

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

SOCONY MOBIL OIL COMPANY
150 East 42nd Street
New York 17, New York

Against the Government of Bulgaria

Under the International Claims Settlement
Act of 1949, as amended

Claim No. BUL-1,051

Decision No. BUL-334

GPO 942329

Counsel for Claimant:

Philip Levy, Esquire
917 15th Street, N. W.
Washington, D. C.

FINAL DECISION

The Commission issued its Proposed Decision on this claim on May 22, 1959, a copy of which was duly served upon the claimant.

Full consideration having been given to the objections of the claimant, and to the evidence and oral arguments presented at the hearing on June 29, 1959, it is

ORDERED that the findings set forth in the Proposed Decision be restated as follows:

The record shows that claimant owned, directly or beneficially, 31% of the outstanding shares of capital stock of "Petrole Societe Anonymi Bulgare pour le Commerce et L'Industrie," hereinafter called "Petrole," a Bulgarian corporation, which in turn owned real and personal property in Bulgaria.

The Commission finds that certain structures and physical assets of "Petrole" were damaged and certain pieces of property of "Petrole" were totally destroyed as a result of World War II. The record shows that the claimant received certain sums from the Government of Bulgaria in partial settlement of its war damage

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claim. The Commission also finds that the loss or damage actually sustained by the claimant for which no compensation was received amounted to \$21,235.00. It is concluded that claimant is entitled to compensation under Section 303(1) of the Act in the amount of \$14,156.67 since under this Section, awards are limited to two-thirds of the loss or damage actually sustained.

The Commission further finds that the said Bulgarian corporation was subsequently nationalized without compensation by the Government of Bulgaria on March 12, 1948 pursuant to the Law of Nationalization of Industry of December 24, 1947. In determining the value of claimant's interest in the nationalized corporation, an appropriate amount was allowed for the "Borvag" truck and automobile which were claimed under the caption, "other takings." The Commission finds that the loss sustained by claimant as a result of said nationalization, and the taking of the vehicles was Six Hundred Fifty-one Thousand Dollars (\$651,000.00) and concludes that claimant is entitled to compensation under Section 303(2) of the Act.

A portion of this claim is based upon the loss of two tank cars in Yugoslavia during 1942.

When this portion of the claim is considered under Section 303(1) of the Act, it is found to be not compensable.

Section 303(1) of the Act authorizes the Commission to receive and determine claims against the Government of Bulgaria for failure to restore or pay compensation for property of nationals of the United States as required by Article 23 of the Treaty of Peace with Bulgaria. Article 23 of the Treaty provides that Bulgaria should restore all legal rights and interests in Bulgaria of the United Nations and their nationals as they existed on April 24, 1941 and that it shall return all property of the United Nations and their nationals in Bulgaria as it existed on September 15, 1947, and that Bulgaria should pay certain compensation to those United Nations nationals whose property

in Bulgaria suffered war damage or those whose properties in Bulgaria could not be returned.

Thus, under Section 303(1) of the Act, a United States national, otherwise qualified, may receive an award for certain property losses in Bulgaria but he may not obtain such relief where property on which his claim is based was not in Bulgaria at the time of the loss.

When considered under Section 303(2) of the Act, this portion of the claim is likewise found to be not compensable.

Section 303(2) of the Act authorizes the Commission to receive and determine the claims of nationals of the United States based upon the nationalization, compulsory liquidation, or other taking by the Government of Bulgaria prior to August 9, 1955 of property of nationals of the United States in Bulgaria. Here also the provisions of the Act clearly require that the taking of property have occurred within the borders of Bulgaria.

Accordingly, this portion of the claim based upon the loss of two tank cars in Yugoslavia is denied.

That portion of the claim based upon supplies and tank cars requisitioned by the Allied Powers is denied for the reason that such items do not fall within the purview of Article 23, the only Article of the Treaty of Peace with Bulgaria referenced in Section 303(1) of the Act. In this connection, it is noted that specific provisions are made for these items in Article 28, Paragraph 2 of the Treaty of Peace with Bulgaria, which is not referenced in Section 303(1) of the Act. Paragraph 2 of Article 28 reads as follows:

"The provisions of this Article shall bar, completely and finally, all claims of the nature referred to herein, which will be henceforward extinguished, whoever may be the parties in interest. The Bulgarian Government agrees to make equitable compensation *inleva* to persons who furnished supplies or services on requisition to the forces of Allied or Associated Powers in Bulgarian territory and in satisfaction of non combat damage claims against the forces of Allied or Associated Powers arising in Bulgarian territory."

It is concluded that the fact that Section 303(1) of the Act references only Article 23 of the Treaty of Peace with Bulgaria clearly indicates a Congressional intent to include under Section 303(1)

only those claims which fall within the purview of said referenced Article.

When this portion of the claim is considered under Section 303(2) of the Act, it is found to be not compensable for the reason that the circumstances herein cannot be construed as a taking of property by the Government of Bulgaria so as to give rise to a compensable claim thereunder.

That portion of the claim based upon certain Bulgarian taxes is denied for the reason that it does not involve a property loss as contemplated under Article 23, the only Article of the Treaty of Peace with Bulgaria referenced in 303(1) of the Act, nor does it constitute a nationalization or other taking of property within the meaning of Section 303(2) of the Act; and the circumstances herein do not give rise to a claim for the failure of the Government of Bulgaria to meet its contractual obligations expressed in currency of the United States, one of the prerequisites of Section 303(3) of the Act.

The Commission deems it unnecessary to make determinations with respect to other elements of the portions of claim denied herein.

A W A R D

Pursuant to the provisions of the International Claims Settlement Act of 1949, as amended, the claim is allowed in part, and an award is hereby made to SOCONY MOBIL OIL COMPANY in the amount of Six Hundred Sixty-five Thousand One Hundred Fifty-six Dollars and Sixty-seven Cents (\$665,156.67) plus interest upon that portion of the award granted pursuant to Section 303(2) at the rate of 6% per annum from March 12, 1948 to August 9, 1955, the effective date of the Act, in the amount of Two Hundred Ninety Thousand Seventy-eight Dollars (\$290,078.00).

Payment of any part of this award shall not be construed to have divested the claimant herein, or the Government of the United States, on its behalf, of any rights against the Government of Bulgaria for the unpaid balance of the claim, if any..

General notice of the Proposed Decision having been given by posting for thirty days, it is

ORDERED that the Proposed Decision, as amended herein, be and is hereby entered as the Final Decision on this claim; and it is further

ORDERED that the award granted herein be certified to the Secretary of the Treasury.

Dated at Washington, D. C.

JUL 13 1959

Whitney Hilliard

Paul Pace

Robert L. Kunzig

COMMISSIONERS

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FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

SOCONY MOBIL OIL COMPANY
26 Broadway
New York, New York

Claim No. BUL-1,051

Decision No. BUL- 334

Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72126-1

Counsel for Claimant:

Philip Levy, Esquire
917 15th Street, N. W.
Washington, D. C.

PROPOSED DECISION

This is a claim against the Government of Bulgaria under Section 303(1) and (2) of the International Claims Settlement Act of 1949, as amended, in the amount of \$844,533.00 by the SOCONY MOBIL OIL COMPANY, INC., a national of the United States within the meaning of Section 301(2)(B) of the Act, for war damages sustained to property in Bulgaria as a result of World War II, and for the nationalization and other taking of property.

The record shows that claimant owned, directly or beneficially, 31% of the outstanding shares of capital stock of "Petrole Societe Anonymi Bulgare pour le Commerce et L'Industrie," hereinafter called "Petrole," a Bulgarian corporation, which in turn owned real and personal property in Bulgaria.

The Commission finds that certain structures and physical assets of "Petrole" were damaged and certain pieces of property of "Petrole" were totally destroyed as a result of World War II.

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The record shows that the claimant received certain sums from the Government of Bulgaria in partial settlement of its war damage claim. The Commission also finds that the loss or damage actually sustained by the claimant for which no compensation was received amounted to \$21,235.00. It is concluded that claimant is entitled to compensation under Section 303(1) of the Act in the amount of \$14,156.67 since under this Section, awards are limited to two-thirds of the loss or damage actually sustained.

The Commission further finds that the said Bulgarian corporation was subsequently nationalized without compensation by the Government of Bulgaria on March 12, 1948 pursuant to the Law of Nationalization of Industry of December 24, 1947. In determining the value of claimant's interest in the nationalized corporation, an appropriate amount was allowed for the "Borvag" truck and automobile which were claimed under the caption, "other takings." The Commission finds that the loss sustained by claimant as a result of said nationalization, and the taking of the vehicles was Four Hundred Sixty Thousand Three Hundred Fifty Dollars (\$460,350.00) and concludes that claimant is entitled to compensation under Section 303(2) of the Act.

A portion of this claim is based upon the loss of two tank cars in Yugoslavia during 1942.

When this portion of the claim is considered under Section 303(1) of the Act, it is found to be not compensable.

Section 303(1) of the Act authorizes the Commission to receive and determine claims against the Government of Bulgaria for failure to restore or pay compensation for property of nationals of the United States as required by Article 23 of the Treaty of Peace with Bulgaria. Article 23 of the Treaty provides that Bulgaria should restore all legal rights and interests in Bulgaria of the United Nations and their nationals as they existed on April 24, 1941 and that it shall return all property of the United Nations and their nationals in Bulgaria as it existed on September 15, 1947, and that Bulgaria should pay certain compensation

to those United Nations nationals whose property in Bulgaria suffered war damage or those whose properties in Bulgaria could not be returned.

Thus, under Section 303(1) of the Act, a United States national, otherwise qualified, may receive an award for certain property losses in Bulgaria but he may not obtain such relief where property on which his claim is based was not in Bulgaria at the time of the loss.

When considered under Section 303(2) of the Act, this portion of the claim is likewise found to be not compensable.

Section 303(2) of the Act authorizes the Commission to receive and determine the claims of nationals of the United States based upon the nationalization, compulsory liquidation, or other taking by the Government of Bulgaria prior to August 9, 1955 of property of nationals of the United States in Bulgaria. Here also the provisions of the Act clearly require that the taking of property have occurred within the borders of Bulgaria.

Accordingly, this portion of the claim based upon the loss of two tank cars in Yugoslavia is denied.

That portion of the claim based upon supplies and tank cars requisitioned by the Allied Powers is denied for the reason that such items do not fall within the purview of Article 23, the only Article of the Treaty of Peace with Bulgaria referenced in Section 303(1) of the Act. In this connection, it is noted that specific provisions are made for these items in Article 28, Paragraph 2 of the Treaty of Peace with Bulgaria, which is not referenced in Section 303(1) of the Act. Paragraph 2 of Article 28 reads as follows:

"The provisions of this Article shall bar, completely and finally, all claims of the nature referred to herein, which will be henceforward extinguished, whoever may be the parties in interest. The Bulgarian Government agrees to make equitable compensation in lei to persons who furnished supplies or services on requisition to the forces of Allied or Associated Powers in Bulgarian territory and in satisfaction of non combat damage claims against the forces of Allied or Associated Powers arising in Bulgarian territory."

It is concluded that the fact that Section 303(1) of the Act references only Article 23 of the Treaty of Peace with Bulgaria clearly indicates a Congressional intent to include under Section 303(1) only those claims which fall within the purview of said referenced Article.

When this portion of the claim is considered under Section 303(2) of the Act, it is found to be not compensable for the reason that the circumstances herein cannot be construed as a taking of property by the Government of Bulgaria so as to give rise to a compensable claim thereunder.

That portion of the claim based upon certain Bulgarian taxes is denied for the reason that it does not involve a property loss as contemplated under Article 23, the only Article of the Treaty of Peace with Bulgaria referenced in 303(1) of the Act, nor does it constitute a nationalization or other taking of property within the meaning of Section 303(2) of the Act; and the circumstances herein do not give rise to a claim for the failure of the Government of Bulgaria to meet its contractual obligations expressed in currency of the United States, one of the prerequisites of Section 303(3) of the Act.

The Commission deems it unnecessary to make determinations with respect to other elements of the portions of claim denied herein.

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Pursuant to the provisions of the International Claims Settlement Act of 1949, as amended, the claim is allowed in part, and an award is hereby made to SOCONY MOBIL OIL COMPANY in the amount of Four Hundred Seventy-Four Thousand, Five Hundred Six Dollars and Sixty-Seven Cents (\$474,506.67) plus interest upon that portion of the award granted pursuant to Section 303(2) at the rate of 6% per annum from March 12, 1948 to August 9, 1955, the effective date of the Act, in the amount of Two Hundred Four

Thousand Seven Hundred Two Dollars and Sixteen Cents (\$204,702.16).

Payment of any part of this award shall not be construed to have divested the claimant herein, or the Government of the United States, on its behalf, of any rights against the Government of Bulgaria for the unpaid balance of the claim, if any.

Dated at Washington, D. C.

May 22, 1959
USA.

FOR THE COMMISSION:

William Barrett
William Barrett

USA.

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