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**1. JURISDICTION AND PROCEDURE**

- 1A - Filing Period, Late Filed Claims
  - The Equalization of Burdens program in the Federal Republic of Germany is a totally distinct and separate claims program. Fact that a claim was valid under the German program did not bear on the question of whether a claim was timely filed with the Commission under the GDR claims statute.
    - Claim No. [G-3851](#)
  - GDR claims statute included provision for filing of "protests" for reconsideration of claims under the General War Claims Act in which decisions were issued in the 10 days preceding the War Claims program termination date of May 17, 1967, and claimant's claim fit that category; however, claimant failed to file protest within the time period specified in the GDR claims statute, hence later-filed protest had to be denied.
    - Claim No. [G-3589](#)
  - Claim for improved real property and household furnishings was originally denied because it was not filed during one-year filing period stipulated under the GDR claims statute. On objection, however, the Commission determined that claimant was a member of U.S. armed forces at all times from the commencement of the filing period to the date when he subsequently filed his claim, which brought him under the purview of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended. As this law had the effect of tolling during military service any filing period for the bringing of an action in or against a government office or employee, Commission held that claimant's claim was timely filed.
    - Claim No. [G-3881](#)
  - Claim denied for failure to meet the filing deadline under GDR claims statute. Claimant objected on the ground that he had completed forms for several other U.S. government agencies, which should have put the Commission on notice to notify him of the commencement of the filing period. Commission noted that many years before it had unsuccessfully attempted to contact the claimant, who had moved and left no forwarding address; that it had widely publicized the GDR claims program before and during the filing period, and that this publicity included personal notice to all individuals who had previously contacted the FCSC or State Department about claims against the GDR, as prescribed by law.
    - Claim No. [G-3878](#)
  - Claim denied for failure to meet the filing deadline. As required by statute, Commission sent personal notice of commencement of Czechoslovakian claims program to claimant's last known address appearing in State Department records, but claimant had moved and did not receive the notice. As Commission had complied with statute, there was no ground to consider claim on the merits.
    - Claim No. [CZ2-1615](#)
  - Claim for improved real property and personalty was originally denied because it was not filed during two-year filing period stipulated under the Vietnam claims statute. On objection, however, Commission determined that, despite claimant's previous communications to the Commission and the State Department regarding property losses in Vietnam, no personal notice was sent to him of the commencement of the Vietnam

claims program, as required by statute. Commission held that claim should be reconsidered on the merits, and granted claimant award for the loss of personality.

- Claim No. [V-0534](#)

- 1B - Geographical Limitation

- Claim for property located in region that was part of Germany until 1945, but became part of Poland at end of World War II. Claim denied, since the property could not have been taken by GDR.
  - Claim No. [G-0004](#)
- Claim for property located in the Carpatho-Ukraine, easternmost region of Czechoslovakia before World War II which was included in the Ukrainian SSR by agreement in 1945. Because such property could not have been taken by Czechoslovakia after August 8, 1958, the beginning of the period covered by the second Czechoslovakian claims statute, claim denied.
  - Claim No. [CZ2-0581](#)
- Loss of personal property and accounts receivable in Cambodia not compensable, since they were not subject of a taking by Vietnam.
  - Claim No. [V-0201](#)

- 1C - Temporal Limitations

- Claim for taking of property by GDR after date of enactment of statute authorizing determination of claims was not compensable; in accord with longstanding interpretation, only claims for losses sustained before date of enactment of pertinent claims legislation could be favorably considered.
  - Claim No. [G-2298](#)
- Voluntary sale of property consummated after October 18, 1976, the date the GDR claims program was authorized by Congress, did not constitute a taking for which compensation could be granted, even where claimant was assertedly pressured into the sale by local authorities and the purchase price represented less than fair value.
  - Claim No. [G-3069](#)
- Claim for property said to have been taken by Vietnam in 1981. Commission held it had no authority to grant awards for losses occurring after December 28, 1980, date of enactment of the Vietnam claims statute, and therefore denied the claim. However, Commission noted that the property loss might be compensable in future program for adjudication of claims against Vietnam arising after December 28, 1980.
  - Claim No. [V-0150](#)
- Claimant, who became U.S. national in 1962, asserted his property in Shanghai was confiscated by Communists in 1949. Claim was denied on grounds that (1) the subject property was not owned on date of loss by a U.S. national, and (2) the Commission concluded, based on legislative precedent, that it had no jurisdiction to grant awards for losses which occurred prior to November 6, 1966, the date of the statute authorizing the first China claims program, and that favorable action could be taken in the second China program only on claims arising between November 6, 1966 and May 11, 1979, the date of the claims settlement agreement between China and the United States.
  - Claim No. [CN2-01](#)
- Claim based on Imperial Chinese Government Hukuanq Railways bonds, issued in 1911, defaulted in 1939. Commission held that bondholder's right was taken when Chinese government initially failed to make payment due, in 1939. Because there was no evidence of any action by the People's Republic of China with respect to the bonds between 1966 and 1979, and the bonds were not secured by property or revenue taken during that time period, Commission concluded that claim was not compensable.

- Claim No. [CN2-001](#)
  - Claim for real property denied for failure to establish a taking between November 6, 1966 and May 11, 1979, the applicable dates in the second China claims program. Claimant objected on ground that Commission failed to give adequate notice of first China claims program. In affirming denial, however, Commission noted that it had fulfilled statutory mandates of general and personal notice, and had also independently disseminated information about the program to additional individuals and entities, both public and private, regarded as potential claimants or connected with Chinese-American affairs generally.
    - Claim No. [CN2-009](#)
  - Fact that claimant did not receive full payment on award granted in the first Czechoslovakian claims program was irrelevant; only property losses sustained during the period covered by the second claims statute -- August 8, 1958 to February 2, 1982 -- could be favorably considered, and claimant's loss had occurred prior thereto.
    - Claim No. [CZ2-0065](#)
  - Where property had been subject of a claim in the first Czechoslovakian claims program, which was denied for lack of ownership by a U.S. national at time of taking, but claim was eligible for redetermination under section 6 of the second claims program statute as a "Benes" claim, no further action was required of claimant to secure such redetermination; however, claim was not compensable under section 5 of the statute, which applied only to losses occurring on or after August 8, 1958.
    - Claim No. [CZ2-0131](#)
  - Claimants' contention that the taking of their property by the Czechoslovak Government was a "continuing act" and thus occurred during the period covered by the claims statute was without merit; taking was a definite, specific action, and had to be seen as such in order to keep within the terms of the statute, which referred throughout to "time" of nationalization, "date of nationalization or other taking thereof," and so forth.
    - Claim No. [CZ2-0576](#)
- 1D - U.S. Government Claims
  - Claim based on unpaid balance of certain awards issued by the Mixed Claims Commission, established in 1922 to adjudicate claims of the United States and its citizens against Germany arising out of World War I. To pay the awards, the German Government issued bonds to the United States Government in 1930 which were to mature serially and biannually until 1981, but which were defaulted in 1931. A new agreement was negotiated in 1953 between the United States and the Federal Republic of Germany (West Germany) which issued new bonds to the United States to cover a portion of the awards granted by the Mixed Claims Commission, full payment of which in 1970's discharged the Federal Republic of all further obligations to the United States with respect to the 1930 bonds and awards of the Mixed Claims Commission.

Claimant asserted that the difference between the lesser amount received pursuant to the 1953 bonds and the larger amount due on the 1930 bonds was owed by the GDR. However, Commission rejected this theory, holding that any still outstanding bonds issued pursuant to the original 1930 agreement would represent a claim of the United States against the GDR, and that it was entirely within the discretion of the United States to determine whether the 1953 agreement with West Germany would also constitute a release of the GDR.

  - Claim Nos. [G-3247](#), [G-2855](#), [G-1006](#)
  - Claimant was indemnified by overseas Private Investment Corporation, which is wholly owned by the United States, for losses resulting from expropriation of its branch office in

Saigon; therefore, Commission held that the United States had become subrogated to claimant's claim, and claim could not be favorably considered, since the intent of Congress as expressed in the legislative history of the Vietnam claims statute was that claims of the United States are to be brought separately and directly against the Vietnamese Communist regime at such time as a settlement is eventually negotiated, rather than being adjudicated by the Commission and included with the other claims filed under the statute.

- Claim No. [V-0208](#)
- Claimant's argument that the United States should be held liable for the loss of value of Vietnamese currency, because he had been required to obtain the currency from its officials in Vietnam in exchange for dollars, was without merit; under the claims statute the Commission had no authority to adjudicate claims against the United States.
  - Claim No. [V-0034](#)
- 1E - Adjudicative Process
  - Commission held it would reopen a claim on its own motion and reduce (or increase) award where new evidence was received after the Proposed or Final Decision had been issued but where deadline for program completion had not expired.
    - Claim No. [G-2201](#)
  - The Commission held it would reopen a claim on its own motion where findings made in a related matter indicated that a change in the Commission's prior determination was warranted.
    - Claim No. [G-3748](#)
  - Where Commission had requested information from the Czechoslovak Government about the property which was subject of claimant's claim, but because of time constraints moved to issue a Proposed Decision denying the claim for lack of evidence of compensability before receiving a response to the request, claimant asserted that Commission's action was unconstitutional because the claims agreement with Czechoslovakia, containing a provision for information to be given by the latter in response to requests from the Commission, was a "treaty" and therefore "supreme law of the land [i.e., of the United States] ." Commission held, however, that claimant's argument was without merit, as its obligation was to adjudicate the claims before it as directed by Congress in the claims statute, which included an express deadline for completion of adjudications without regard to whether responses to information requests were received from the Czechoslovak Government.
    - Claim No. [CZ2-0938](#)
  - Claims filed in names of claimant company's employees in South Vietnam, based on personal property losses for which employees had been reimbursed by claimant. Commission found that compensation paid to employees represented reasonable estimate of the property's value at time of loss, and held that claimant, as subrogee of employees' claims against Vietnam, was entitled to award equal to compensation paid.
    - Claim No. [V-0147](#)

## **2. NATIONALITY**

- 2A - Requirement of
  - In international law, claim for loss of property due to an action by a foreign government arises from the injury to the State, not the owner of the property. The requirement that the owner must have been a national of the United States at the time property was taken is necessary in order for the United States to espouse a claim, and the GDR claims statute

was clear on its face as to the necessity of this requirement in order for a claim to be found compensable by the Commission.

- Claim No. [G-2853](#)
- Commission had no authority to rule on constitutionality of provision in the claims statute requiring that property must have been owned by a U.S. national at the time of taking by GDR in order for claim for the resulting loss to be compensable; issue was beyond Commission's competence as an administrative agency created by Congress.
  - Claim No. [G-1332](#)
- Requirement in the claims statute that property interest had to be shown to have been owned by a U.S. national at time of taking was not an unconstitutional impairment of right of contract; the requirement was merely a restatement of a well-settled principle of international law, and in any event, claimant had no "right of contract" whereby GDR would be obligated to pay compensation on account of nationalization of property in which claimant asserted an interest, since only the U.S. has standing to assert such rights and espousal of claims for such compensation is done strictly as a matter of "grace of the sovereign."
  - Claim No. [G-3257](#)
- Claims statutes stipulated that claimant be U.S. national at time of filing in order to qualify for award, thereby conforming to requirement under international law that a state may only espouse claims of its own nationals against another state.
  - Claim No. [G-0204](#)
  - Claim No. [CZ2-0082](#)
  - Claim No. [V-0014](#)
- Claimants, naturalized U.S. citizens, inherited from their father, who also held U.S. citizenship, a claim for taking by GDR of a property interest he had owned. However, second claimant subsequently lost U.S. citizenship through naturalization in Canada. Commission held that only the portion of the claim owned by the first claimant, who remained a U.S. citizen up to the date of filing, was compensable. Although the other portion, held by his sister, was owned by a U.S. citizen at the time it arose, it was not continuously held thereafter by a U.S. citizen up to the date of filing with the Commission, as required by the claims statute.
  - Claim No. [G-2154](#)
- 2B - Elements of Proof
  - Where claimant is a trust, national character of claim is determined by nationality of the holder of the beneficial interest in the trust corpus, rather than the nationality of the nominal or record holder of title, the trust entity or trustee. In absence of evidence submitted by trustee of the U.S. nationality of the trust beneficiaries, claim was denied.
    - Claim No. [G-2232](#)
  - In claim filed by law firm organized as a partnership, U.S. nationality was established in company records showing that majority interest was held by U.S. nationals continuously from date of loss till date of filing.
    - Claim No. [V-0310](#)
  - In claim for petroleum concession, Commission concluded in Proposed Decision that the claimant, a joint venture, was an "other legal entity" within the meaning of the Vietnam claims statute and thus was a proper claimant. However, Commission further held that the joint venture failed to establish it was at least 50% owned, directly or indirectly, by natural persons who were U.S. citizens. Although approximately 30% of the stock of one co-venturer and 98% of the stock of the other was said to be held by persons with registered U.S. addresses, so that 64% of the joint venture was assertedly owned

indirectly by U.S. residents, Commission was not willing to presume on such basis that at least 50% of the joint venture was owned by U.S. citizens.

The second co-venturer's submissions, however, included geographic analyses of its shares and shareholders indicating wide distribution among all 50 states, from which U.S. citizenship of most stockholders could be inferred. Accordingly, Commission found that it qualified as an eligible claimant under the claims statute, and granted an individual award for its share of the joint venture's losses.

On objection, the co-venturers submitted extensive additional evidence pertaining to the residences and citizenship of their stockholders, including corporate proxy statements, annual reports, additional geographic analyses and affidavits from competent corporate officials, as well as citations of various U.S. Government studies. This documentation demonstrated that at all times pertinent to the claim the joint venture was indirectly owned to the extent of between 65% and 67% by persons with registered U.S. addresses, with wide distribution of such residents throughout the United States and no large holdings in the names of any individual residents. Therefore, in the Final Decision the Commission found it reasonable to presume that the joint venture was at least 50% indirectly owned by natural persons who were citizens of the United States, as required for compensation as an "other legal entity" under the claims statute, and granted a revised award to the joint venture for both co-venturers' losses.

- Claim No. [V-0522](#)
- Claim for ownership interest in business enterprise taken by GDR, in which claimant's, or predecessor's, ownership interests were in part directly held through shares of stock in the company and in part indirectly held through another company. Award granted for indirect as well as direct interests, as record showed more than 25% of the subject enterprise was owned by U.S. nationals, as required under the claims statute.
  - Claim No. [G-2290](#)

### **3. OWNERSHIP**

- 3A - Standards of Proof
  - In claim for loss of a house in South Vietnam, claimant submitted no primary evidence of ownership. However, Commission determined that secondary evidence he submitted--which included an affidavit by a disinterested third party having direct knowledge regarding the property, a residence registration document pertaining to claimant and his family, and claimant's own detailed statements--was sufficient to establish his ownership of the property for purposes of the claim, and granted an award.
    - Claim No. [V-0212](#),
    - See also Claim No. [V-0397](#)
  - In claim for personal property in which primary evidence of ownership was lacking, Commission considered secondary evidence such as contemporary correspondence, detailed itemizations, etc. and, in view of all the circumstances giving credence to claimant's assertion that primary evidence was unavailable, held that record was sufficient to establish claimant's ownership of the subject property.
    - Claim Nos. [V-0358](#), [V-0359](#), [V-0390](#), [V-0138](#), [V-0169](#)
  - Real property in Czechoslovakia was assertedly acquired by claimant by gift from his father, but transfer was never recorded in the land register. Notwithstanding the lack of recordation, Commission held it may consider such a transfer as valid if the following conditions are met: (1) the transfer is in writing; (2) the language of the transfer



document and all surrounding circumstances establish a clear intent in the transferor to make an inter vivos transfer and to relinquish all right, title and interest in the property; (3) there is a delivery of the document to the transferee; and (4) there is a reasonable explanation as to why the transfer was not recorded.

- Claim No. [CZ2-0285](#)
- Denial of claim for failure of evidence to establish that claimant, a U.S. national, rather than his parents, Czechoslovak nationals, was owner of subject property at time of loss. Alleged instrument of conveyance was an unrecorded document which Commission deemed insufficient to transfer any ownership interest because the language did not clearly evidence parents' intent to make inter vivos conveyance to claimant and subsequent documentation indicated parents still considered themselves owners of subject property.
  - Claim No. [CZ2-1535](#)
- Where claimant's father stated in 1982 that he had made a gift of his bank account in Czechoslovakia to claimant in 1956--assuming without deciding that his account had still existed at that time--claimant's claim nevertheless was held not to be compensable; in order to establish valid making of a gift, there had to be contemporaneous evidence showing intent and delivery of such gift, and none was submitted.
  - Claim No. [CZ2-0791](#)
- Claim for improved real property owned by claimant's grandmother until 1939, when it was transferred to claimant's brother, a Czechoslovak national, who held legal title until 1971, when property was confiscated by Czechoslovak government. Claimant and her brother asserted that their grandmother intended each of them to acquire 1/2 interest in the property, but that she conveyed legal title solely to her grandson in the belief that it would lessen likelihood of confiscation by German occupation authorities. However, there was evidently no effort by grandson after World War II to have claimant registered as co-owner, and no indication that grandson's title to the property was held subject to any rights of the claimant. Claim denied.
  - Claim No. [CZ2-0612](#)
- Claim for improved real property taken in 1961. Property ownership was recorded in names of claimant's parents who were not U.S. nationals at that time. Claimant, who had acquired U.S. nationality before taking date, asserted that his parents had transferred their ownership interests to him just before their emigration from Czechoslovakia in 1949, thus making the property U.S.-owned at the time of taking. In support thereof, claimant's mother submitted affidavit in 1982 stating that she and her husband executed deed of transfer before a government official, but that they were unable to take document with them or mail it to claimant when they left Czechoslovakia for fear of reprisals. Commission nevertheless held that evidence of record failed to establish transfer of ownership in 1949 because: (1) the transfer document was not in the record, so that there was no way of judging its legal import; (2) there was no evidence that the transfer was recorded in the land register, as required by Czechoslovak law, and the fact that claimant's parents were still the registered owners of the property at the time of taking strongly indicated that it had not been recorded; and (3) there was no delivery to the claimant, either actual or symbolic, of the transfer document, so that the attempted conveyance of the property remained incomplete. Claim denied.
  - Claim No. [CZ2-1268](#)
- Claim for interests in real property, business enterprises, and personalty, denied as evidence failed to establish that owners thereof, Vietnamese nationals related to claimants, transferred property interests to claimants, U.S. nationals, prior to taking by Vietnam.



As to real property, Commission held that four criteria must be met to establish an inter vivos transfer: (1) there must be a written instrument; (2) the intent to transfer must be clear and unequivocal; (3) the written instrument must be delivered to the transferee; and (4) there must have been recordation, or a reasonable attempt to record in the land register, or an explanation as to why not.

With regard to business interests, the same criteria would apply; with the exception that appropriate recordation would have been in the commercial register or other competent office in South Vietnam.

As for personal property (in a safe deposit box), claim was denied, as evidence failed to establish transfer from claimant's father, Vietnamese national, to claimant, U.S. national, prior to taking by Vietnam. There was (1) no written instrument, (2) no delivery of key or other means of access to the claimant, or (3) any other physical or symbolic transfer of ownership to claimant.

- Claim Nos. [V-0131](#), [V-0151](#)

- 3B - Wills and Inheritance

- Where claim was for loss of real property said to have been owned by claimant's father-in-law until his death, the Commission, in accord with settled principle of law, referred to law of the situs of the property--Czechoslovakia--in order to ascertain succession of ownership prior to date of taking, as no will was submitted, nor evidence showing an inter vivos gift to claimant. Under Czechoslovak inheritance law, Commission determined that the property would have passed to claimant's husband alone, and not partly to her, as she asserted; therefore, claim was denied, since husband was not a U.S. national when property was eventually taken.
  - Claim No. [CZ2-0983](#)
- Where real property ownership was asserted based on legal succession after deceased owner, claimant was required to substantiate the extent of such ownership interest by submission of evidence contemporaneous with the succession asserted; statements by persons who would have been co-beneficiaries or co-heirs, made after the filing of claim and reciting that the decedent had wished the claimant to succeed as sole owner, were insufficient. Therefore, in the absence of contemporaneous evidence which would produce a different result, Commission held that intestate succession law of the situs of the property (i.e., Vietnam) was dispositive.
  - Claim No. [V-0294](#)
- Claimant, who was not a United States national on the date of claimed property loss, asserted that he relinquished his intestate share in the property to a co-heir who was a United States national at that time, but produced no contemporaneous evidence of such transaction. Commission held claimant failed to establish that the estate of the deceased was divided in a manner other than that provided for by the local laws of intestate succession.
  - Claim Nos. [G-2449](#), [G-2450](#)
- Based on evidence of record, which included copy of an old letter from first of the claimants which constituted an admission, Commission concluded that it was not established that he had acquired sole ownership of the large farm property involved in the claim from his and second claimant's father, because the sale and transfer from father to him, though contemplated, was never consummated in accordance with applicable legal requirements; therefore, it was held instead that claim for loss of the property would have passed to both claimants equally upon father's death, in accordance with intestate succession law of father's domicile at time of death.

- Claim No. [G-0289](#)
  - Provision in will of claimant's predecessor, duly probated in U.S., leaving property in GDR to another, and not to claimant, was conclusive on the issue of ownership succession and Commission would not look behind it to consider whether an interest would have passed intestate to claimant; if for no other reason, claimant had full opportunity to contest the will provision at time probate was held.
    - Claim No. [G-0322](#)
  - Claim for real property owned by claimants' father, a German national, who died in 1950 leaving will designating wife as sole beneficiary of his estate and children as "Nacherben." Commission held that claimants' interests were akin to contingent remainders which would vest only upon remarriage or death of their mother. Claim denied since evidence indicated property was taken by GDR before claimants' mother, a German national, died in 1963.
    - Claim Nos. [G-1891, G-1892](#)
  - In testamentary instruments under German law, a "Nacherbe," or subsequent heir, does not have a vested interest in an estate bequeathed to a beneficiary identified as a "befreite Vorerbe," or "freed primary heir," until after the death of the latter; the latter's interest is not analogous to that of a life tenant under Anglo-American law.
    - Claim No. [G-2560](#)
- 3C - Ownership
  - Where claim of ownership was based upon community or marital property rights under German Civil Code, Commission held that such rights would not be recognized without evidence that marriage contract specifically provided for such rights.
    - Claim No. [G-2411](#)
  - Where bank deposit in South Vietnam had been made by non-United States national before her marriage to United States national, Commission held that the deposit principal plus interest accrued thereon up to the date of marriage was separate property of the non-national and thus not basis of a compensable claim under the claims statute. However, based on the law of the place of marriage (Texas), Commission further held that interest accrued from the marriage date up to the date of taking by the Communist regime was community property and thus owned to the extent of one-half by the spouse who was a U.S. national, and an award was accordingly granted for the loss of that share.
    - Claim No. [V-0051](#)
  - Claim for real property owned by claimant, subject to life interests held by her parents. Award granted to claimant for her remainder interest, that is, the value of the property less the value of her parents' life interests therein at the time of taking, as calculated from the "Makehamized Mortality Table," used by U.S. Treasury Department.
    - Claim No. G-0094,
    - See also Claim No. [CZ2-1060](#)
  - Claim for real property originally owned by claimants' father, whose will conveyed title to them but reserved a life estate in favor of their mother. When the property was taken in 1951, all were U.S. nationals. Based on the "Makehamized Mortality Table," Commission calculated the respective shares in the property represented by the life estate and remainder interests, and granted claimants individual awards for the value of their remainder interests at the time of loss, as well as a consolidated award for the value of their mother's (who died in 1971) life estate as of the time of loss.
    - Claim No. [G-1917](#)

- 3D - Other Types of Interests (See Also: Persecutory Losses)
  - Award granted for taking of real property by GDR, even though claimant was not record owner at the time, as evidence indicated that the record purchaser, claimant's brother, had made attempts to transfer record title to claimant; Commission deemed claimant "equitable owner" at time of taking.
    - Claim No. [G-0137](#)
  - Claim for real property originally owned by claimant's father, a German Jew, conveyed during the Nazi era to a non-Jew to be held in trust for the claimant, and then returned to claimant in 1953, with ownership recorded in the land register in 1957. Commission held that claimant, whose father died in World War II, held beneficial interest in the property which was taken by GDR in June 1952, when non-Jewish titleholder at that time was advised that the property was under government administration.
    - Claim No. [G-0580](#)
  - Although under German law a "silent partner" in an enterprise was not an owner but rather only a creditor, Commission held that basis existed for a compensable claim for taking by GDR of real property the enterprise had owned.
    - Claim Nos. [G-2584](#), [G-2594](#), [G-2596](#)
  - Claim based on taking of improved real property purchased with claimant's funds, but recorded in name of Vietnamese wife because of South Vietnamese law severely restricting rights of foreigners to acquire legal title to real property. Commission held that U.S. claimant's interest in the property (represented by his share of the investment therein) formed proper basis for compensation under international law and the Vietnam claims statute, notwithstanding the fact that legal title at the time of taking was held by a non-U.S. national.
    - Claim No. [V-0167](#)
  - In claim based on a 50% interest in Saigon commercial enterprise, Commission held that evidence failed to establish claimant's ownership of the real property, but that claimant was entitled to award equal to his proven investment in the enterprise.
    - Claim No. [V-0133](#)

#### **4. TAKING**

- 4A - What Constitutes
  - The fact that the GDR was not officially established until October of 1949 did not preclude a finding that actions by prior governmental authorities before October of 1949 in the territory administered by the Soviet military authorities after World War II constituted a taking for which the Government of the GDR was responsible.
    - Claim No. [G-3677](#)
  - Real property taken over by Soviet Military Administration in 1945. Commission granted award for taking at that time, on ground that Soviet actions in East Germany were subsequently ratified by GDR after its establishment in 1949.
    - Claim No. [G-0433](#)
  - Order of Soviet Military Administration placing property under administration of East German government agency, which denied rightful owner all control thereover, constituted taking by GDR.
    - Claim Nos. [G-2956](#), [G-2957](#), [G-2958](#)
  - Where evidence established that a business was placed under temporary control by Soviet occupying forces in the present territory of the GDR shortly after World War II and a

short time later was converted into a “people's owned enterprise” by East German governmental authorities, a date of taking of January 1, 1946 was presumed.

- Claim No. [G-1462](#)
- Placement of claimant’s property under “public administration” pursuant to the “Decree on the Administration and Protection of Foreign-owned Property in the GDR” constituted a taking by the GDR, as it resulted in a loss by claimant of virtually all indicia of ownership of his property.
  - Claim No. [G-0030](#)
- Claim for bank account which was taken under government control pursuant to "Decree on the Administration and Protection of Foreign-Owned Property in the GDR." Since this law denied claimant all use of or information about the account, it was deemed taken by the GDR as of August 11, 1952, the date the “first regulations” enforcing the decree were issued.
  - Claim No. [G-0221](#)
- The placing under administration of an account for the receipt of payments on a mortgage on property in East Berlin, on behalf of an owner who was a resident of West Berlin, was held to constitute basis for a claim. Absent evidence of actual date the account was placed under administration, the taking was presumed to have occurred as of the date of the GDR decree affecting property owned by residents of West Germany and West Berlin.
  - Claim No. [G-0400](#)
- Where business, which had no real property, survived World War II and claimant's share of company profits were deposited into a bank account in the GDR from which claimant was denied withdrawal, after his interest in the business was placed under government administration, and which account was later cancelled, commission held that taking of bank account and business interest occurred at time government administration was imposed, entitling claimant to an award.
  - Claim No. [G-0644](#)
- Mortgage given to claimant in exchange for property interest in 1961 was found to have been taken after letter from bank in GDR in 1969 indicated that the mortgage was under administration as foreign property.
  - Claim No. [G-0039](#)
- Following destruction by fire of improvements to real property in which claimant had inherited an interest in 1945, a bank account in her name was established with fire insurance proceeds. Commission held, however, that the real property had come under government administration, and hence had been taken by GDR, as of 1952, which was before claimant's acquisition of U.S. nationality. Therefore, claim was not compensable, since creation of the bank account was merely a change in form of the property which previously had been taken.
  - Claim No. [G-1286](#)
- Evidence that record title to property remained in claimant after she became a U.S. national did not negate finding that property was, in fact, taken prior to her acquisition of U.S. nationality, as property had already been placed under public administration by the GDR.
  - Claim No. [G-3641](#)
- Award was granted in the first Czechoslovakian claims program to one of the two co-owners of real property, based on a presumption of taking by the Czechoslovak Government. However, based on newly submitted evidence showing a transfer of legal title to the property to the Czechoslovak State during the period covered by the second program, Commission held that claimant was entitled to award for loss of his one-half interest.
  - Claim No. [CZ2-1468](#)

- Claim for improved real property placed under national administration in 1956, with ownership subsequently transferred to the Czechoslovak State in 1959. Commission held that taking occurred in 1959, making claim compensable as a loss which occurred after August 8, 1956.
  - Claim No. [CZ2-0081](#)
- Although the new Czechoslovak Civil Code entered into force on April 1, 1964, and provided that private persons could not own land and could own only one small residence, such fact did not affect any taking of property, as evidence in other claims showed that takings continued to be effected thereafter; therefore, claimant's claim was denied, as record showed that her property had been placed under government administration before the beginning of the period covered by the claims statute and contained nothing showing that other governmental action was subsequently effected which could be viewed as a nationalization or other taking.
  - Claim No. [CZ2-0237](#)
- Where claimant's company was confiscated by the Czechoslovak Government before beginning of the period covered by the claims statute, the fact that the confiscation was effected without payment of compensation to claimant or affording of due process, thereby making the action "illegal," was irrelevant to validity of the claim. Nor would it avail claimant if, as he urged, the Commission disregarded the fact of the confiscation because of its illegality and considered him still to be the rightful owner of the company, since it was the illegality of the action that was in issue. Except for the fact that the action was effected outside the period covered by the statute, the claim would have been compensable. Because it did not, however, there was no basis for-favorable consideration, since there was no subsequent action by the Czechoslovak Government which the commission could look to as a "nationalization or other taking."
  - Claim No. [CZ2-1071](#)
- Fact that house which claimant's predecessor had owned was demolished subsequent to time of transfer of ownership to Czechoslovak State was irrelevant; evidence clearly showed that the transfer of ownership had been effected before beginning of the period covered by the claims statute, hence claim could not be favorably considered.
  - Claim No. [CZ2-0163](#)
- Notwithstanding fact that claimed property had been designated for condemnation and demolition before date of inheritance by claimant, property was deemed not to have been taken by GDR until after inheritance date; written evidence and oral testimony submitted by claimant indicated that taking was not actually effected until then, following her refusal to sell the property to the GDR government.
  - Claim No. [G-0659](#)
- Where property forming basis of claim consisted of a wholesale business and large tract of farmland, and claimant did not state when these were taken by the Czechoslovak Government, Commission concluded claim could not be favorably considered, as decrees promulgated by the Czechoslovak Government in 1948 ordering the nationalization of wholesale businesses and of tracts of farmland covering more than 50 hectares required presumption that claimant's property was taken at that time, before beginning of the period covered by the claims statute.
  - Claim No. [CZ2-1558](#)
- Award for parcel of farmland based on report from Czechoslovakia stating that property had been "used by a socialist organization" since 1962. Absent evidence that claimant or other family members exercised control over the property or enjoyed any other benefits of ownership after 1962, Commission held that land was taken as of that year.
  - Claim No. [CZ2-0098](#)

- Even though record title remained unchanged, rights of owners whose lands came under the purview of the agricultural collectivization measures of 1959-1960 were found to have been so restricted that a taking had been effected.
  - Claim No. [G-0821](#)
- Claim for farmland which claimant's administrator in GDR, without authorization, turned over via contract to state agricultural organization for its use without compensation or rental payments to claimant. Commission held that land was taken by GDR as of date of the contract.
  - Claim No. [G-0898](#)
- Real property owned by claimants' grandmother, who died in World War II, continued to be administered on behalf of her estate until 1970, when it was turned over to a government housing administration. Record indicated claimants attempt to establish their inheritance rights with East German authorities both before and after the transfer of administration to the government, but received no cooperation from the authorities, and that claimants had received no communication from the housing administration. Commission held, based on these circumstances, that the subject property was taken by GDR when control thereof was assumed by the housing administration.
  - Claim Nos. [G-0770](#), [G-1823](#)
- Claimant owned 85% interest in improved real property which, by order of District National Committee, was placed under the administration of a government housing authority in 1973. In following years claimant unsuccessfully tried to sell property to the government, which unilaterally undertook expensive repairs to the premises that could not be covered by rental income and billed claimant, who refused to pay. Housing authority then filed suit in a Prague court, and eventually petitioned the court to sell the property. Commission found that claimant had been denied control over his property and other benefits of ownership since administration was assumed by the government housing authority, and held that this constituted a taking as of the pertinent date in 1973.
  - Claim No. [CZ2-0056](#)
- Claimant inherited real property from parents, both GDR citizens, and in 1970 granted power of attorney to government agency to administer property. Claimant received no financial statements from the agency, however, and was subsequently advised by East Berlin officials to refrain from any further inquiries about the property. Commission held that property was taken by the GDR.
  - Claim No. [G-1952](#)
- Where decision was issued by government office in 1959 prohibiting claimant from selling land because of its prospective use as public park, and claimant received no further communications from government authorities thereafter, commission held subject property was taken by Czechoslovakia as of the date of that decision, and granted award.
  - Claim No. [CZ2-0013](#)
- Claim for residential property and bank account serving as receptacle for rental receipts, which were privately managed by claimant's relative. Revocation of management authority by GDR and transfer of account to the state constituted a taking of both property and rents.
  - Claim No. [G-0429](#)
- Although in many circumstances an order of forfeiture, or escheat, of an unclaimed financial deposit to the State would not constitute a wrongful taking of property, Commission held that such action did give rise to a compensable claim where the Czechoslovak Government impeded claimant in his efforts to establish his entitlement to a certain financial deposit in Czechoslovakia to such extent that it proved impossible for him to do so within the time limit prescribed by Czechoslovak law; furthermore, claimant was granted an award for a second deposit similarly forfeited, for in that case the



Czechoslovak Government ordered forfeiture without even affording him an opportunity to assert his rights before expiration of the prescribed time period.

- Claim No. [CZ2-0522](#)
- Claim for bank accounts owned by claimant and administered on his behalf by brother in Czechoslovakia until the latter's death, after which they were erroneously included in brother's estate by state notary and transferred to third party. Commission found that although the bank accounts had not been taken by the government, inheritance taxes paid out of them did go to the government and thus represented an "other taking," within the meaning of the claims statute. Award granted for dollar value of the inheritance taxes.
  - Claim No. [CZ2-1085](#)
- Taking of property of claimant's decedent as part of penalty for violations of Czechoslovak criminal law was not basis of a compensable claim; a State has sovereign authority in international law to enforce, and impose sanctions for, violations of its criminal laws, so long as minimum standards of due process are observed. However, taking of interest in the property owned by wife of the decedent, who was not charged with any violation, did give rise to a compensable claim.
  - Claim No. [CZ2-0294](#)
- Claim based on personal property in estate of claimants' grandmother, a Czechoslovak national who died in 1966. Property was liquidated by order of Czechoslovak authorities in 1968 to pay off outstanding taxes allegedly owed by the deceased. Commission found that claim for taxes was spurious and was merely pretext for confiscation of property, to preclude testamentary distribution to claimants. Commission held that the liquidation order constituted taking of the personal property and granted awards to claimants, as rightful beneficiaries of their grandmother's estate.
  - Claim Nos. [CZ2-0547](#), [CZ2-0548](#)
- Claim for summer cabin treated as abandoned property and transferred to the Czechoslovak State, by court order, in 1977. Because evidence indicated this action was taken to punish claimant for his departure from Czechoslovakia in 1967, Commission found it represented a violation of customary international law and therefore granted an award for the resulting loss.
  - Claim No. [CZ2-1275](#)
- Claim for improved real property sold, by court order, at "public auction" to a government agency to satisfy outstanding lien of a government bank. Commission determined that sale price was considerably less than property's value, so that inadequate compensation had been paid, and granted claimant an award for the difference.
  - Claim No. [CZ2-1296](#)
- Claim for improved real property transferred to the Czechoslovak State for failure of claimant to pay off outstanding mortgages. Commission determined that properties were worth more than the amount owing on the mortgages at the time of taking, and granted claimant an award for the difference.
  - Claim No. [CZ2-0866](#)
- Award for mortgage based on evidence that the real property securing it was taken by the State and the subject mortgage extinguished from the land register.
  - Claim No. [G-2196](#)
- Implementation on October 8, 1958 of "Decree on the Discharge of Share Rights of Citizens of the German Democratic Republic in Old Asset Liquidation Credits," which compensated GDR residents in ostmarks for their old reichsmark bank accounts, but did not provide compensation for non-GDR residents, constituted a taking of claimant's reichsmark account at the Deutsche Notenbank in East Berlin.
  - Claim No. [G-0876](#)



- Where claimant had owned accounts in Saigon branch of a U.S. bank, Commission held that notwithstanding absence of an actual cancellation, annulment, confiscation or other such action by the Vietnamese Communist regime directly affecting the accounts, the regimes nationalization of the banking system in South Vietnam and almost total denial of access to bank accounts by their owners amounted to a nationalization or other taking, within the meaning of the claims statute; therefore, award was granted to claimant for loss of its accounts, dating from May 1, 1975 and based on the official exchange ratio of 755 piasters to \$1.00 in effect at that time.
  - Claim No. [V-0261](#)
- Claim based on losses resulting from cashing of travelers' checks left behind by claimant's employees upon evacuation from South Vietnam at time of Communist takeover. After considering evidence indicating that the Communist regime took over banks, and opened and seized contents of vaults, Commission held that subsequent cashing of checks from claimant's vault in Saigon branch office at places around the world was wrongful action attributable to the Vietnamese government and therefore gave rise to a compensable claim. Commission noted that presentment and payment of the checks had occurred at various times which were not separately and specifically identified, and therefore fixed a uniform loss date of July 1, 1978, for purposes of calculating interest. However, losses incurred in the years after 1980 (i.e., subsequent to passage of the Vietnam claims statute) were held not compensable and would have to await adjudication in a subsequent Vietnam claims program. In addition, award was limited only to losses on checks on which claimant had been unable to recover against last endorser, since only those represented actual losses to claimant.
  - Claim No. [V-0444](#)
- Award for personal property which claimant was forced to abandon during Communist conquest of South Vietnam in spring of 1975. Commission found that policy of Communist authorities was to treat property of departed Americans as "property of the people" and take it under government control. Absent more specific evidence of the date of taking, Commission held that such property was taken on or about May 1, 1975, when Communists completed occupation of South Vietnam.
  - Claim No. [V-0358](#)
- 4B - Failure to Establish A Taking
  - Vesting of property located in the United States as "enemy property" did not constitute the basis of a claim for nationalization or other taking of such property by the GDR.
    - Claim No. [G-3526](#)
  - Property hidden prior to World War II would not be presumed to have survived until after May 9, 1945 and to have been taken by the GDR under general expropriatory decrees; specific evidence of such survival was required, before postwar taking could be considered.
    - Claim No. [G-3054](#)
  - Placing of real property under trusteeship for former Jewish-owned property by East Berlin authorities in 1949 was temporary and did not amount to a taking under the claims statute.
    - Claim No. [G-2243](#)
  - Where property was seized by Soviet military forces at the end of World War II and used by or shipped to the U.S.S.R., Commission held that the German Democratic Republic was not liable under international law, unless East German authorities had acted to take the property prior to use or removal by the Soviets.
    - Claim No. [G-2401](#)

- Claim for personal property which claimant was prevented under China's customs laws from shipping out of the country. Commission held that prohibition on removal of property from China was a valid exercise of sovereignty and thus was not a wrongful taking of property.
  - Claim No. [CN2-058](#)
- Refusal of Czechoslovak Government to issue to claimant a permit to modify residential property he partly owned did not amount to a taking of property; a State may validly limit eligibility for such permits to its own citizens.
  - Claim No. [CZ2-0166](#)
- Loss resulting from devaluation of pre-1924 Reich bank notes, and their replacement by new notes in 1925 currency reform, was not compensable, as the loss was due to post-World War I inflation in Germany and did not involve any taking by GDR.
  - Claim No. [G-0250](#)
- Claim for loss of value of currency issued by the Republic of (South) Vietnam, which was supplanted by the new Communist regime on April 30, 1975. Claimant submitted bills and coins to the Commission, establishing his ownership thereof but also the fact that the money itself was not taken by Vietnamese government. Commission noted that South Vietnamese currency had drastically diminished in value due to inflation prior to the fall of the previous government, and that the new Communist regime introduced a currency reform around September 1975 whereby up to 100,000 piasters were convertible into new dong at a 500: 1 ratio. Commission held that neither inflation nor the currency reform, both of which reduced value of claimant's cash, gave rise to a claim under international law. Nor was there any evidence that claimant was excluded, as a matter of Vietnamese law, from exchanging his old currency for new. Claimant's failure to do so rendered his cash worthless, but did not give rise to claim under international law or the Vietnam claims statute.
  - Claim No. [V-0340](#)
- Revaluation of bank account at a 10: 1 ratio pursuant to East German currency reform in 1948 did not give rise to compensable loss; currency reform was valid exercise of sovereignty to stabilize currency in East Germany.
  - Claim No. [G-0221](#)
- In claims based on loss of bonds, Commission held that claim would not be compensable unless it was established that the Czechoslovak Government: (1) nationalized the property by which the bonds were secured; (2) repudiated a duty to pay debt which it had assumed; or (3) redeemed bonds for its own benefit. Since none of the above was established by claimant herein, claim was denied.
  - Claim No. [CZ2-0453](#)
- Loss resulting from invalidation, in 1925, of pre-1924 German-mark bonds was not compensable, as it did not constitute a taking by the GDR,
  - Claim No. [G-0529](#)
- Claim for government bonds issued prior to World War II by State of Prussia. Denied since there was no evidence that GDR ever repudiated, cancelled or annulled the bonds; mere non-payment was not a taking, within the meaning of the claims statute.
  - Claim No. [G-0018](#)
- Even accepting, without proof, the assertion by claimant that the West German (previously Polish) corporation of which it was a bond creditor had owned assets in GDR territory which were expropriated, claim was not compensable; claimant did not own an interest in such property, nor were bonds a charge on that property or debt of an enterprise taken by GDR.
  - Claim No. [G-2333](#)

- Claimant argued that “weakening” of West German debtor corporation's financial condition resulted from expropriation of assets by GDR, eventually leading to corporation's going bankrupt and causing claimant to sustain a loss on its bonds. However, Commission held that such loss did not give rise to a compensable claim.
  - Claim No. [G-2333](#)
- Claim based on non-payment of social security benefits by GDR to claimant in the United States, based on prior private employment in Germany, denied since GDR has sovereign right to restrict such payments to GDR residents.
  - Claim No. [G-1180](#)
- Claim based on asserted failure of Czechoslovak Government to return pension fund contributions to claimant was not compensable; claimant submitted nothing to show that Czechoslovak Government had an obligation to make such refund and repudiated its obligation during the period covered by the claims statute. Indeed, Commission noted that there was no such obligation under Czechoslovak law, just as there is none under U.S. social security law.
  - Claim No. [CZ2-0244](#)
- Where claimant's mother had been owed certain widow's pension benefits by the Czechoslovak Government, promised to her in 1945 but never paid prior to her death in 1962, her written assignment to claimant of the right to receive the payments was ineffective to vest in him any property interest which could form the basis of a compensable claim; widow's benefits were not assignable, and in any event, nothing was submitted to show that the payment obligation had been repudiated or cancelled during the period covered by the claims statute.
  - Claim No. [CZ2-0097](#)
- Pending court action filed by claimant against City of Berlin in 1930's for damage to his real property caused by subway construction was not basis of a compensable claim; among other reasons, building was subsequently destroyed in World War II, which rendered question of previous damage moot.
  - Claim No. [G-0457](#)
- Claim based on preliminary judgment claimant received in South Vietnamese court in personal injury suit against Vietnamese national. Claim denied, since judgment was not final and, even if upheld on appeal, would not represent “debt owed by Vietnam or by an enterprise . . . taken by Vietnam,” as required under the Vietnam claims statute.
  - Claim No. [V-0493](#)
- Where claimant was properly notified, failure to pursue local remedy to collect on debt obligation, and hence failure to establish a denial of compensation, precluded a finding that the GDR nationalized or otherwise took such debt.
  - Claim No. [G-1736](#)
- Default on mortgage payments owed by a private mortgagor in GDR was not basis of a compensable claim; claimant's argument that it was, because GDR assertedly prevented him from suing the mortgagor for the default in GDR court, and would have prohibited transfer of payment funds to U.S., was without merit.
  - Claim No. [G-3160](#)
- Imposition of mortgage on real property by GDR in connection with state-financed repairs or improvements did not constitute taking of the property by GDR.
  - Claim No. [G-1582](#)
- Claim for mortgage against real property which was placed under government administration in 1963 pursuant to “Decree on the Safeguarding of Property Assets” of July 17, 1952. While this law effected a taking of the real property by the GDR, an implementing regulation specifically excluded third party interests of foreigners from its purview. Therefore, inasmuch as claimant was a U.S. national at all pertinent times, the

Commission concluded that her mortgage had not been nationalized or otherwise taken by the GDR, and denied the claim.

- Claim No. [G-0814](#)
- Where claimant was holder of mortgage cancelled by the Czechoslovak Government, award was granted for principal amount of the mortgage as of time of cancellation; however, Commission denied claim for interest payable thereon during period before the cancellation, as there was no evidence showing that such interest was collected and taken by the Czechoslovak Government. Nor was claimant entitled to award for additional payment provided for in the mortgage terms to cover attorney fees and other costs in the event of foreclosure, as there was nothing showing that foreclosure was ever initiated or that any such payment was made and then taken by the Czechoslovak Government.
  - Claim No. [CZ2-0723](#)
- Claim of former persecutee of Nazism for unpaid rent from real property between time of its wartime persecutory loss until restitution settlement in 1951 was denied on the ground that non-payment of rent by the Nazi-era acquirers did not represent a nationalization, expropriation, or other taking by the GDR.
  - Claim No. [G-1785](#)
- Appointment of curator by GDR to administer real property, pending claimant's establishment of inheritance rights under GDR law, did not constitute a taking.
  - Claim No. [G-0815](#)
- Claimant's father, a GDR citizen, died leaving a will designating claimant as beneficiary and devising certain land to her. However, GDR authorities refused to effectuate transfer of ownership. Claim denied, as GDR had sovereign right to regulate transfers of property within its territory.
  - Claim No. [G-0163](#)
- Where Czechoslovak Government ordered transfer of inherited estate to two heirs living in Czechoslovakia, to the exclusion of claimant, the third heir, but required the two to deposit funds equivalent to value of 1/3 of the estate into a bank account for claimant's benefit, there was no compensable loss; such action did not constitute a taking of property owned by claimant but, on the contrary, upheld his inheritance rights.
  - Claim No. [CZ2-0822](#)
- Claim for house and land owned by claimant's father, a Czechoslovakian national, who died in 1972. In subsequent inheritance proceedings, legal title to property apparently passed to claimant's mother and siblings, all Czechoslovak nationals, while claimant's inheritance rights were declared null and void under Czechoslovak law since his whereabouts were unknown and he failed to claim rights within the legal time limit. Commission held that this application of Czechoslovak law did not give rise to a compensable claim, since the property continued in private possession of the other heirs.
  - Claim No. [CZ2-1227](#)
- Claim for real property inherited by claimant and her five siblings from their mother. Property was conveyed in entirety by claimant's sister, without consideration, to a Czechoslovak national. Absent evidence that sister's action was coerced by Czechoslovak government, Commission held that the transfer did not give rise to a compensable claim.
  - Claim No. [CZ2-0043](#)
- Claimant inherited real property interest from GDR citizen, at which time private administrator was appointed. When private administrator died, duties were assumed by a state housing administration office. However, claimant continued to receive bank statements relating to rental income account, and there was no other evidence that administration by public agency was not in claimant's behalf. Commission denied claim for failure to establish a taking by GDR.

- Claim No. [G-1786](#)
- Claim for improved real property inherited from GDR citizen, privately administered for a number of years by a family friend until directed by the claimants to turn administrative duties over to local government office. Although rent controls prevented realization of profits, evidence did not show that claimants' indicia of ownership (right to sell or otherwise convey the property, or use rental proceeds for certain purposes in GDR) were so diminished as to establish a taking by GDR. Claim denied.
  - Claim No. [G-0819](#)
- Though placement of property under national administration by Czechoslovak Government would constitute a taking in many circumstances, such action did not amount to a taking where it was effected at the request of the private manager of the property, who had become physically unable to perform his duties on behalf of claimant and the other owners.
  - Claim No. [CZ2-1436](#)
- Claim for real property being administered by a government housing authority, which assumed its duties when claimant's own administrator quit and claimant failed to appoint successor. Claim denied for failure to establish taking by GDR.
  - Claim No. [G-2644](#)
  - See also Claim No. [G-3223](#)
- Where evidence indicated house was not taken by Czechoslovakia between August 8, 1958 and February 2, 1982, the effective date of the U.S.-Czechoslovak claims settlement agreement, but rather that private administrator appointed by claimant's father in 1951 was still serving, Commission denied claim. Although rental income from tenant was consumed by taxes, insurance, and maintenance costs, other indicia of ownership (such as right to sell or otherwise convey the property, or to live in the house in the event of a return to Czechoslovakia) were apparently intact.
  - Claim No. [CZ2-0098](#)
- Claimant contended that his agricultural land should be held to have been taken by operation of a Czechoslovak law which took effect in 1959; however, Commission analyzed the law claimant cited and concluded it was not self-executing; therefore, claim was denied, as the record contained nothing to establish claimant's property was actually taken during the period covered by the claims statute.
  - Claim No. [CZ2-1537](#)
- Claim for house occupied by local Czechoslovak citizen in accordance with a 1964 law "Concerning the Management of Flats," which provided that dwellings not fully utilized by property owners or their families were to be assigned to other persons or entities. However, legal title to such property was not affected and it could be reoccupied by the owner or various family members under certain circumstances. Under these facts, Commission held that the property had not been taken by Czechoslovakia, within the meaning of the claims statute. Claim denied.
  - Claim No. [CZ2-0506](#)
- Claim for loss of salary due to the premature termination of claimant's employment with an American company in South Vietnam, which was forced to discontinue its operations when Communist forces overran the country. Commission denied claim, holding that claimant's damages were in the nature of a war loss under international law, sustained as an incidental result of military operations conducted by a belligerent, and as such did not represent a taking of property by Vietnam within the meaning of the claims statute.
  - Claim No. [V-0169](#)
- In connection with loss of personal property in Vietnam, claimant also asserted claim for additional costs of pursuing separate claim against the shipper, including court and

legislative initiatives, correspondence, and travel costs. Claim denied, as these expenses did not represent property taken by Vietnam.

- Claim No. [V-0493](#)

- 4C - Non-compensable Takings

- Taking by escheat did not constitute an act in violation of international law where claimant had opportunity but did not establish her right of inheritance under local law.
  - Claim No. [G-2846](#)
- Where record showed that property was transferred to Czechoslovak State in foreclosure on defaulted mortgage, Commission held that claimant was not entitled to an award because she had submitted nothing to show that she held equity in the property, i.e., whether value of the property was greater than the amounts owing on the mortgage. Under terms of the claims statute, compensation was awardable only where none was paid by the Czechoslovak State for the expropriated property, or where the amount paid was recognizably inadequate; in claimant's case, being relieved of her obligation under the mortgage was, insofar as the record showed, adequate compensation.
  - Claim No. [CZ2-0596](#)
- Expropriation of claimant's property by the Czechoslovak Government did not give rise to a compensable claim, as the government offered him compensation for it in the form of another piece of real property; claimant refused to accept it but did not demonstrate that it was clearly or even recognizably of inadequate value.
  - Claim No. [CZ2-0239](#)
- Claim for improved real property purchased from the claimants in 1978 by a government enterprise. Purchase price was deposited in a foreign account over which claimants had rights of disposition as stipulated in Czechoslovak currency regulations. Because the record did not establish that amount paid for the realty was not fair and reasonable, Commission held that transfer of ownership to government enterprise did not give rise to compensable claim.
  - Claim Nos. [CZ2-0226](#), [CZ2-0343](#)
- Seizure by Czechoslovak Government of jewelry owned by claimant, which a friend had attempted to send to him from Czechoslovakia to the U.S. without complying with Czechoslovak customs laws, did not give rise to a compensable claim; under accepted international law principles, a State has sovereign power to regulate imports and exports across its borders, and to impose sanctions, including confiscation, for violations thereof. Nor was this conclusion altered by other evidence indicating that the claimant's friend was subsequently granted dismissal of his conviction for the offense.
  - Claim No. [CZ2-0616](#)
- Loss of personal property, a product manufactured in GDR, through confiscation because of violation of GDR customs laws, was not compensable under the GDR claims statute or international law. A State has sovereign authority to regulate imports and exports across its borders.
  - Claim No. [G-0127](#)
- Imposition of inheritance taxes by GDR not basis of a compensable claim; in international law, a State has sovereign authority to impose taxes so long as they are not discriminatory.
  - Claim No. [G-0310](#)
- Claim based on seizure and confiscation of private yacht in China's territorial sea. Because evidence did not demonstrate that yacht was engaged in innocent passage at time of seizure, as defined in the Convention on the Territorial Sea and the Contiguous Zone, claim was denied for failure to establish that the confiscation was violative of international law.



- Claim No. [CN-2-014](#)
- Taking of property of claimant's decedent as part of penalty for violations of Czechoslovak criminal law was not basis of a compensable claim; a State has sovereign authority in international law to enforce, and impose sanctions for, violations of its criminal laws, so long as minimum standards of due process are observed.
  - Claim No. [CZ2-0294](#)
- Claim for personal property denied since claimant had already been reimbursed in full by his former employer in South Vietnam.
  - Claim No. [V-0443](#)
- Claim for land on which award was made in war Claims program based on its loss by “special measures” during World War II. Denied since claimants had already received full compensation for the loss.
  - Claim No. [G-0900](#)
- 4D - Return of Property
  - Claim for real property in East Berlin taken by GDR in 1952, but transferred to West Berlin in 1972 pursuant to a border adjustment, after which legal title was restored to rightful owners in 1977. Commission held that 1952 taking represented compensable loss under international law since GDR neither returned the subject property directly to the rightful owners nor paid them consideration therefor. However, claim was denied under the offset provision of the claims statute since the record indicated that the property's value in 1977, in West Berlin, was greater than the award the commission would have granted (based on the value of the property in East Berlin in 1952, plus interest to the date ownership was restored in 1977), had legal title not been restored.
    - Claim No. [G-2886](#)
  - Claim for real property taken by People's Republic of China in 1967. Chinese Government acknowledged in 1978-79 that its action had been incorrect and offered to return property to claimant. Commission denied claim on ground that, notwithstanding claimant's failure to formally reclaim property, taking had been voided and she was recognized as rightful owner.
    - Claim No. [CN2-022](#)

## **5. PERSECUTORY LOSSES**

- 5A - Defined
  - A continuing beneficial ownership interest was recognized in property where title to such property was lost as the result of religious and racial persecutory measures of the Nazi regime. If claimant or predecessor in interest was a United States national and beneficial owner at time of subsequent nationalization or other taking of property by the GDR, before 1951, claimant was eligible for award for the resulting loss.
    - Claim Nos. [G-0177](#)
  - On September 6, 1951 in East Germany and December 18, 1951 in East Berlin, decrees were issued ordering takeover of administration of foreign owned property in those respective areas. Absent evidence of a specific earlier action against property of beneficial interest holder, Commission held that the interest was taken as of the date of the applicable decree. If claimant or predecessor in interest was then a United States national, an award was granted.
    - Claim No. [G-2116](#)
  - Claim for real property originally lost due to Nazi persecutory measures during World War II. Commission held that claimant's beneficial interest in property would have been



taken by GDR on December 18, 1951, date of decree providing for government administration of foreign-owned property in East Berlin. Claim was denied since claimant did not become U.S. citizen until 1954, even though evidence indicated the property was not actually converted into "People's Property" until 1970's.

- Claim No. [G-1733](#)
- Claim for improved real property originally lost as result of Nazi religious and racial persecutory measures during German occupation of Bohemia-Moravia in World War II. Commission held that persecutes retained beneficial interests in their property, which were recognized by the postwar Czechoslovakian Government when it instituted a restitution program in 1946. However, Commission also found that many uncompleted restitution proceedings were suspended by Czechoslovakia on December 21, 1949 (in anticipation of a claims settlement agreement with the United States), after which no favorable action on such claims was taken. Commission held that property originally lost by persecutory measures and never returned to the rightful owner was taken by Czechoslovakia either (1) on the date a restitution claim was denied, or (2) on December 21, 1949 if no restitution claim was filed or no judgment rendered on a claim, or (3) on the date before or during restitution proceedings that the property was actually nationalized or confiscated by Czechoslovak Government. Claim denied, as taking herein occurred prior to August 8, 1958.
  - Claim No. [CZ2-0895](#)
- 5B - Presumptions Regarding Nazi-era Transactions
  - In determining beneficial ownership, Commission considered circumstances of sale in Nazi Germany, including duress; however, where claimant had pursued local remedies after World War II and did not attempt to void sale on grounds of duress, Commission found that claimant in fact ratified the contract of sale.
    - Claim No. [G-1731](#)
  - Interest in business enterprise allegedly lost by claimant's predecessor due to Nazi persecutory measures in 1938. However, based on evidence that predecessor received fair price and was paid in cash, Commission concluded that persecutory loss had not occurred and that claimant held no beneficial interest in business which could have been taken by GDR after world War II.
    - Claim No. [G-2236](#)
  - Evidence in the record that claimed property had been purchased during Nazi era, from owners who "appeared to be Jewish," raised presumption that purchase was not a "normal arm's-length transaction" and was "under less than fair free market conditions;" as a result, claimant had burden of overcoming presumption through submissions of evidence. Nothing was submitted, hence claim held not compensable.
    - Claim No. [G-0443](#)
  - Notwithstanding finding made in General War Claims program as to claimant's ownership, through a subsidiary, of interest in an enterprise nationalized by GDR, evidence submitted by other claimants against GDR showed that the subsidiary's interest in fact had been acquired during Nazi era from Jewish persecutees; therefore, claimant was not entitled to an award for taking of the interest by GDR, since its title thereto was presumed invalid and presumption was not rebutted.
    - Claim No. [G-2092](#)
  - Property in Germany owned by a Dutch Jew who immigrated to United States in 1938 was sold by local government to private party in 1941 because real estate taxes had not been paid. Commission found that persecutory climate toward Jews in Nazi Germany had to be taken into consideration and, in view of all the circumstances, held that the 1941

sale represented persecutory loss which did not divest claimant's predecessor of beneficial interest in the property.

- Claim Nos. [G-2956](#), [G-2957](#), [G-2958](#)

- 5C - Beneficial Interest: Nature and Extent

- Claimant had burden of proof to establish that a pre-World War II mortgage and building to which it pertained survived the war in order to be the subject of a nationalization or other taking by the GDR.
  - Claim No. [G-0635](#)
- Claimant had burden of proof to show that proceeds from sale of bonds under duress during Nazi era which were placed in a blocked “Jewish account” remained after World War II to be the subject of a nationalization or other taking by the GDR.
  - Claim No. [G-1265](#)
- Bank accounts in German-occupied Poland confiscated by Nazi authorities during World War II and transferred to collective account at government financial institution in Berlin. Commission concluded from the evidence that separate accounts were not maintained for the claimants and that no identifiable assets would have survived World War II and been taken thereafter by the GDR. Claim denied.
  - Claim No. [G-0843](#)
- Commission held in claim by United States national for “pharmacy privilege” (i.e., legal right, running with land, to engage in pharmacy business) that where persecutee lost such privilege prior to the end of World War II, he held a continuing beneficial interest therein which would be considered as cut off by GDR under “Decree on the Rearrangement of the Pharmacy System” of June 22, 1949. Value of the privilege, where actual value on date of loss was unavailable, was determined based upon formula used by GDR for compensating its own citizens for the loss of such privileges.
  - Claim No. [G-0704](#)
- Even though businesses of persecutee suffered losses in 1934, largely due to risky financial transactions and the over-obligation of assets, Commission held that the effects of Nazi religious and racial persecution on his business activities made his losses attributable to that persecution. Therefore, because of the impossibility of salvaging claimant's business assets in those circumstances, Commission held that he retained a beneficial interest therein which was subsequently cut off and thus taken by GDR after World War II. Award granted.
  - Claim Nos. [G-1108](#), [G-3266](#)
- Where it was discovered that Nazi persecutee had a beneficial interest in property for which a claim had been filed by a claimant who acquired the property in 1937 from the persecutee for less than fair value, Commission joined persecutee in the claim and granted awards for their respective interests.
  - Claim No. [G-0314](#)
- Even though claimant was himself subjected to Nazi religious persecution which resulted in loss of legal title to share of business firm's assets located in what later became the GDR, he was not entitled to favorable consideration of claim against GDR for beneficial interest in assets which the firm had acquired from other Nazi persecutees.
  - Claim No. [G-0725](#)

## **6. PROPERTY, RIGHTS AND INTERESTS**

- **6A - Real Property, Non-fee Interests**

- An option to build on real property was held to constitute a property right or interest for which an award could be granted. The value of the option was determined based upon duration of rights and purchase price.
  - Claim No. [G-1644](#)
- Cancellation by Government of Czechoslovakia of liens held by claimants on certain real property, which they had acquired in inheritance proceedings in lieu of ownership interests, was basis of a compensable claim; such lien interests were “property,” and the cancelling of them amounted to a “nationalization or other taking.”
  - Claim No. [CZ2-1591](#)
- “Building right” of 60-year term, acquired by claimants' family in 1930, whereby they were to renovate a certain Berlin property or construct a new building thereon and then return the property to the fee owner at the end of the term, was “property,” within the meaning of the claims statute. Claimants were held to have retained a beneficial interest therein notwithstanding loss of the building right during Nazi era and were entitled to award for subsequent taking by GDR.
  - Claim Nos. [G-3220](#), [G-3273](#), [G-3282](#)
- Right of preemption (i.e., first purchase) acquired by claimant as to certain real property was held to be “property” within meaning of the GDR claims statute. However, the loss of this property right was held not compensable, as its value was totally speculative.
  - Claim No. [G-0457](#)
- Claim based on mortgage which was acquired by claimant's husband in 1951 restitution settlement with German titleholders, who became owners of the real property during World War II following seizure and sale by Nazi Reich. Commission found mortgage was taken by GDR in 1952 and granted award for dollar value of the mortgage principal plus accrued interest from 1951 up to time of taking in 1952.
  - Claim No. [G-1785](#)
- Improvements to real property held under lease which were financed by claimant represented compensable property loss when property was taken by Vietnam.
  - Claim No. [V-0471](#)

- **6B - Intangible Property**

- Claim based on non-payment of pension benefits by Government of Czechoslovakia was not compensable, so long as there was no express repudiation by that Government, during the period covered by the claims statute, of an obligation to make such payment; non-payment, in itself, did not amount to a taking of property, but rather was only a default on a debt. In addition, the fact that Congress included in the statute a provision directing the Secretary of State to investigate and report on the Government of Czechoslovakia's payment of pension benefits to U.S. citizens confirmed that claims for such benefits were not intended to be compensable under the statute.
  - Claim No. [CZ2-0047](#)
- Claim based on dollar bonds issued by Czechoslovak Government prior to World War II. Denied on the grounds that (1) the bonds were never expressly repudiated by Czechoslovakia, as required under international law to give rise to a compensable claim, and (2) as an adjunct to the U.S.-Czechoslovakian claims settlement agreement of 1982, Czechoslovakia undertook to begin negotiations on defaulted dollar bonds with representatives of American bondholders.
  - Claim No. [CZ2-0319](#)

- Claim for an unredeemed bonds, with unpaid interest coupons, issued by Saxon Public Works, Inc. Award granted, since the corporation was nationalized by GDR, making the obligation a “debt of a nationalized enterprise” and thus a compensable property interest under the claims statute.
  - Claim No. [G-0001](#)
  - See also Claim No. [G-3085](#)
- Claim for dollar bond originally issued in 1928 by Pomerania Electric Company, subsequently assumed by Brandenburg Electric Power Company as part of a merger. Although company had certain facilities in East Germany taken over by GDR after World War II, claimant was unable to establish their value, or what percentage of the company's total assets they represented. Commission held record did not establish Brandenburg Electric Power Company was nationalized, expropriated, or otherwise taken by GDR, such that its debts would qualify as “property” within meaning of the claims statute.
  - Claim No. [G-3861](#)
- Claim based on various government bonds issued by the Republic of (South) Vietnam which were not redeemed by new Communist regime. Commission held they represented “debts owed by Vietnam” within the meaning of the Vietnam claims statute and granted award.
  - Claim No. [V-0387](#)
- Though not expressly set forth in the Vietnam claims statute, Commission determined that the definition of “property” in the statute encompassed debts of the former government of South Vietnam (Republic of Vietnam) as such debts were not expressly excluded and the legislative history referred to the South Vietnamese government's obligation to pay a share of the expenses of the “International Commission for Control and Supervision,” set up under the 1973 Paris Accords, as being within the ambit of the statute, and claimant submitted evidence that he was owed for such expenses at time of the Communist takeover.
  - Claim Nos. [V-0001](#), [V-0002](#)
- Claim based on unsecured loan to private company in 1938 which was not repaid following the company's nationalization by the Czechoslovak Government after World War II. Commission held that only if Czechoslovakia expressly repudiated or annulled the company's debt, during period covered by the claims statute, would the unsecured creditor suffer a nationalization or other taking of a property right, within the meaning of the statute; mere non-payment did not give rise to a compensable claim. Claim denied. (Unlike other claims statutes, the Czechoslovakian Claims Settlement Act of 1981 did not include debts owed by nationalized enterprises as within its definition of “property.”)
  - Claim No. [CZ2-0833](#)
- Where amount of interest due on debt of a nationalized concern was not established by evidence, claim for accumulated interest due was denied as too speculative.
  - Claim No. [G-2225](#)
- Where a friend of claimant had accepted funds for “safekeeping” during World War II and put them into a bank account in her own name, such account did not constitute “property” as defined by the claims statute; rather, Commission held that the account was evidence merely of the amount of a debt owed by the friend to the claimant, and the non-payment thereof did not constitute a compensable loss.
  - Claim No. [CZ2-1316](#)
- Claimant made a private loan to brother in Germany prior to World War II, repayment of which ceased in 1942. Claim based on unpaid balance denied since outstanding debt was not “property” within meaning of the claims statute.
  - Claim No. [G-0219](#)

- Claim for loss of unexpired portion of insurance coverage purchased from U.S. corporation in South Vietnam existing as of date of Communist takeover, or for loss of portion of the premium payment relating to such coverage, was not compensable under the Vietnam claims statute. Because insurer was in the United States, it could not have been subjected to nationalization by the Communist regime, hence there was no “debt of a nationalized enterprise,” within meaning of the statute.
  - Claim No. [V-0512](#)
- Claim filed by U.S. holding company, which owned either directly or indirectly all stock of a U.S. insurance corporation, for loss of the latter's branch office in South Vietnam. Following Communist takeover of South Vietnam, all private insurance companies were prohibited from further operation and ordered to liquidate. Commission found that Vietnamese government had sovereign right to regulate foreign insurance companies within its borders, and that non-discriminatory withdrawal of permission to engage in private insurance business was within its police powers under international law. Hence, claimant's loss of its South Vietnamese market due to the elimination of the private sector by the Communist government did not give rise to a claim under international law or the Vietnam claims statute.
  - Claim No. [V-0331](#)
- Claim for loss of petroleum exploration concessions in Vietnam's coastal waters granted to claimant by the Republic of (South) Vietnam in 1973. Claimant ceased operations in the concession areas in April 1975, due to impending defeat of South Vietnam, and new Communist regime subsequently declared concession agreements illegal and invalid. Commission found on basis of the evidence submitted that the concessions were property right taken by Vietnam and granted award.
  - Claim No. [V-0522](#)

## **7. VALUATION**

- 7A - Evidence, Methods of Determination
  - *(1) Real Property*
    - In arriving at valuation of real property as of date of taking, Commission held it would look to actual value, giving account to the fact that real property cannot be valued apart from its location, and also noted that fairness required a consistent application of valuation methods in all claims before it; claimant's contention that, because of difficulties presented by the fact that Czechoslovakia is a communist country, where no free market for real property exists, the Commission should assign a value to his property based on replacement values for similar property in Western Europe, was rejected as without merit.
      - Claim No. [CZ2-0056](#)
    - Award for improved real property taken by People's Republic of China in 1968 and 1969. In valuing property, Commission rejected claimant's contention that award should be based on cost of replacement at time of loss, and held that the actual value of the property at that time, taking into account depreciation of improvements from the time of construction, was the proper standard.
      - Claim No. [CN2-055](#)
    - In valuing apartment buildings and large landed estate taken by GDR in 1952, Commission considered such evidence, with respect to the apartment buildings, as tax assessment values, insurance values, number of rental units and monthly rental income, amount of war damage and extent of postwar repairs, and relative

location of properties in Berlin; while with respect to the landed estate, the Commission considered such evidence as tax assessment value and appraisals of the land as well as photographs, tax assessment and fire insurance values of the buildings thereon. Commission's valuation gave due weight to government indexes of property values and took into account general rise in property values in Germany from prewar to postwar years.

- Claim No. [G-0289](#)
  - In determining value of real property at time of loss, where purchase price was documented, Commission consulted appropriate sources, including indexes of property values and construction costs in neighboring countries such as West Germany, to arrive at reasonable and justified valuation; here, Commission applied an appreciation factor of 2.5 to adjust for increase in value from 1920 to 1958.
    - Claim Nos. [CZ2-0677](#), [CZ2-0678](#)
  - Award for real property and bank deposits taken by People's Republic of China in November 1966. In valuing the property, Commission held that conversion rate of 3.5 Chinese silver dollars to 1 U.S. dollar, utilized in first China claims program, was applicable, plugging in certain appreciation factors to account for inflation from the time of purchase (or deposit) in the 1930's and 1940's up to the time of loss in 1966.
    - Claim No. [CN2-053](#)
  - Where record showed that property was located near outskirts of village, value at time of taking was determined by the Commission so as to reflect potential use for building lots, notwithstanding fact that the property had been purchased and was previously being used as farmland.\ul style="list-style-type: none;">  - Claim No. [CZ2-0044](#)
- Award for loss of manorial estate which included coal mining rights on the land. In valuing this part of claim, Commission noted that claimants' actual loss would be the value of the coal reserves less the cost of extraction, including the resulting diminution of the surface value of the land.
  - Claim No. [G-3541](#)
- (2) *Business Property*
  - In claim for GDR taking of certain business assets, Commission's valuation was based on actual value, rather than replacement value, of the property at time of loss. In converting value figures into dollars, Commission held that historic rate of 4.2 Marks : \$1.00 was appropriate, notwithstanding some fluctuations in official or unofficial rates during 1930's and 1940's due to Nazi monetary policies and postwar dislocation.
    - Claim No. [G-3063](#)
  - Even though, for accounting purposes, tangible assets of business had been entirely depreciated and had no book value, Commission held that they nevertheless had some residual value at time of taking and granted award.
    - Claim No. [G-2480](#)
  - In award for claimant's loss of petroleum business in South Vietnam, commission valued buildings and other physical property at depreciated replacement cost and held that tangible assets which had been fully depreciated for accounting purposes, and thus had no book value at time of loss, nevertheless had residual value of approximately 20% of the assets' replacement costs.
    - Claim No. [V-0325](#)



- At time of taking of oil exploration concessions, test drilling was still being conducted, the volume of reserves had not been determined, and no commercial exploitation had begun. Therefore, Commission held that claimant was entitled to award only for expenses from 1973, when concessions were granted, to 1975, when they were taken, which could be categorized as “capitalized expenditures or assets.” These expenditures, which directly benefited the Vietnamese government in the form of up-front consideration, or enhanced the value of the concessions, included signature bonus payments, exploration surface taxes, seismic study expenses, and drilling expenses. Other expenditures which were in the nature of ordinary administrative costs or general expenses were held not compensable, since they did not directly benefit Vietnam or add to long-term value of the concessions.
  - Claim No. [V-0522](#)
- Where claim was for loss of a hotel construction project in South Vietnam, claimant was entitled to award only for value of physical improvements made to the project site up to the date of the Communist takeover; he was not entitled to compensation for investment in design plans and other such items, as these did not pass to or otherwise inure to the benefit of the Communist regime.
  - Claim No. [V-0026](#)
- Claim filed by a Washington, D.C. law firm--a partnership with U.S. nationals holding the majority interest--for loss of its branch office in Saigon. Based on detailed itemization of assets, Commission granted award for (1) business inventory, (2) leasehold improvements, (3) refundable deposits, (4) accounts receivable from South Vietnamese business enterprises, and (5) certificates of deposit in South Vietnamese banks.

Claim for additional business items, however, was denied. These included (a) bank accounts, cash, and office files because record did not establish their existence or value as of May 1, 1975; (b) accounts receivable from companies located outside Vietnam and from private individuals because they did not represent “debts owed by Vietnam or by any enterprise which has been nationalized, expropriated, or otherwise taken by Vietnam,” within the meaning of the claims statute; (c) accounts receivable of doubtful collectibility, and (d) relocation expenses, because these did not represent property interests taken by Vietnam.

- Claim No. [V-0310](#)
- In claim filed by U.S. holding company for the loss of an insurance company incorporated in Vietnam which it indirectly owned, Commission found that Communist government took over and operated remnants of the Vietnamese company as part of its nationalized insurance industry. Commission held that claimant was entitled to full and adequate compensation based on going concern value of its Vietnamese company. Commission considered all evidence submitted, including records of net worth, net income, and earned surplus distributed to stockholders during last five years, as well as actuary’s estimate of the discounted value of future profits. Commission granted award approximating each of the following: (a) average net worth during the previous 5 years plus discounted value of 20 additional such years, and (b) average net income capitalized at 8.5%.
  - Claim No. [V-0330](#)



- Branch office of U.S. insurance company had tangible and intangible assets, including office furniture, securities, and accounts which were taken over by the Vietnamese Communist regime without compensation. Claimant was granted award for these losses. However, additional claim for “going concern value,” based on discounted value of future profits, was denied as Commission determined that branch office did not have resources to operate independently and, therefore, was not in fact a going concern.
  - Claim No. [V-0331](#)
- Claim for textile factory originally seized in furtherance of Nazi persecutory measures in late 1930’s and subsequently taken by GDR in 1951. Commission held that “good will” (or business reputation) at the time of persecutory loss could not properly be considered business asset at time of GDR taking years later.
  - Claim No. [G-3213](#)
- Where balance sheet was submitted by claimant as evidence of value of all its assets, except for certain machinery which claimant asserted should be valued differently, the Commission used the balance sheet to value all assets for which claim was made, including the machinery.
  - Claim No. [G-3080](#)
- Where claimant's predecessor had paid required costs of storage of a machine in the GDR for several years, in expectation of either being able to resume use of it in business or being permitted to remove it from GDR at some later point, but result was that GDR ultimately nationalized it, claimant was found entitled to award for loss of the funds comprising the storage cost payments, in addition to the award to which she was entitled for loss of the machine itself; both losses were held to be the result of nationalization or other taking by GDR.
  - Claim No. [G-2879](#)
- (3) *Personal Property*
  - In claim for personal property, Commission held claimant was entitled to award not for original purchase prices or replacement costs, but for actual value of property at time of loss, taking depreciation into account.
    - Claim No. [V-0175](#)
    - See also Claim Nos. [V-0369](#), [V-0340](#), [V-0182](#), [V-0534](#), [V-0358](#)
  - Commission determined that exchange rate of West German marks to U.S. dollars (4.2 : 1 in 1952) was appropriate rate for valuing East German bank account, since GDR maintains its ostmark should be equated with West German mark at 1: 1 ratio.
    - Claim No. [G-0056](#)
  - Denomination of mortgage in “Goldmarks” was irrelevant; payments which were on account, and found taken by GDR, had been made in reichsmarks, which under GDR currency reform later would have been revalued and converted to East German marks; value of these in dollars was then calculated based on exchange rate in effect at time of taking.
    - Claim No. [G-3160](#)
    - See also Claim No. [G-0289](#)
  - In determining dollar value of two bank accounts in Czechoslovakia taken in 1978 and 1982, Commission adopted official exchange rates of crowns to dollars employed by Czechoslovak Government on respective dates of taking.
    - Claim No. [CZ2-0522](#)

- 7B - Awards, Calculation of

- *(1) Owner's Equity*

- Commission held that value of property was to be determined as of time of loss; subsequent improvements, not at the expense of the claimant, would not be the basis for a higher award.
  - Claim No. [G-0139](#)
- Where property had been sold under Nazi duress and then restituted after World War II, award granted for subsequent taking by GDR was for less than full value of the property because pre-war owner was required, as part of restitution settlement, to give mortgage to the Nazi-era acquirer to compensate the latter for his investment in repairs and renovation, which had enhanced property's value above the value it had when sold under duress.
  - Claim Nos. [G-0891](#), [G-0892](#)
- Claim for mortgage on improved real property which was heavily damaged in World War II. Commission found mortgage was taken by GDR in 1951, at which time the value of the real property was less than amount of mortgage. Commission held that the value of the mortgage could not be greater than the underlying security, and granted award for loss of the mortgage in amount equal to value of the real property at time of loss.
  - Claim No. [G-1052](#)
- Where claimed real property was encumbered by mortgage at time of taking by Czechoslovak Government, claimant was held entitled only to award for value of her equity therein. Claimant contended that she should receive award for entire value of the property, on the theory that the obligation to repay the mortgage principal had been extinguished by the Czechoslovak Government's earlier placement of the property under national administration and collection of rents for its own account. However, this argument was rejected as without merit.
  - Claim No. [CZ2-0373](#)
  - See also Claim No. [G-0289](#)
- Claimants were not entitled to award for value of apartment building constructed by GDR on their predecessor's land, as he had not furnished any of the funds for such improvements; however, claimants were found entitled to award for value of certain barracks which had been erected by the Nazi Reich after removal of a brick factory, because removal had been done without predecessor's permission and the value of the factory would have been greater than that of barracks which GDR demolished.
  - Claim No. [G-2906](#)
- In claim for beneficial interest in real property "building right," amount of award was limited generally to amount of investment before Nazi takeover, as there was no rent or other consideration payable during the building-right term which could serve as a basis of valuation; any attempt to assign a value to improvements or reconstruction they might have accomplished, and profits derivable therefrom, notwithstanding the property's choice location in Berlin, would be wholly speculative and conjectural, much the same as lost profits on a breached executory contract; nor were claimants entitled to award based on value of the office building constructed on the property by the Nazi Reich, as they had furnished none of the funds for that construction.
  - Claim Nos. [G-3220](#), [G-3273](#), [G-3282](#)
- In determining amount of claimant's award, commission excluded value of repairs financed by the Czechoslovakian government.

- [Claim No. CZ2-0056](#)
- Where claimant's property was expropriated and compensation paid, but the Czechoslovak Government then confiscated the payment funds, claimant was entitled to award for full value of the property as of the date of expropriation; however, he was not entitled additionally to an award for confiscation of the compensation funds.
  - Claim No. [CZ2-1463](#)
- (2) *Offsets*
  - Where claimant had received award in General War Claims program for loss of predecessor's beneficial interest in land and buildings during World War II as result of "special measures," but buildings were later discovered, upon investigation in GDR claims program, to have been destroyed before end of war, Commission concluded that claimant had already been fully compensated by war Claims award and therefore was not entitled to any further award for taking of beneficial interest in the remaining land by the GDR.
    - Claim No. [G-2977](#)
  - Where claimant had received award for war damage to real property in General War Claims program, valuations used in that program were proper basis for reaching valuations of the property as taken by the GDR; however, those valuations, and not the net award made to claimant for war damage after deductions adjusting for Federal tax benefits, comprised the proper amount of offset to be applied against the valuations reached in claimant's GDR claim to arrive at the net award in the latter.
    - Claim No. [G-2092](#)
  - Claim for business enterprise for which claimants had previously filed in War Claims program and received awards based on wartime loss of the business as a result of "special measures" (confiscation by Nazi regime). Commission found the enterprise was taken over by East German authorities in November 1946, after having been affected by earlier Soviet actions of a purportedly temporary nature. Commission granted each claimant award in principal amount equaling the difference between earlier award in War Claims program and amount actually paid thereon out of war claims fund.
    - Claim No. [G-1559](#)
    - See also Claim No. [G-3010](#)
  - Claim for plot of land taken by GDR. In determining rightful award, Commission deducted amount of compensation paid by GDR into blocked account from the value of the property at time of loss.
    - Claim Nos. [G-0971](#), [G-0991](#)
  - Where property was expropriated in 1966 against compensation in Czechoslovak crowns which was deposited in a blocked account on behalf of claimant, Commission determined amount of compensation was inadequate and awarded claimant the difference between the value of the land at the time of loss and the dollar value of the compensation he was paid.
    - Claim No. [CZ2-0013](#)
  - Claim for loss of personal property for which claimant had previously received partial compensation from former employer in South Vietnam. Commission determined value of property at time of loss, subtracted amount of previous compensation, and granted award for the difference.
    - Claim No. [V-0200](#)

- Part of claimant's claim was for loss of U.S. Treasury notes deposited in the South Vietnamese treasury. Claimant received interest payments on the notes until their date of maturity in 1979, but was unsuccessful in obtaining repayment of the principal since the notes continued to be held by the Vietnamese government. Commission held that claimant was entitled to award for face value of unpaid notes, plus 6% simple interest per annum from their date of maturity in 1979, provided that, at such time as a claims fund is distributed, no payment has been made or can reasonably be anticipated on the notes.
      - Claim No. [V-0331](#)
  - (3) *Interest*
    - Interest included as part of awards in claims against the GDR was set at 6% simple interest per annum, running from date of taking of property in issue; this is the “traditional and customary” rate which is an “equitable and just measure of compensation . . . in light of international law precedent, custom and tradition,” as set forth in Claim of John Hedio Preach, Claim No. PO-3097, Decision No. PO-652 (1962).
      - Claim Nos. [G-0882](#), [G-0883](#)
    - Commission held, over claimant's objection, that simple interest on awards, rather than compound interest, is an “appropriate, equitable, and just measure of compensation,” and consistent with commission precedent in previous claims programs.
      - Claim No. [G-1409](#)
    - In claim for film company's loss of assets in South Vietnam, claimant asserted on objection that compound interest, rather than simple interest, should be awarded on bank accounts at U.S. prime rate from date of loss to date of settlement. Commission rejected this argument, noting that simple interest on awards is a well-established principle of international law.
      - Claim No. [V-0333](#)

## **8. LOSSES NOT COVERED BY STATUTES**

- Mental suffering or loss of education caused by Nazi persecution did not constitute a loss resulting from a nationalization or other taking of property by the GDR. Claim denied.
  - Claim No. [G-3856](#)
- Claim based on two years of forced labor during World War II in German-occupied Poland, denied as there was nothing constituting a nationalization or other taking of property by GDR.
  - Claim No. [G-3726](#)
- Claim based on combat injuries during Vietnam War, denied since bodily injury did not represent a nationalization, expropriation or other taking of property by Vietnam.\
  - Claim No. [V-0336](#)
- Claim based on 7-month imprisonment in Cambodia in 1970 was denied, as there was no nationalization or other taking of property by Vietnam.
  - Claim No. [V-0166](#)
- Claim based on maltreatment of claimant's decedent, in connection with arrest and trial for alleged violations on Czechoslovak criminal law, denied. Such action did not represent nationalization or other taking of property by Czechoslovakia.
  - Claim No. [CZ-2-0294](#)