar to the proposed East German program was the Czech claims program under Title IV of the International Claims Settlement Act for losses suffered by nationals of the United States, based on the nationalization or other taking of American-owned property in Czechoslovakia. At the time of enactment of Title IV on August 8, 1958, the Department of State was negotiating with the Government of Czechoslovakia to obtain a lump-sum settlement from that government of all such claims. The Act provided that unless a settlement was made within 1 year after enactment, the funds for the payment of these claims would be derived from monies realized from the sale, by the United States, of certain Czechoslovakian steel mill components, manufactured and stored in the United States, amounting to approximately \$8.5 million. It further provided that if such an agreement was entered into before the expiration of 1 year after enactment, such claims would be paid out of the funds made available therefor by such government.

It was not until July 5, 1974, approximately 12 years after the completion of the program that such an agreement was reached subject to formal approval of the two governments. However, due to an amendment to the Federal Trade Act of 1974, requiring a renegotiation of the agreement with the Czech Government, it has never been formalized. Thus, only the funds derived from the sale of the steel mill components have been available for payments on the awards granted by the Commission.

These programs, especially the Cuban and Chinese, were in fact presettlement adjudications. However, it is hoped that a claims settlement agreement with the German Democratic Republic can be concluded within a few years. Upon the establishment of diplomatic relations with such government in July 1974, it was agreed that the United States and the German Democratic Republic would, among other things, enter into negotiations for the settlement of U.S. claims. Thus far, however, the formal negotiations with respect to these claims have not commenced. In any case, the Commission is not directly involved in such negotiations. This is a function of the Department of State.

The bill provides only for claims for losses by nationals of the United States who had such status at the time of loss and which have been owned continuously thereafter by such a national or nationals until the date of filing with the Commission. Claims owned by non-nationals of the United States on the date of loss and continuously thereafter until the date of filing are precluded from favorable consideration under the bill.

A national of the United States is defined as a natural person who is a citizen of the United States or a corporation or other legal entity, organized under the laws of the United States, or a State, the District of Columbia, or the Commonwealth of Puerto Rico, in which at least 50% of the outstanding shares of stock was owned, at all material times, by persons who qualify as nationals of the United States.

Stockholder claimants are to be distinguished from corporation claimants. They are never eligible for compensation if the corporation, itself, is an eligible claimant. To be eligible as a stockholder claimant in a non-U.S. national corporation that has been nationalized or otherwise taken, it is only necessary that the ownership interests on which the claim is based have been, at all material times, held by nationals of the United States. This is called a direct interest.

A stockholder in a non-U.S. corporation which in turn held stock in a nationalized East German corporation, would be deemed to have an indirect interest. Such claimant would be eligible for favorable consideration only if the total of United States interests in an East German corporation, both direct and indirect, amounts to 25%.

The amount of both direct and indirect losses are to be calculated on the basis of the total loss suffered by the corporation or other entity, and shall bear the same proportions to such loss as the ownership interest of the claimant bears to the entire ownership interest in the corporation or other entity.

The bill authorizes the establishment of a claims fund in the United States Treasury to be composed of such claims as may be paid to the United States by the German Democratic Republic, pursuant to the terms of any claims settlement agreement that may be entered into by the two governments. This special fund will be used to pay claims as determined by the Commission and certified to the Secretary of the Treasury for payment. Also authorized under the bill is a deduction of 5% from any amount covered into the claims fund to reimburse the United States for administrative expenses incurred by the Commission and the Treasury Department in connection with the program.

The bill provides for a 1-year filing period to begin within 60 days after its enactment or of legislation making appropriations to the Commission, whichever date is later. The Commission is given 3 years after the expiration of the filing period to complete the program.

Prior to the recognition of the German Democratic Republic by the United States, nationals of the United States who qualified under the equalization of burdens laws, enacted by the Federal Republic of Germany (West Germany), had, in some instances, received compensation from that government based on property losses arising in East Germany.

The Commission processed claims of nationals of the United States under Title II of the War Claims Act of 1948, which arose in certain Eastern European countries, including Germany, during the period beginning September 1, 1939, and ending May 8, 1945, as a result of military operations of war or special measures directed against property because of the enemy character of such property, which was owned at the time by nationals of the United States. Claims were compensable under the "special measures" if the property, upon which the claim was based, was located in East Germany and

remained under communist control and was never returned to its owners for both the improvements and the land.

The proposed bill is designed to prevent double benefits in that the Commission is required to deduct all amounts the claimant has received from any source on account of the same loss, including the amounts received under Title II of the War Claims Act of 1948, as amended. However, it is understood that the German Democratic Republic will be pressed to provide funds for these losses.

After a determination is made by the Commission as to the validity and amount of each claim, the award is certified to the Secretary of the Treasury for payment out of the special claims fund in accordance with an established payment order priority. Such payments would be made on a prorated basis after payment is made on the account of interest until the principal amounts of all awards are paid in full.

Attorney fees on account of services rendered on behalf of any claimant, in connection with any claim filed with the Commission under the new title, cannot exceed 10 per centum of the total amount paid on any award certified for payment.

Based on similar experiences in other programs, however, it is anticipated that as many as 5,000 claims may be filed under the proposed program.

Inasmuch as the current Hungarian claims program is due for completion by the Commission on May 15, 1977, it is important to the Commission that favorable consideration be given to the proposed East German program as soon as possible, so that it may use the services of its experienced claims personnel presently in the employment of the Commission.

Most important, however, is the fact that many American citizens have been waiting some 30 years for compensation for their property losses in East Germany. The German Democratic Republic is obligated to provide compensation to former American owners for their property. In the interim, the Commission concurs with the Department of State that these claims should be the subject of a presettlement adjudication prior to the conclusion of any negotiations with such government providing money for the settlement of such claims. This procedure will shorten, considerably, the period of time in which compensation will be paid to these United States citizens, many of whom are now in the "senior citizens" category.

For these reasons and the fact that further delay in the adjudication of these claims would impose additional hardships on the claimants, the Commission fully supports the bill S. 3621 and, respectfully, recommends its early enactment.

An appropriation is authorized to enable the Commission and the Treasury Department to pay their respective administrative expenses in carrying out their functions under the proposed program.

Certain sections of Title I of the International Claims Settlement Act are applicable to the new proposed claims program. Such sections deal with procedural and administrative matters which have been adopted in other programs authorized under the International Claims Settlement Act of 1949, including the finality of the decisions rendered by the Commission.

The Commission has observed considerable interest in this program by potential claimants, especially in view of the registration that it conducted in 1974 and 1975 at the request of the State Department in regard to claims against the German Democratic Republic.

During the registration, over 8,000 notices and claim registration forms were forwarded to persons at their last known addresses who had previously communicated with the Commission or State Department concerning losses in East Germany, since the end of hostilities in World War II. Over 2,000 of these registrations were completed and returned to the Commission prior to an established deadline filing period of July 1, 1975. Approximately 4,000 of the notices were returned for insufficient addresses. Another 500 inquiries concerning these claims have been received by the Commission since the registration filing deadline.

STATEMENT ON S. 3621

Thank you, Mr. Chairman.

I am Stephen M. Schwebel, Deputy Legal Adviser of the Department of State, and I welcome the opportunity of appearing before the subcommittee to present the views of the Department of State on S. 3621. The bill before this subcommittee was drafted by the Department of State and the Foreign Claims Settlement Commission, which will also be appearing before the subcommittee in connection with this proposed legislation.

S. 3621 would add a new title to the International Claims Settlement Act of 1949 authorizing the Foreign Claims Settlement Commission to receive and adjudicate claims of United States nationals arising out of the nationalization, expropriation or other taking, or special measures directed against, their property by the German Democratic Republic. The provisions of the proposed legislation are explained in detail in the section-by-section analysis accompanying the letter of transmittal. These provisions correspond closely to those enacted by the Congress for the addition to the Act of Titles IV and V, relating to the Czechoslovakian and the Cuban and Chinese claims programs.

Pre-adjudication by the Foreign Claims Settlement Commission of the claims of United States nationals against the German Democratic Republic would advance the process by which compensation should eventually be paid. No appropriation of public funds for the payment of the Commission's awards is sought by the legislation—nor, in the Department's view, should such an appropriation be provided; we naturally look wholly to payment by the German Democratic Republic of these claims. Moreover, vested assets of the German Reich cannot provide a partial source of compensation since those assets have already been used to pay compensation on the Commission's war claims program pursuant to the War Claims Act. In the circumstances, the Department believes that the most expeditious means of compensating the claimants would be the conclusion of a lump-sum settlement agreement with the Government of the German Democratic Republic. Such a settlement would take into account the Commission's awards, and the proceeds from such a settlement would be distributed in accordance with the amounts of those awards. At the same time, we are of course open to any other appropriate method of settlement.

The Department does not know whether or when a lump-sum settlement agreement will be concluded with the German Democratic Republic, but we shall make every effort to conclude such an agreement, or another appropriate kind of claims agreement. In the view

of the United States, the German Democratic Republic is not only bound to negotiate these claims, but under international law is obliged to pay the appropriate compensation that is due.

The claims to which the program provided for in the proposed legislation would apply relate to property, rights or interests, previously owned by United States nationals, which have been taken by the German Democratic Republic, and to debts owed to American nationals by enterprises taken by that Government. Some of these property interests may have previously been the subject of measures by Nazi authorities or by Soviet occupation authorities and subsequently taken over by the German Democratic Republic. The provisions of the proposed legislation take into account the possibility that the takings may have assumed a variety of forms.

These claims were not discussed with officials of the German Democratic Republic during the period after 1949 because the United States did not recognize that entity or maintain diplomatic relations with it. On September 4, 1974, after extended negotiations, the United States and the German Democratic Republic agreed to the establishment of diplomatic relations. One of the provisions included in that agreement, at the instance of the United States, was for negotiations on claims and property and financial questions. The Department of State has been preparing for those negotiations, and the claims program provided for in the proposed legislation is an essential component of the completion of such negotiations. We shall not be in the best position to conclude a claims settlement agreement with the German Democratic Republic until the claims have been adjudicated and the total amount of the claims is known.

The Department has discussed the claims with representatives of the German Democratic Republic. Included within those discussions was the question of compensation to the victims of Nazism, a question referred to in the agreement on establishment of diplomatic relations. The World Conference on Jewish Material Claims is dealing with this question on an ethnic rather than a national basis. At our meeting with the German Democratic representatives we called for meaningful discussions with the World Conference.

The claimants have for a lengthy period remained uncompensated for their losses. We believe that it is now feasible to move ahead in our efforts to obtain adequate and effective compensation. The Department of State accordingly strongly favors the adoption of S. 3621

CHANGES IN EXISTING LAW

In compliance with paragraph 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949, AS AMENDED

Public Law 81-455 [H.R. 4406], 64 Stat. 12, approved March 10, 1950, as amended by Public Law 83-242 [H.R. 5742], 67 Stat. 506, approved August 8, 1953; Reorganization Plan No. 1, effective July 1, 1954, 19 F.R. 3985 68 Stat. 1279; Public Law 84-285 [H.R. 6382], 69 Stat. 562, approved August 9, 1955; Public Law 85-604 [S. 3557], 72 Stat. 527, approved August 8, 1958; Public Law 85-791 [H.R. 6788], 72 Stat. 941 at 951, approved August 28, 1958; Public Law 88-666 [H.R. 12259], 78 Stat. 1110, approved October 16, 1964; Public Law 89-559 [H.R. 10104], 80 Stat. 378 at 656, approved November 6, 1966; Public Law 90-421 [H.R. 9063], 82 Stat. 420, approved July 4, 1968; Public Law 91-167 [H.R. 11711], 83 Stat. 435, approved December 24, 1969; and by Public Law 93-460 [H.R. 13621], 88 Stat. 1386, approved October 20, 1974

AN ACT To provide for the settlement of certain claims of the Government of the United States on its own behalf and on behalf of American nationals against foreign governments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Claims Settlement Act of 1949".

TITLE I

SEC. 2. For the purposes of this Title—

(a) The term "person" shall include an individual, partnership, corporation, or the Government of the United States.

(b) The term "United States" when used in a geographical sense shall include the United States, its Territories and insular possessions, and the Canal Zone.

(c) The term "nationals of the United States" includes (1) persons who are citizens of the United States, and (2) persons who, though not citizens of the United States, owe permanent allegiance to the United States. It does not include aliens.

(d) The term "Yugoslav Claims Agreement of 1948" means the agreements between the Governments of the United States of America and of the Federal People's Republic of Yugoslavia regarding pecuniary claims of the United States and its national, signed July 19, 1948.

SEC. 3. (a) [Repealed by Public Law 89-554, (80 Stat. 378 at 656; 22 U.S.C. 1622(a)).]

(b) [Repealed by Public Law 89-544 (80 Stat. 378 at 656; 22 U.S.C. 1622(b)).]

(c) The Commission may prescribe such rules and regulations as may be necessary to enable it to carry out its functions, and may delegate functions to any member, officer or employee of the Commission. The President may fix a termination date for the authority of the Commission, and the terms of office of its members under this Title. Any member of the Commission may be removed by the Secretary of State, upon notice and hearing, for neglect of duty, or malfeasance in office, but for no other cause. Not later than six months after its organization, and every six months thereafter, the Commission shall make a report, through the Secretary of State, to the Congress concerning its operations under this Title. The Commission shall, upon completion of its work, certify in duplicate to the Secretary of State and to the Secretary of the Treasury the following: (1) A list of all claims disallowed; (2) a list of all claims allowed, in whole or in part, together with the amount of each claim and the amount awarded thereon; and (3) a copy of the decision rendered in each case. No members of such Commission shall be appointed after the effective date of this Title until such Commission is reorganized by further Act of Congress but acting members may be designated by the President as provided by this section, who shall receive no compensation from the funds appropriated by H.R. 6200 for defraying the expenses of such Commission.

SEC. 4. (a) The Commission shall have jurisdiction to receive, examine, adjudicate, and render final decisions with respect to claims of the Government of the United States and of nationals of the United States included within the terms of the Yugoslav Claims Agreement of 1948, or included within the terms of any claims agreement hereafter concluded between the Government of 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) similarly providing for the settlement and discharge of claims of the Government of the United States and of nationals of the United States against a foreign government, arising out of the nationalization or other taking of property, by the agreement of the Government of the United States to accept from that government a sum in en bloc settlement thereof. In the decision of claims under this Title, the Commission shall apply the following in the following order: (1) The provisions of the applicable claims agreement as provided in this subsection; and (2) the applicable principles of international law, justice, and equity.

(b) The Commission shall give public notice of the time when, and the limit of time within which, claims may be filed, which notice shall be published in the Federal Register. In addition, the Commission is authorized and directed to mail a similar notice to the last-known address of each person appearing in the records of the Department of State as having indicated an intention of filing a claim with respect to a matter concerning which the Commission has jurisdiction under this Title. All decisions shall be upon such evidence and written legal contentions as may be presented within such period as may be prescribed therefor by the Commission, and upon the results of any independent investigation of cases which the Commission may deem it

advisable to make. Each decision by the Commission pursuant to this Title shall be by majority vote, and shall state the reason for such decision, and shall constitute a full and final disposition of the case in which the decision is rendered.

(c) Any member of the Commission, or any employee of the Commission, designated in writing by the Chairman of the Commission, may administer oaths and examine witnesses. Any member of the Commission may require by subpoena the attendance and testimony of witnesses, and the production of all necessary books, papers, documents, records, correspondence, and other evidence, from any place in the United States at any designated place of inquiry or of hearing. The Commission is authorized to contract for the reporting of inquiries or of hearings. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of disobedience to a subpoena, the aid of any district court of the United States, as constituted by chapter 5 of title 28, United States Code (28 U.S.C. 81 and the following), and the United States court of any Territory or other place subject to the jurisdiction of the United States may be invoked in requiring the attendance and testimony of witnesses and the production of such books, papers, documents, records, correspondence, and other evidence. Any such court within the jurisdiction of which the inquiry or hearing is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) The Commission may order testimony to be taken by deposition in any inquiry or hearing pending before it at any stage of such proceeding or hearing. Such depositions may be taken, under such regulations as the Commission may prescribe, before any person designated by the Commission and having power to administer oaths. Any person may be compelled to appear and depose, and to produce books, papers, documents, records, correspondence, and other evidence in the same way as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission, as hereinabove provided. If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken, provided the laws of the foreign country so permit, by a consular officer, or by an officer or employee of the Commission, or other person commissioned by the Commission, or under letter rogatory issued by the Commission. Witnesses whose depositions are taken as authorized in this subsection, and the persons taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(e) In addition to the penalties provided in title 18, United States Code, section 1001, any person guilty of any act, as provided therein, with respect to any matter under this Title, shall forfeit all rights under this Title, and, if payment shall have been made or granted, the Commission shall take such action as may be necessary to recover the same.

(f) No remuneration on account of services rendered on behalf of any claimant in connection with any claim filed with the Commission

under this title shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this title, on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section, shall be fined not more than \$5,000 or imprisoned not more than twelve months, or both.

(g) The Attorney General shall assign such officers and employees of the Department of Justice as may be necessary to represent the United States as to any claims of the Government of the United States with respect to which the Commission has jurisdiction under this title. Any and all payments required to be made by the Secretary of the Treasury under this title pursuant to any award made by the Commission to the Government of the United States shall be covered into the Treasury to the credit of miscellaneous receipts.

(h) The Commission shall notify all claimants of the approval or denial of their claims, stating the reasons and grounds therefor, and, if approved, shall notify such claimants of the amount for which such claims are approved. Any claimant whose claim is denied, or is approved for less than the full amount of such claim, shall be entitled, under such regulations as the Commission may prescribe, to a hearing before the Commission, or its duly authorized representatives, with respect to such claim. Upon such hearing, the Commission may affirm, modify, or revise its former action with respect to such claim, including a denial or reduction in the amount theretofore allowed with respect to such claim. The action of the Commission in allowing or denying any claim under this title shall be final and conclusive on all questions of law and fact and not subject to review by the Secretary of State or any other official, department, agency, or establishment of the United States or by any court by mandamus or otherwise.

(i) The Commission may in its discretion enter an award with respect to one or more items deemed to have been clearly established in an individual claim while deferring consideration and action on other items of the same claim.

(j) The Commission shall comply with the provisions of the Administrative Procedure Act of 1946 except as otherwise specifically provided by this title.

SEC. 5. The Commission shall, as soon as possible, and in the order of the making of such awards, certify to the Secretary of the Treasury and to the Secretary of State copies of the awards made in favor of the Government of the United States or of nationals of the United States under this Title. The Commission shall certify to the Secretary of State, upon his request, copies of the formal submissions of claims filed pursuant to subsection (b) of section 4 of this Act for transmission to the foreign government concerned.

SEC. 6. The Commission shall complete its affairs in connection with settlement of United States-Yugoslav claims arising under the Yugoslav Claims Agreement of 1948 not later than December 31, 1954: *Provided*, That nothing in this provision shall be construed to limit the life of the Commission, or its authority to act on future agreements which may be affected under the provisions of this legislation.

SEC. 7. (a) Subject to the limitations hereinafter provided, the Secretary of the Treasury is authorized and directed to pay, as prescribed by section 8 of this Title, an amount not exceeding the principal of each award, plus accrued interests on such awards as bear interest, certified pursuant to section 5 of this Title, in accordance with the award. Such payments, and applications for such payments, shall be made in accordance with such regulations as the Secretary of the Treasury may prescribe.

(b)(1) There shall be deducted from the amount of each payment made pursuant to subsection (c) of section 8, as reimbursement for the expenses incurred by the United States, an amount equal to 5 per centum of such payment. All amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

(2) The Secretary of the Treasury shall deduct from any amounts covered, subsequent to the date of enactment of this paragraph, into any special fund, created pursuant to section 8, 5 per centum thereof as reimbursement to the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this title. The amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

(c) Payments made pursuant to this Title shall be made only to the person or persons on behalf of whom the award is made, except that—

(1) if any person to whom any payment is to be made pursuant to this title is deceased or is under a legal disability, payment shall be made to his legal representative, except that if any payment to be made is not over \$1,000 and there is no qualified executor or administrator, payment may be made to the person or persons found by the Comptroller General to be entitled thereto, without the necessity of compliance with the requirement of law with respect to the administration of estates;

(2) in the case of a partnership or corporation, the existence of which has been terminated and on behalf of which an award is made, payment shall be made, except as provided in paragraphs (3) and (4), to the person or persons found by the Comptroller General of the United States to be entitled thereto;

(3) if a receiver or trustee for any such partnership or corporation has been duly appointed by a court of competent jurisdiction in the United States and has not been discharged prior to the date of payment, payment shall be made to such receiver or trustee in accordance with the order of the court;

(4) if a receiver or trustee for any such partnership or corporation, duly appointed by a court of competent jurisdiction in the United States, makes an assignment of the claim, or any part thereof, with respect to which an award is made, or makes an assignment of such award, or any part thereof, payment shall be made to the assignee, as his interest may appear; and

(5) in the case of any assignment of an award, or any part thereof, which is made in writing and duly acknowledged and filed, after such award is certified to the Secretary of the Treasury, payment may, in the discretion of the Secretary of the Treasury, be made to the assignee, as his interest may appear.

(d) Whenever the Secretary of the Treasury, or the Comptroller General of the United States, as the case may be, shall find that any

person is entitled to any such payment, after such payment shall have been received by such person, it shall be an absolute bar to recovery by any other person against the United States, its officers, agents or employees with respect to such payment.

(e) Any person who makes application for any such payment shall be held to have consented to all the provisions of this Title.

(f) Nothing in this Title shall be construed as the assumption of any liability by the United States for the payment or satisfaction, in whole or in part, of any claim on behalf of any national of the United States against any foreign government.

* * * * *

TITLE VI

PURPOSE OF TITLE

SEC. 600. It is the purpose of this title to provide for the determination of the validity and amounts of outstanding claims against the German Democratic Republic which arose out of the nationalization, expropriation, or other taking of (or special measures directed against) property interests of nationals of the United States. This title shall not be construed as authorizing or as any intention to authorize an appropriation by the United States for the purpose of paying such claims.

DEFINITIONS

SEC. 601. As used in this title—

(1) The term "national of the United States" means—

(a) a natural person who is a citizen of the United States;

(b) a corporation or other legal entity which is organized under the laws of the United States or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity. The term does not include aliens.

(2) The term "Commission" means the Foreign Claims Settlement Commission of the United States.

(3) The term "property" means any property, right, or interest, including any leasehold interest, and debts owed by enterprises which have been nationalized, expropriated, or taken by the German Democratic Republic for which no restoration or no adequate compensation has been made to the former owners of such property.

(4) The term "German Democratic Republic" includes the government of any political subdivision, agency, or instrumentality thereof or under its control.

(5) The term "Claims Fund" is the special fund established in the Treasury of the United States composed of such sums as may be paid to the United States by the German Democratic Republic pursuant to the terms of any agreement settling such claims that may be entered into by the Government of the United States and the German Democratic Republic.

RECEIPT AND DETERMINATION OF CLAIMS

SEC. 602. The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against the

German Democratic Republic for losses arising as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property, including any rights or interests therein, owned wholly or partially, directly or indirectly, at the time by nationals of the United States whether such losses occurred in the German Democratic Republic or in East Berlin. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than twelve months after such publication) within sixty days after the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later.

OWNERSHIP OF CLAIMS

SEC. 603. A claim shall not be favorably considered under section 602 of this title unless the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss and if favorably considered, the claim shall be considered only if it has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission.

CORPORATE CLAIMS

SEC. 604. (a) A claim under section 602 of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States, shall not be considered. A claim under section 602 of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico shall be considered only when such debt or other obligation is a charge on property which has been nationalized, expropriated, or taken by the German Democratic Republic.

(b) A claim under section 602 of this title based upon a direct ownership interest in a corporation, association, or other entity for loss, shall be considered subject to the provisions of this title, if such corporation, association, or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant.

(c) A claim under section 602 of this title for losses based upon an indirect ownership interest in a corporation, association, or other entity, shall be considered, subject to the other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof, at the time of such loss, was vested in nationals of the United States.

(d) The amount of any claim covered by subsections (b) or (c) of this section shall be calculated on the basis of the total loss suffered by such corporation, association, or other entity, and shall bear the same proportion to such loss as the ownership interest of the claimant at the time of loss bears to the entire ownership interest thereof.

OFFSETS

SEC. 605. In determining the amount of any claim, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses, including any amount claimant received under section 202(a) of the War Claims Act of 1948, as amended, for

losses which occurred as a direct consequence of special measures directed against such property in any area covered under this title.

CONSOLIDATED AWARDS

SEC. 606. With respect to any claim under section 602 of this title which, at the time of the award, is vested in persons other than the person by whom the original loss was sustained, the Commission shall issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interests of such claimants therein, and all such claimants shall participate, in proportion to their indicated interests, in any payments that may be made under this title in all respects as if the award had been in favor of a single person.

CLAIMS FUND

SEC. 607. (a) The Secretary of the Treasury is hereby authorized to establish in the Treasury of the United States a fund to be designated the Claims Fund as defined under 601(5) for the payment of unsatisfied claims of nationals of the United States against the German Democratic Republic as authorized in this title.

(b) The Secretary of the Treasury shall deduct from any amounts covered into the Claims Fund, an amount equal to 5 per centum thereof as reimbursement to the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this title. The amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

AWARD PAYMENT PROCEDURES

SEC. 608. (a) The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to section 602 of this title.

(b) Upon certification of such award, the Secretary of the Treasury is authorized and directed, out of the sums covered into the Claims Fund, to make payments on account of such awards as follows, and in the following order of priority:

(1) payment in full of the principal amount of each award of \$1,000 or less;

(2) payment in the amount of \$1,000 on account of the principal amount of each award of more than \$1,000 in principal amount;

(3) thereafter, payments from time to time, in ratable proportions, on account of the unpaid balance of the principal amounts of all awards according to the proportions which the unpaid balance of such awards bear to the total amount in the fund available for distribution at the time such payments are made;

(4) after payment has been made in full of the principal amounts of all awards, pro rata payments may be made on account of any interest that may be allowed on such awards;

(5) payments or applications for payments shall be made in accordance with such regulations as the Secretary of the Treasury may prescribe.

SETTLEMENT PERIOD

SEC. 609. The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than three years following the final date for the filing of claims as provided in section 602 of this title.

TRANSFER OF RECORDS

SEC. 610. The Secretary of State is authorized and directed to transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this title as may be required by the Commission in carrying out its functions under this title.

APPROPRIATIONS

SEC. 611. There are hereby authorized to be appropriated such sums as may be necessary to enable the Commission and the Treasury Department to pay their respective administrative expenses incurred in carrying out their functions under this title.

FEES FOR SERVICES

SEC. 612. No remuneration on account of services rendered on behalf of any claimant, in connection with any claim filed with the Commission under this title, shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this title on account of such claims. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned not more than twelve months, or both.

APPLICATION OF OTHER LAWS

SEC. 613. To the extent they are not inconsistent with the provisions of this title, the following provisions of title I of the Act shall be applicable to this title: subsections (b), (c), (d), (e), (h), and (j) of section 4; subsections (c), (d), (e), and (f) of section 7.

SEPARABILITY

SEC. 614. If any provisions of this Act or the application thereof to any person or circumstances shall be held invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected.

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

To amend the International Claims Settlement Act of 1949 to provide for the determination of the validity and amounts of claims of nationals of the United States against the German Democratic Republic.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the International Claims Settlement Act of 1949, as amended, is amended by adding at the end thereof the following new title:

"TITLE VI

"PURPOSE OF TITLE

"SEC. 600. It is the purpose of this title to provide for the determination of the validity and amounts of outstanding claims against the German Democratic Republic which arose out of the nationalization, expropriation, or other taking of (or special measures directed against) property interests of nationals of the United States. This title shall not be construed as authorizing or as any intention to authorize an appropriation by the United States for the purpose of paying such claims.

"DEFINITIONS

"SEC. 601. As used in this title—

"(1) The term 'national of the United States' means—

"(a) a natural person who is a citizen of the United States;

"(b) a corporation or other legal entity which is organized under the laws of the United States or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity. The term does not include aliens.

"(2) The term 'Commission' means the Foreign Claims Settlement Commission of the United States.

"(3) The term 'property' means any property, right, or interest, including any leasehold interest, and debts owed by enterprises which have been nationalized, expropriated, or taken by the German Democratic Republic for which no restoration or no adequate compensation has been made to the former owners of such property.

"(4) The term 'German Democratic Republic' includes the government of any political subdivision, agency, or instrumentality thereof or under its control.

"(5) The term 'Claims Fund' is the special fund established in the Treasury of the United States composed of such sums as may be paid to the United States by the German Democratic Republic pursuant to the terms of any agreement settling such claims that may be entered into by the Governments of the United States and the German Democratic Republic.

"RECEIPT AND DETERMINATION OF CLAIMS

"SEC. 602. The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against the German Democratic Republic for losses arising as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property, including any rights or interests therein, owned wholly or partially, directly or indirectly, at the time by nationals of the United States whether such losses occurred in the German Democratic Republic or in East Berlin. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than twelve months after such publication) within sixty days after the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later.

"OWNERSHIP OF CLAIMS

"SEC. 603. A claim shall not be favorably considered under section 602 of this title unless the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss and if favorably considered, the claim shall be considered only if it has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission.

"CORPORATE CLAIMS

"SEC. 604. (a) A claim under section 602 of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States, shall not be considered. A claim under section 602 of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico shall be considered only when such debt or other obligation is a charge on property which has been nationalized, expropriated, or taken by the German Democratic Republic.

"(b) A claim under section 602 of this title based upon a direct ownership interest in a corporation, association, or other entity for loss, shall be considered subject to the provisions of this title, if such corporation, association or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant.

"(c) A claim under section 602 of this title for losses based upon an indirect ownership interest in a corporation, association, or other entity, shall be considered, subject to the other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof, at the time of such loss, was vested in nationals of the United States.

"(d) The amount of any claim covered by subsections (b) or (c) of this section shall be calculated on the basis of the total loss suffered by such corporation, association, or other entity, and shall bear the same proportion to such loss as the ownership interest of the claimant at the time of loss bears to the entire ownership interest thereof.

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"OFFSETS

"SEC. 605. In determining the amount of any claim, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses, including any amount claimant received under section 202(a) of the War Claims Act of 1948, as amended, for losses which occurred as a direct consequence of special measures directed against such property in any area covered under this title.

"CONSOLIDATED AWARDS

"SEC. 606. With respect to any claim under section 602 of this title which, at the time of the award, is vested in persons other than the person by whom the original loss was sustained, the Commission shall issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interests of such claimants therein, and all such claimants shall participate, in proportion to their indicated interests, in any payments that may be made under this title in all respects as if the award had been in favor of a single person.

"CLAIMS FUND

"SEC. 607. (a) The Secretary of the Treasury is hereby authorized to establish in the Treasury of the United States a fund to be designated the Claims Fund as defined under section 601(5) for the payment of unsatisfied claims of nationals of the United States against the German Democratic Republic as authorized in this title.

"(b) The Secretary of the Treasury shall deduct from any amounts covered into the Claims Fund, an amount equal to 5 per centum thereof as reimbursement to the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this title. The amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

"AWARD PAYMENT PROCEDURES

"SEC. 608. (a) The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to section 602 of this title.

"(b) Upon certification of such award, the Secretary of the Treasury is authorized and directed, out of the sums covered into the Claims Fund, to make payments on account of such awards as follows, and in the following order of priority:

"(1) payment in full of the principal amount of each award of \$1,000 or less;

"(2) payment in the amount of \$1,000 on account of the principal amount of each award of more than \$1,000 in principal amount;

"(3) thereafter, payments from time to time, in ratable proportions, on account of the unpaid balance of the principal amounts of all awards according to the proportions which the unpaid balance of such awards bear to the total amount in the fund available for distribution at the time such payments are made;

"(4) after payment has been made in full of the principal amounts of all awards, pro rata payments may be made on account of any interest that may be allowed on such awards;

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“(5) payments or applications for payments shall be made in accordance with such regulations as the Secretary of the Treasury may prescribe.

“SETTLEMENT PERIOD

“Sec. 609. The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than three years following the final date for the filing of claims as provided in section 602 of this title.

“TRANSFER OF RECORDS

“Sec. 610. The Secretary of State is authorized and directed to transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this title as may be required by the Commission in carrying out its functions under this title.

“APPROPRIATIONS

“Sec. 611. There are hereby authorized to be appropriated such sums as may be necessary to enable the Commission and the Treasury Department of pay their respective administrative expenses incurred in carrying out their functions under this title.

“FEES FOR SERVICES

“Sec. 612. No remuneration on account of services rendered on behalf of any claimant, in connection with any claim filed with the Commission under this title, shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this title on account of such claims. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned not more than twelve months, or both.

“APPLICATION OF OTHER LAWS

“Sec. 613. To the extent they are not inconsistent with the provisions of this title, the following provisions of title I of the Act shall be applicable to this title: subsections (b), (c), (d), (e), (h), and (j) of section 4; subsections (c), (d), (e), and (f) of section 7.

“SEPARABILITY

“Sec. 614. If any provisions of this Act or the application thereof to any person or circumstances shall be held invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected.

“PROTESTS

“Sec. 615. Notwithstanding the provision of sections 210 and 211 of the War Claims Act of 1948 (Act of July 3, 1948), as amended by Public Law 87-846, the Foreign Claims Settlement Commission established by Reorganization Plan No. 1 of 1954 (68 Stat. 1279) is authorized and directed to receive and consider protests relating to awards made by the Commission during the ten calendar days immediately

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preceding the expiration of the Commission's mandate to make such awards on May 17, 1967. Any such protests must be filed within ninety days after notice of the enactment of this provision is filed with and published in the Federal Register, which shall take place within thirty days of enactment. Such protests may include the submission of new evidence not previously before the Commission, and shall be acted upon within thirty days after receipt by the Commission. The Commission may modify awards made during the subject period in accordance with the procedures established by the War Claims Act of 1948, and any increases in awards determined to be appropriated by the Commission shall be certified to and paid by the Secretary of the Treasury out of funds which are now or may hereafter become available in the War Claims Fund in accordance with section 213 of the Act."

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*