

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

In the Matter of the Claim of

THE UNITED STATES OF AMERICA

Under the Yugoslav Claims Agreement  
of 1948 and the International Claims  
Settlement Act of 1949

Docket No. Y-1057

Decision No. 1214

Counsel for Claimant:

WARREN E. BURGER, Esquire  
Assistant Attorney General  
Department of Justice  
Washington, D. C.

etc.  
8/21/54

OTC  
9/20/54  
Aug 27, 1954

PROPOSED DECISION OF THE COMMISSION

This is a claim of the United States of America for the  
confiscation of a jeep by the Government of Yugoslavia on  
July 11, 1946, and for the loss of two transport planes which  
were shot down by Yugoslav forces on August 9, 1946, and  
August 19, 1946, respectively. Compensation is asked as follows:  
Jeep -- \$2,000; transport plane, C-47-A, serial No. 42-2374  
[42-24374] -- \$105,867; transport plane, C-47-A, serial No. 43-15376 --  
\$95,458; cost of improvements -- \$33,675, or an overall total of  
\$237,000.

The right of the United States Government to file a claim for  
losses of this sort and to receive compensation out of the lump  
sum of \$17,000,000 paid by the Government of Yugoslavia is expressly  
recognized in section (a) of Article 1 of the Agreement of July 19,  
1948 between the Governments of the United States and Yugoslavia.

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The Government of Yugoslavia has acknowledged by an Aide Memoire, dated August 13, 1954, that it was contemplated by both governments that compensation should be paid for the aircraft and jeep. The Government of Yugoslavia objects, however, to the amount of the claim on the ground that depreciation of the jeep and aircraft is not taken into account.

The Commission finds it established by evidence of record that the United States owned the property claimed and that such property was lost to it under the circumstances alleged.

The evidence with respect to the value of the aircraft is in the form of affidavits executed by Louis Bierlein, Assistant Chief, Accounting Division, Comptroller, Hq AMC, and a statement with respect to his qualifications. Mr. Bierlein states that for twenty-seven years aircraft fiscal records have been under his supervision. He swears that according to account records the transport plane, serial No. 42-24374, was delivered to the United States Government on September 11, 1943, and that the average cost of such aircraft at that time was \$105,867 and that the transport plane, serial No. 43-15376, was delivered on March 16, 1944, and that the average cost of such aircraft was \$95,458. Mr. Bierlein states that the first-line life of these types of aircraft is six years and that their over-all life is ten years. On the basis of this formula he swears that transport plane, serial No. 42-24374, was worth \$74,847.97 on August 19, 1946, and that transport plane, serial No. 43-15376, was worth \$72,548.08 on August 9, 1946. We are satisfied from this official data and opinion that the aircraft were reasonably worth the amounts alleged on the dates they were lost.



Claimant has also filed an official estimate of the cost of delivering the aircraft from Long Beach, California, to Prestwick, Scotland. Claimant has not, however, indicated when they were flown or suggested what percentage of such costs were or, should have been, amortized before the aircraft were lost. Also, claimant has not indicated why the places selected for computation are applicable to the planes involved. The burden of establishing a claim rests upon the claimant. It is our view that this burden has not been met with respect to this item of the claim and it must therefore be denied.

No corroborating evidence with respect to the "cost of improvements" has been filed. It is, therefore, assumed that this item has been abandoned.

The evidence with respect to the value of the jeep is in the form of an affidavit of Gustav Charles Mohr, dated November 23, 1953, who swears that he has been employed as Chief of the Technical Branch of the Non-Combat Motor Vehicle Division at Rossford Ordnance Depot, Toledo, Ohio, for a period of three and one-half years; that prior thereto he was employed as an equipment specialist, and in the course of his duties had access to records pertaining to motor vehicles, including the jeep for which compensation is sought in this claim; that the jeep was purchased for \$871.74 and delivered to the Government on June 23, 1944, and that on July 11, 1946 (the date of its confiscation by the Yugoslav Government), it had a depreciated value of \$700.39, if it had not been overhauled, and a depreciated value of \$787.57, if it had been overhauled. We are satisfied from this official data and opinion that the jeep was worth either \$700.39 or \$787.57 at the time it was confiscated. However, no evidence has been filed as to whether the jeep had been overhauled. We, therefore, hold that the jeep was worth at least \$700.39 on the date of confiscation.



AWARD

On the above evidence and grounds this claim is allowed to the extent indicated and an award is hereby made to the United States of America, claimant, in the amount of \$148,096.44, with interest at 6% per annum on the sum of \$72,548.08 from August 9, 1946 to August 21, 1948\*, with interest at 6% per annum on the sum of \$74,847.97 from August 19, 1946 to August 21, 1948, and with interest at 6% per annum on the sum of \$700.39 from July 11, 1946 to August 21, 1948, in the total amount of \$18,108.98.

Dated at Washington, D. C.

SEP 2 1954

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\* The date of payment by the Government of Yugoslavia.



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Washington 25, D.C. :

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Settlement Act of 1949 :

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Counsel for Claimant:

*W E B*  
*11-24-54*  
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Washington 25, D.C.

FINAL DECISION

Thirty days, or such extended time as may have been granted by the Commission, having elapsed since the Claimant(s) herein and the Government of Yugoslavia were notified of the Proposed Decision of the Commission on the above Claim, and no objections thereto or notice of intention to file brief or request for hearing having been filed, or, if filed, no further evidence or other representations having been offered pursuant to the opportunity duly afforded therefor, such Proposed Decision is hereby adopted as the Commission's final decision on this Claim.

Done at Washington, D. C. DEC 6 1954

*J. Q. Kinistick*