

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

U.S. DEPARTMENT OF JUSTICE

2016 ANNUAL REPORT

**Including the Final Report on the
First Iraq Claims Program**

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES

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- - -

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U.S. Department of Justice
Foreign Claims Settlement Commission
of the United States

Washington, D.C. 20579

LETTER OF TRANSMITTAL

To the President of the Senate
and the Speaker of the House of Representatives
of the 115th Congress

Pursuant to the War Claims Act of 1948, as amended, and the International Claims Settlement Act of 1949, as amended, the Foreign Claims Settlement Commission of the United States submits for your review its Annual Report for Calendar Year 2016. The Commission is an independent agency organized for administrative purposes within the U.S. Department of Justice.

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

A handwritten signature in black ink, reading "Brian M. Simkin".

Brian M. Simkin
Chief Counsel

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SECTION I: THE COMMISSION

A. Introduction

The Foreign Claims Settlement Commission of the United States is an independent, quasi-judicial federal agency. The Commission's primary mission is to receive, examine, adjudicate, and render final decisions with respect to claims of U.S. nationals against foreign governments.

The Commission was established on July 1, 1954, under Reorganization Plan No. 1 of 1954, which abolished the War Claims Commission and the International Claims Commission and transferred their functions to the present Commission. In 1980, the Commission was transferred by Public Law No. 96-209 to the Department of Justice for administrative purposes as a separate agency within the Department. By statute, decisions of the Commission with respect to claims are final and conclusive on all questions of law and fact and are not subject to review by any official of the United States or by any court.

1. Work of the Commission

The Commission's authority to administer claims programs arises from three sources. First, Congress may authorize the Commission to adjudicate claims through legislation. Second, pursuant to 22 U.S.C. § 1623(a)(1)(B), the Commission may administer a program for claims arising out of the nationalization or other taking of property that are included within the terms of a claims agreement between the United States and a foreign government. Finally, the Commission can administer a program, pursuant to 22 U.S.C. § 1623(a)(1)(C), for any claims included in a category of claims against a foreign government that is referred to the Commission by the Secretary of State. In addition, 22 U.S.C. § 2370 authorizes the Commission, upon the request of the President, to evaluate expropriated property, determine the full value of any property nationalized, expropriated, seized, or subjected to

discriminatory actions, and to render an advisory report to the President within 90 days of such a request.

Programs administered by the Commission have included claims for losses suffered either as a result of military operations during World War II, including damage to and loss of property therefrom, or as a result of the nationalization or other taking of property by foreign governments. These have included claims against the governments of (in alphabetical order): Albania, Bulgaria, China, Cuba, Czechoslovakia, Egypt, Ethiopia, German Democratic Republic (East Germany), Hungary, Iran, Panama, Poland, Romania, the Soviet Union, Vietnam, and Yugoslavia. The Commission has also adjudicated claims of U.S. military personnel and civilians captured or interned during World War II and the Korean and Vietnam conflicts. In addition, between 1996 and 1998 the Commission adjudicated claims of U.S. citizens persecuted by Nazi Germany during World War II. The Commission is currently adjudicating: (1) physical injury, hostage-taking, commercial, and other claims against Libya arising from certain terrorist incidents that occurred prior to June 30, 2006; and (2) claims against Iraq for personal injury, hostage-taking, and death sustained by U.S. nationals after Iraq invaded Kuwait on August 2, 1990. The jurisdiction of the Commission and its two predecessor commissions has encompassed the administration of forty-seven claims programs in which more than 740,000 claims were filed and nearly \$4 billion in awards were granted.

In some instances, Congress authorizes the adjudication of claims before there are funds available to pay awards. In such cases, the Commission adjudicates the claims and certifies its decisions to the Secretary of State as a “pre-settlement adjudication” of the claims. The Department of State can then use these decisions as a basis for negotiating a claims settlement agreement at some future date. The Commission has concluded pre-settlement adjudication programs with respect to losses asserted against Cuba, China, the German Democratic Republic, and Vietnam.

The Commission also provides, upon request, technical assistance to the Department of State in conducting government-to-government claims settlement negotiations. In addition, the Commission furnishes information contained in its records pertaining to the international and war-related claims programs it has conducted in the past, as requested by claimants, their heirs, Congress, attorneys, researchers, other members of the public, and the Departments of Treasury, State, Interior, and Defense. Upon request, it also provides advice that includes preliminary planning and evaluation of proposed claims legislation, and acts as a liaison with other Federal agencies concerning claims-related issues.

2. Composition

The Commission is composed of a Chairman, who serves on a full-time basis, and two Commissioners, who serve on a part-time basis. The Chairman and other Commissioners are appointed for fixed terms, normally three years, by the President with the advice and consent of the U.S. Senate. Currently, the Commission is comprised of two Commissioners. Professor Anuj C. Desai has served as Commissioner since he was sworn in on April 6, 2012. Commissioner Sylvia M. Becker, who was sworn in on September 16, 2013, continued in office through 2016.

The Chairman and Commissioners are responsible for adjudicating claims and issuing decisions. The Chairman is vested with sole administrative authority for the Commission, while the Department of Justice is responsible for providing administrative support services to the agency. The Commission employs a small staff of legal and administrative personnel.

3. Source of Funds and Payment of Claims

The Chairman prepares the Commission's budget requests within the procedures established by the Department of Justice; the Attorney General submits the requests to the Director of the Office of Management and Budget as proposed by the Chairman.

Amounts paid by foreign governments to the United States for the purpose of settling claims are required to be covered into special funds in the Treasury of the United States, out of which the Secretary of the Treasury is authorized and directed to make payment of claims certified by the Commission. The Department of the Treasury is further required to deduct five percent from any amount covered into each special fund for deposit as miscellaneous receipts in the United States Treasury to reimburse the United States for expenses incurred in the settlement of claims. While these funds do not directly support the Commission's operations, the Department of the Treasury has recovered millions of dollars through deductions from the various settlement funds that the United States obtained from foreign governments during the years of the Commission's existence.

B. Procedure and Administration of Claims Programs

By statute (22 U.S.C. §§ 1622g, 1623(h) and 50 U.S.C. App. § 2010), the decisions of the Commission are final and conclusive on all questions of fact and law and are not subject to review by any other official, department, or agency of the United States, or by any court by mandamus or otherwise. This prohibition against judicial or other review makes it imperative that the Commission adhere to appropriate administrative and legal procedures to ensure claimants have a full and fair opportunity to present their claims.

When a claims program is commenced, appropriate claim forms and detailed instructions, including the deadline for filing claims, are forwarded to anyone who requests them or has, at any time, indicated to the Commission an interest in filing a claim in that program. In addition, the Commission makes the claim forms and instructions available to potential claimants via the world wide web (www.justice.gov/fcsc). The Commission also publicizes the program through notices in the *Federal Register* and press releases to the news media, and by notifying relevant organizations and congressional offices.

Once the Commission has received a completed claim form with related exhibits, documents, or other evidence, the Commission's staff undertakes a careful examination and, if necessary, seeks additional information or evidence from the claimant or other sources to enable the claimant to establish the requisite elements of a claim (i.e., U.S. nationality, ownership, value, and the date and circumstances of the asserted loss). Although the claimant has the burden of proof, the adjudication of a claim is non-adversarial, and the Commission's staff endeavors to assist each claimant in establishing a compensable claim while at the same time discharging its obligation to protect the public interest opposed to the allowance of any unjust or unfounded claims. After a claim is fully developed, it is presented to the Commission for adjudication.

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

If no timely objection is received on a claim, the Proposed Decision is automatically entered as the Commission's Final Decision. However, even after the issuance of a Final Decision, the regulations of the Commission permit the filing of a petition to reopen a claim for further consideration based upon newly-discovered evidence. Additionally, if information comes to the attention of the Commission from sources other than the claimant, the Commission may reopen, on its own motion, a claim that has already become final.

In most claims programs, a time limit is set by statute within which the Commission must complete the adjudication of the claims.

After the specified date, the Commission no longer has authority to accept additional claims for adjudication or to reconsider any claim which was determined in that particular program.

To fully apprise claimants of the basis of the Commission's determinations, the decisions of the Commission set forth the reasons for the action taken and include specific findings of fact and conclusions of law regarding each aspect of the claim. In most programs, the amount of funds available to pay the Commission's awards is limited, often resulting in *pro rata* payment of awards by the Department of the Treasury. The Commission therefore must ensure that the award entered in each claim is fully supported, and based upon the same criteria as all other awards.

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

SECTION II: CURRENT YEAR'S ACTIVITIES

A. Claims Against Iraq

In 2016, the Commission concluded the First Iraq Claims Program, which consisted of claims filed pursuant to a letter of referral issued by the U.S. Department of State's Legal Adviser in November 2012. During 2016, the Commission also continued to adjudicate claims in the Second Iraq Claims Program pursuant to a subsequent referral letter from the Legal Adviser received by the Commission in October 2014.

1. Final Report: Iraq - First Claims Program

a. Introduction and Background

On September 2, 2010, the Governments of the United States and Iraq concluded an agreement that included provisions for the

settlement of claims of U.S. nationals who had been victims of the Saddam Hussein regime prior to October 7, 2004, as well as claims of U.S. servicemen injured in the 1987 attack on the U.S.S. Stark. *Claims Settlement Agreement Between the Government of the United States of America and the Government of the Republic of Iraq*, Sept. 2, 2010, T.I.A.S. No. 11-522. The Agreement provided for a lump-sum payment of \$400 million by Iraq in settlement of all claims of U.S. nationals that fell within the terms of the Agreement.

By letter dated November 14, 2012, U.S. Department of State Legal Adviser Harold Hongju Koh requested, pursuant to 22 U.S.C. § 1623(a)(1)(C), that the Commission adjudicate claims of U.S. nationals against Iraq for personal injury (First Iraq Claims Program). This letter is reprinted in its entirety in the Commission's 2015 Annual Report. 2015 FCSC Ann. Rep. 16-18. The November 2012 referral consisted of claims of U.S. nationals who had already received compensation from the State Department under the 2010 Claims Settlement Agreement for hostage-taking, and authorized the Commission to award additional compensation to those individuals, provided they could show, among other things, that they suffered a "serious personal injury" during their detention. The referral covered injuries arising from certain specified acts, such as "sexual assault, coercive interrogation, mock execution, or aggravated physical assault."

On March 26, 2013, the Commission published notice in the *Federal Register* announcing the commencement of the First Iraq Claims Program pursuant to Title I of the International Claims Settlement Act of 1949 and the Legal Adviser's November 2012 referral letter. *Notice of Commencement of Iraq Claims Adjudication Program, and of Program Completion Date*, 78 Fed. Reg. 18,365 (March 26, 2013).

b. Program Completion

In 2016, the Commission completed adjudication of all the claims in the First Iraq Claims Program. On November 20, 2015, the

Commission published notice in the *Federal Register* announcing a completion date of February 2, 2016 for the program. *Notice of Completion of Claims Adjudication Program*, 80 Fed. Reg. 72,738 (November 20, 2015).

In the First Iraq Claims Program, the Commission received 28 claims pursuant to the November 2012 referral letter and issued Final Decisions in all of the claims, with awards totaling \$14.5 million. In the adjudication of these claims, the Commission dealt with many complex legal issues, including the assessment of the severity of serious personal injury claims and the determination of the proper standards for evidence and compensation in such claims. Additional details are provided in the table below.

| First Iraq Claims Program | |
|----------------------------|----------------|
| Number of Claims Received: | 28 |
| Number of Awards Issued: | 14 |
| Number of Denials Issued: | 14 |
| Total Value of Awards | \$14.5 million |

2. Iraq - Second Program

By letter dated October 7, 2014, Acting Legal Adviser Mary E. McLeod referred three additional categories of claims to the Commission for adjudication and certification, including claims for hostage-taking, death while being held hostage, and personal injury (Second Iraq Claims Program). This referral letter is reprinted as Exhibit 1, below.

On October 23, 2014, the Commission published notice in the *Federal Register* announcing the commencement of the Second Iraq Claims Program and setting a filing deadline of October 23, 2015. *Notice of Commencement of Claims Adjudication Program*, 79 Fed. Reg. 63,439 (October 23, 2014).

The Commission received 272 claims by the filing deadline, the majority of which are currently being processed for adjudication. As of December 31, 2016, the Commission had issued 24 Final Decisions, with awards totaling \$8.46 million.

EXHIBIT 1

UNITED STATES DEPARTMENT OF STATE

Washington, D.C. 20520

October 7, 2014

The Honorable Anuj C. Desai and Sylvia M. Becker
Foreign Claims Settlement Commission of the United States
Department of Justice
Washington, DC 20579

Dear Commissioners Desai and Becker:

On September 2, 2010, the United States entered into the Claims Settlement Agreement Between the Government of the United States of America and the Government of the Republic of Iraq (“Claims Settlement Agreement”). The Claims Settlement Agreement was approved by the Iraqi Parliament, and on June 21, 2011, Iraq transferred the \$400 million settlement amount to the U.S. Treasury. The Claims Settlement Agreement covers claims of U.S. nationals against Iraq that “arise from alleged personal injury (whether physical or non-physical, including emotional distress) or death caused by any act of torture, extrajudicial killing, aircraft sabotage, hostage-taking,

or the provision of material support or resources for such an act” for acts that occurred prior to October 7, 2004, as well as physical injury claims that were the subject of an exchange of diplomatic notes in 1990. The Agreement settled and extinguished all claims falling within its ambit, and the United States agreed to terminate all legal proceedings in U.S. courts arising from such claims, to nullify all attachments and judgments obtained in connection with such claims, and to preclude all further U.S. litigation based on such claims. Following the receipt of the settlement funds transferred by Iraq, the Department of State has undertaken to distribute payments for certain claims covered by the Claims Settlement Agreement, including claims of former prisoners of war, claims of the spouses of prisoners of war, claims of former hostages and human shields with unpaid judgments against Iraq or those with pending litigation against Iraq at the time of the entry into force of the Claims Settlement Agreement (“pending litigation”), and compensation for U.S. servicemen injured in the 1987 attack on the U.S.S. Stark.

On November 14, 2012, pursuant to the discretionary authority under 22 U.S.C. §1623(a)(1)(C) delegated to the Legal Adviser by the Secretary of State, the Legal Adviser referred one category of claims within the scope of the Claims Settlement Agreement to the Foreign Claims Settlement Commission of the United States (“Commission”) for adjudication and certification. That referral was for claims of U.S. nationals for special circumstances, where the claimants have already received compensation under the Claims Settlement Agreement from the State Department and where the severity of the claimants’ serious personal injury warrants additional compensation. With this letter, under the same discretionary authority, I am referring additional categories of claims within the scope of the Claims Settlement Agreement for adjudication and certification. Again, we believe that the Commission is particularly well-suited to undertake this task. The Commission is requested to make determinations with respect to the three categories described below, in accordance with the provisions of 22 U.S.C. §1621 et seq. and the Claims Settlement Agreement.

Category A: This category shall consist of claims by U.S. nationals for hostage-taking¹ by Iraq² in violation of international law prior to October 7, 2004, provided that the claimant was not a plaintiff in pending litigation against Iraq for hostage taking³ at the time of the entry into force of the Claims Settlement Agreement and has not received compensation under the Claims Settlement Agreement from the U.S. Department of State. If the Commission decides to award compensation for these claims, we recommend an amount of \$150,000 per claim plus \$5,000 for each day the claimant was in captivity.

Category B: This category shall consist of claims of U.S. nationals for death while being held hostage by Iraq in violation of international law prior to October 7, 2004. If the Commission decides to award compensation for these claims, we recommend that the Commission award up to but no more than \$5 million per claim.

Category C: This category shall consist of claims of U.S. nationals for any personal injury resulting from physical harm to the claimant caused by Iraq in violation of international law prior to October 7, 2004, provided that the claimant: 1) had pending litigation against Iraq arising out of acts other than hostage taking; 2) has not already been compensated pursuant to the Claims Settlement Agreement; and 3) does not have a valid claim under and has not received compensation pursuant to Category B of this referral. If the Commission decides to award compensation for these claims, we recommend that the Commission award an amount commensurate with the injury but no more than \$1 million per claim.

¹ For purposes of this referral, hostage-taking would include unlawful detention by Iraq that resulted in an inability to leave Iraq or Kuwait after Iraq invaded Kuwait on August 2, 1990.

² For purposes of this referral, "Iraq" shall mean the Republic of Iraq, the Government of the Republic of Iraq, any agency or instrumentality of the Republic of Iraq, and any official, employee or agent of the Republic of Iraq acting within the scope of his or her office, employment or agency.

³ For purposes of this category, pending litigation against Iraq for hostage taking refers to the following matters: *Acree v. Iraq*, D.D.C. 02-cv-00632 and 06-cv-00723, *Hill v. Iraq*, D.D.C. 99-cv-03346, *Vine v. Iraq*, D.D.C. 01-cv-02674; *Seyam (Islamic Society of Wichita) v. Iraq*, D.D.C. 03-cv-00888; *Simon v. Iraq*, D.D.C. 03-cv-00691.

Please direct any inquiries you may have to the Department of State's Office of International Claims and Investment Disputes, Suite 203, South Building, 2430 E Street, NW, Washington, DC 20037-2800.

Sincerely,

/s/ Mary E. McLeod
Acting Legal Adviser

B. Libya - Third Libya Claims Program

As part of the process toward normalization of diplomatic relations, the United States and Libyan Governments concluded an agreement on August 14, 2008, that included a provision for the settlement of U.S. nationals' claims against Libya arising out of certain terrorist incidents occurring prior to June 30, 2006. *Claims Settlement Agreement Between the United States of America and the Great Socialist People's Libyan Arab Jamahiriya*, U.S.-Libya, Aug. 14, 2008, T.I.A.S. No. 08-814. The Agreement provided for a lump-sum payment of \$1.5 billion in settlement of all claims of U.S. nationals arising out of these incidents.

By letter dated November 27, 2013, Acting Legal Adviser Mary E. McLeod referred six categories of claims within the scope of the U.S.-Libya claims settlement agreement for adjudication and certification by the Commission, including claims for physical injury, hostage-taking, mental pain and anguish, and commercial injuries arising from certain terrorist incidents that occurred prior to June 30, 2006. This referral letter, which is reprinted as Exhibit 2, below, followed two earlier letters from the Legal Adviser referring claims within the scope of the agreement for adjudication and certification by the Commission. The first and second Libya Claims Programs, conducted pursuant to these referral letters, are described more fully in the Completed Programs sections below. On December 13, 2013, the Commission published notice in the *Federal Register* announcing the commencement of the third Libya Claims Program and setting a filing deadline of June 13, 2014. *Notice of Commencement of Claims Adjudication Program*, 78 Fed. Reg. 75,944 (December 13, 2013).

The Commission received 88 claims by the filing deadline, the majority of which are currently being processed for adjudication. As of December 31, 2016, the Commission had issued 42 Final Decisions, with awards totaling \$31.7 million.

EXHIBIT 2

UNITED STATES DEPARTMENT OF STATE

Washington, D.C. 20520

November 27, 2013

The Honorable Anuj C. Desai and Sylvia M. Becker
Foreign Claims Settlement Commission of the United States
Department of Justice
Washington, DC 20579

Dear Commissioners Desai and Becker:

On August 14, 2008, the United States entered into the Claims Settlement Agreement Between the United States of America and the Great Socialist People's Libyan Arab Jamahiriya ("Claims Settlement Agreement"). On October 31, the Secretary of State certified pursuant to the Libyan Claims Resolution Act ("LCRA"), that the United States Government "has received funds pursuant to the claims agreement that are sufficient to ensure . . . payment of the settlements referred to in section 654(b) of division J of the Consolidated Appropriations Act, 2008 (Public Law 110-161; 121 Stat. 2342); and . . . fair compensation of claims of nationals of the United States for wrongful death or physical injury in cases pending on the date of enactment of this Act against Libya. . . ." Following receipt of the settlement amount provided for in the Claims Settlement Agreement, the Department of State distributed payments for certain claims within the scope of Article 1 of the Agreement: the Pan Am 103 and LaBelle Discotheque settlement claims, as well as death claims set

forth by named parties in cases pending in U.S. court on the date of enactment of the LCRA. A list of the pending court cases is enclosed with this referral at Attachment 1 (“Pending Litigation”).

On December 11, 2008, pursuant to the discretionary authority under 22 U.S.C. §1623(a)(1)(C) delegated to the Legal Adviser by the Secretary of State, my predecessor John Bellinger referred one category of claims within the scope of Article I of the Claims Settlement Agreement to the Foreign Claims Settlement Commission of the United States (“Commission”) for adjudication and certification: claims for physical injury. On January 15, 2009, Mr. Bellinger referred additional categories of claims for adjudication and certification. With this letter, under this same discretionary authority, I am referring additional categories of claims for adjudication and certification. Again, we believe the Commission is particularly well-suited to undertake this task. The Commission is requested to make determinations with respect to six categories of Claims (Categories A, B, C, D, E, and F below) in accordance with the provisions of 22 U.S.C. §1621 *et seq.*, the Claims Settlement Agreement, and the LCRA.

Category A: This category shall consist of claims of U.S. nationals for physical injury who had claims in the Pending Litigation, but whose claims for physical injury were previously denied by the Commission for failure to plead for injury other than emotional injury alone in the Pending Litigation, provided that (1) the claim meets the standard for physical injury adopted by the Commission; (2) the claimant was a named party in the Pending Litigation; (3) the Pending Litigation against Libya has been dismissed before the claim is submitted to the Commission; and (4) the claimant has not received any compensation under any other distribution under the Claims Settlement Agreement and does not qualify for any other category of compensation in this referral except Category D. We believe and recommend that a fixed amount of \$3 million would be an appropriate level of compensation for a claim that meets the applicable standards under this Category.

Category B: This category shall consist of claims of U.S. nationals for mental pain and anguish who are living close relatives of a decedent provided that (1) the claim was set forth as a claim for emotional distress, solatium, or similar emotional injury by the claimant in the Pending Litigation; (2) the claim meets the standard adopted by the Commission for mental pain and anguish; (3) the claimant is not eligible for compensation as part of the associated wrongful death claim; and (4) the claimant has not received any compensation under any other distribution under the Claims Settlement Agreement, and does not qualify for any other category of compensation in this referral. We believe and recommend that a fixed amount of \$200,000 would be an appropriate level of compensation for a claim that meets the applicable standards under this Category.

Category C: This category shall consist of claims of U.S. nationals who were held hostage or unlawfully detained in violation of international law during one of the terrorist incidents listed in Attachment 2 (“Covered Incidents”), provided that (1) the claimant was not a plaintiff in the Pending Litigation; (2) the claim meets the standard for such claims adopted by the Commission; and (3) the claimant has not received any compensation under any other distribution under the Claims Settlement Agreement, and does not qualify for any other category of compensation in this referral. We believe and recommend that a fixed amount of \$1,000,000 would be an appropriate level of compensation for a claim that meets the applicable standards under this Category.

Category D: This category shall consist of claims of U.S. nationals for compensation for physical injury in addition to amounts already recovered under the Commission process initiated by our January 15, 2009 referral or by this referral, provided that (1) the claimant has received an award for physical injury pursuant to our January 15, 2009 referral or this referral; (2) the Commission determines that the severity of the injury is a special circumstance warranting additional compensation, or that additional compensation is warranted because the injury resulted in the victim’s death; and (3) the claimant did not make a claim or receive any compensation under Category D of our

January 15, 2009 referral. If the Commission decides to award additional compensation for claims that meet these criteria, we recommend that the Commission award up to but no more than an additional \$7 million per claim.

Category E: This category shall consist of claims of U.S. nationals for mental pain and anguish who are living close relatives of a decedent whose death formed the basis of a death claim compensated under the Claims Settlement Agreement, provided that (1) the claimant was not a plaintiff in the Pending Litigation; (2) the claimant is not eligible for compensation from the associated wrongful death claim, and the claimant did not receive any compensation from the wrongful death claim; (3) the claim meets the standard adopted by the Commission for mental pain and anguish; and (4) the claimant has not received any compensation under any other distribution under the Claims Settlement Agreement, and does not qualify for any other category of compensation in this referral. We believe and recommend that a fixed amount of \$200,000 would be an appropriate level of compensation for a claim that meets the applicable standards under this Category.

Category F: This category shall consist of commercial claims of U.S. nationals provided that (1) the claim was set forth by a claimant named in *Abbott et al. v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 1:94-cv-02444-SS; and (2) the Commission determines that the claim would be compensable under the applicable legal principles.

Please direct any inquiries you may have to the Department of State's Office of International Claims and Investment Disputes, Suite 203, South Building, 2430 E Street, NW, Washington, D.C., 20037-2800.

Sincerely,

/s/ Mary E. McLeod
Acting Legal Adviser
Department of State

Attachment 1¹

(“Pending Litigation”)

Baker v. Socialist People’s Libyan Arab Jamahiriya (D.D.C.) 03-cv-749; *Pflug v. Socialist People’s Libyan Arab Jamahiriya* (D.D.C.) 08-cv-505.

Certain Underwriters at Lloyds London v. Great Socialist People’s Libyan Arab Jamahiriya (D.D.C.) 06-cv-731.

Clay v. Socialist People’s Libyan Arab Jamahiriya (D.D.C.) 06-cv-707.

Collett v. Socialist People’s Libyan Arab Jamahiriya (D.D.C.) 01-cv-2103.

Cummock v. Socialist People’s Libyan Arab Jamahiriya (D.D.C.) 02-cv-2134.

Estate of John Buonocore III v. Great Socialist Libyan Arab Jamahiriya (D.D.C.) 06-cv-727; *Simpson v. Great Socialist People’s Libyan Arab Jamahiriya* (D.D.C.) 08-cv-529.

Fisher v. Great Socialist People’s Libyan Arab Jamahiriya (D.D.C.) 04-cv-2055.

Franqui v. Syrian Arab Republic, et al. (D.D.C.) 06-cv-734.

Hagerman v. Socialist People’s Libyan Arab Jamahiriya (D.D.C.) 02-cv-2147.

¹ Included in this list are cases in which plaintiffs allege hostage taking or unlawful detention, emotional distress, wrongful death, physical injury, or commercial loss, without consideration of whether plaintiffs would meet the other criteria in the relevant category. For example, every case is included in which a plaintiff alleges emotional distress, without considering whether he or she would be eligible for compensation from an associated wrongful death claim.

Harris v. Socialist People's Libyan Arab Jamahiriya (D.D.C.) 06-cv-732.

Hartford Fire Insurance Company v. Socialist People's Libyan Arab Jamahiriya (D.D.C.) 98-cv-3096.

Kilburn v. Islamic Republic of Iran, et al. (D.D.C.) 01-cv-1301.

Knowland v. Great Socialist People's Libyan Arab Jamahiriya (D.D.C.) 08-cv-1309.

La Reunion Aerienne v. Socialist People's Libyan Arab Jamahiriya (D.D.C.) 05-cv-1932.

McDonald v. Socialist People's Arab Jamahiriya (D.D.C.) 06-cv-729.

MacQuarrie v. Socialist People's Libyan Arab Jamahiriya (D.D.C.) 04-cv-176.

Patel v. Socialist People's Libyan Arab Jamahiriya (D.D.C.) 06-cv-626.

Pugh v. Socialist People's Libyan Arab Jamahiriya (D.D.C.) 02-cv-2026.

Simpson v. Socialist People's Libyan Arab Jamahiriya (D.D.C.) 00-cv-1722.

Beecham, et al. v. Great Socialist People's Libyan Arab Jamahiriya, et al. (D.D.C.) 01-cv-2243.

Attachment 2

(“Covered Incidents” for Purposes of Category C)

May 30, 1972 attack at Lod Airport in Israel, as alleged in *Franqui v. Syrian Arab Republic, et al.* (D.D.C.) 06-cv-734.

December 17, 1983 vehicle bomb explosion near Harrods Department Store in Knightsbridge, London, England, as alleged in *McDonald v. Socialist People’s Arab Jamahiriya* (D.D.C.) 06-cv-729.

November 30, 1984 (approximate) kidnapping and subsequent death of Peter C. Kilburn, as alleged in *Kilburn v. Socialist People’s Libyan Arab Jamahiriya* (D.D.C.) 01-cv-1301.

March 25, 1985 (approximate) kidnapping and subsequent death of Alec L. Collett, as alleged in *Collett v. Socialist People’s Libyan Arab Jamahiriya* (D.D.C.) 01-cv-2103.

November 23, 1985 hijacking of Egypt Air flight 648, as alleged in *Certain Underwriters at Lloyds London v. Great Socialist People’s Libyan Arab Jamahiriya* (D.D.C.) 06-cv- 731 and *Baker v. Socialist People’s Libyan Arab Jamahiriya* (D.D.C.) 03-cv-749/*Pflug v. Socialist People’s Libyan Arab Jamahiriya* (D.D.C.) 08-cv-505.

December 27, 1985 attack at the Leonardo da Vinci Airport in Rome, Italy, as alleged in *Estate of John Buonocore III v. Great Socialist Libyan Arab Jamahiriya* (D.D.C.) 06-cv-727/ *Simpson v. Great Socialist People’s Libyan Arab Jamahiriya* (D.D.C.) 08-cv-529.

December 27, 1985 attack at the Schwechat Airport in Vienna, Austria, as alleged in *Knowland v. Great Socialist People’s Libyan Arab Jamahiriya* (D.D.C.) 08-cv-1309.

April 5, 1986 bombing of the La Belle Discotheque in Berlin, Germany, as alleged in *Clay v. Socialist People’s Libyan Arab*

Jamahiriya (D.D.C.) 06-cv-707 and *Harris v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 06-cv-732.

September 5, 1986 hijacking of Pan Am flight 73, as alleged in *Patel v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 06-cv-626.

Detention beginning February 10, 1987 of the passengers and crew of the private yacht "Carin 11," as alleged in *Simpson v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 00-cv-1722.

December 21, 1988 bombing of Pan Am flight 103, as alleged in *Cummock v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 02-cv-2134, *Fisher v. Great Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 04-cv-2055, *Hagerman v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 02-cv-2147, *Hartford Fire Insurance Company v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 98-cv-3096, and *MacQuarrie v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 04-cv-176.

September 19, 1989 bombing of UTA flight 772, as alleged in *La Reunion Aérienne v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 05-cv-1932 and *Pugh v. Socialist People's Libyan Arab Jamahiriya* (D.D.C.) 02-cv-2026.

C. Claims Against Albania

In 2016, the Commission continued to administer the Albanian Claims Program that began in 1995 following the conclusion of an agreement between the United States and Albania providing for settlement of U.S. nationals' property claims against Albania in exchange for a lump-sum payment of \$2 million by Albania to the United States. *Agreement on the Settlement of Certain Outstanding Claims*, U.S.-Alb., Mar. 10, 1995, T.I.A.S. No. 12,611. The agreement was approved by the Albanian Parliament and entered into force on April 18, 1995. These claims arose following the establishment of the Albanian Communist regime of Enver Hoxha at the end of World War II.

As noted in prior Annual Reports, an April 2006 amendment to the 1995 settlement agreement eliminated the residency requirement which had previously left the Commission with no choice but to deny the claims of numerous American claimants that otherwise were compensable. As a result, the Commission is able to reopen those claims on its own motion for further adjudication.

In 2016, the Commission neither received nor adjudicated any claims under the Albania Claims Program. Despite various efforts to generate public awareness about the claims program, there still remains in the Albanian Claims Settlement Fund a substantial balance, which is available to any additional eligible claimants who file claims.

D. Guam World War II Loyalty Recognition Act/ Guam War Claims

On December 23, 2016, President Obama signed into law the Guam World War II Loyalty Recognition Act, Title XVII, Public Law 114-328, which authorizes the Commission to conduct a supplemental war claims compensation program for victims and survivors of the attack and occupation of Guam by Imperial Japanese military forces during World War II and the liberation of Guam by United States military forces. National Defense Authorization Act, No. 114-328, § 1705(a)(1) (Dec. 23, 2016). The Act authorizes the Commission to adjudicate claims for death, rape, personal injury, severe personal injury, forced labor, forced march, internment, and hiding to evade internment. *Id.* at § 1704(c)(1)-(2).

The Act recognizes two categories of claimants. The first category of claimants is comprised of survivors—*i.e.*, the spouse, children, or parents—of a Guam resident who died due to the attack and occupation of Guam by Imperial Japanese forces during World War II or incident to the liberation of Guam by U.S. forces and whose death would have been eligible for compensation under the Guam Meritorious Claim Act of 1945. *Id.* at § 1704(c)(1). Claimants in this category are entitled to an award of \$25,000, to be distributed among

survivors as provided by the Act. *Id.* at § 1704(a)(2). The second category of claimants is comprised of individuals who suffered a rape or personal injury or experienced forced labor, forced march, internment, or hiding to evade internment due to the attack and occupation of Guam by Imperial Japanese forces during World War II or incident to the liberation of Guam by U.S. forces. *Id.* at § 1704(c)(2). The Act provides that meritorious claims in this category will receive statutorily-set payments: claimants who suffered rape or severe personal injury are entitled to \$15,000; claimants who suffered forced labor or personal injury are entitled to \$12,000; and claimants who suffered forced march, internment, or hiding to evade internment are entitled to \$10,000. *Id.* at § 1704(a)(1)(A)-(C). Claimants under both categories must have been living on the date of enactment of the Act (December 23, 2016) to be eligible for payments. *Id.* at § 1704(b)(5); § 1704(c)(2).

The Act establishes a claims fund, which will be composed of the excess of duties, taxes, and fees collected under section 30 of the Organic Act of Guam (48 U.S.C. § 1421h) after fiscal year 2014 over the duties, taxes, and fees collected under that section in fiscal year 2014. *Id.* at § 1703(c)(1)(A)-(B). The Act also provides that additional funds may be made available through future appropriations. *Id.* at § 1707(a). The Commission is preparing for the initiation of the program and will publish notice in the Federal Register when all necessary administrative requirements are completed.

E. Helms-Burton Act/Claims Against Cuba

The Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (also known as the Helms-Burton Act) includes as Title III a provision authorizing U.S. nationals whose property in Cuba was confiscated by the Castro regime to bring federal court actions against foreign entities “trafficking” in those properties. The legislation contemplates that, with limited exceptions, the courts hearing these cases will adopt the valuations determined in awards issued by the Commission in its Cuban Claims Programs, conducted from 1965 to

1972 (the first Cuba Claims Program; *see* Section IV, subsection A.8, below) and from 2005 to 2006 (the second Cuba Claims Program; *see* Section IV, subsection A.19, below). In cases where a plaintiff was not eligible to file a claim in the Commission's Cuban Claims Program (i.e., was not a U.S. national at the time of confiscation), the legislation authorized the United States District Courts, beginning in March 1998, to appoint the Commission as Special Master to make determinations on issues such as ownership and valuation of property for use in court actions.

The Act also grants the President of the United States the authority to suspend the provisions of Title III for periods of six months if necessary to the national interests of the United States. In 2013, President Obama delegated this authority to the Secretary of State. In January and July of 2016, the Secretary of State invoked this authority and continued to suspend the right to file Title III actions. Nevertheless, during 2016 the Commission continued to receive requests to examine files from its Cuban Claims Programs. Some of these requests were from attorneys advising foreign investors wishing to avoid involvement with any property in Cuba that is the subject of a certified claim in the Cuban Claims Programs. In addition, representatives from the Department of State continued to examine files in connection with the Department's responsibility under Title IV of the Helms-Burton Act, which requires the exclusion from the United States of foreign individuals associated with corporations or other entities "trafficking" in property that is the subject of a certified claim in the Cuban Claims Programs.

On December 17, 2014, President Obama announced changes to the United States Government's policies regarding Cuba. Subsequently, on July 1, 2015, the President issued a statement announcing that the United States had agreed to formally re-establish diplomatic relations with the Government of Cuba and re-open embassies in the respective countries. Thereafter, in 2015 and 2016, the United States and Cuba held government-to-government claims discussions in Havana and Washington to exchange information on a

wide variety of claims, including claims of U.S. nationals that were certified by the Commission in its Cuba claims programs.

It is not yet clear what effect these policy changes will have on the status of the claims previously adjudicated by the Commission. The Commission continues to monitor the issue and will post information regarding pertinent developments on its website (<http://www.justice.gov/fcsc>).

F. Prisoner-Of-War and Civilian Internee Claims

During 2016, the Commission continued to have jurisdiction under Pub. L. No. 91-289 (50 U.S.C. App. §§ 2004 and 2005) to receive and adjudicate claims by U.S. Armed Forces personnel and civilians, or their survivors, for compensation based on inadequate food rations and inhumane treatment received while held as prisoners of war or internees during the Vietnam conflict. However, no new claims were received during the year. The Commission also continued to serve as a repository of records on U.S. military veterans and civilians captured or interned during World War II, the Korean conflict, the U.S.S. Pueblo incident, and the Vietnam conflict.

G. Modernization of Claims Records

In 2016, the Commission continued efforts to improve service to the public and other federal agencies by continuing to maintain an electronic compilation of all of the Proposed and Final Decisions issued in its claims programs since the early 1950s. This compilation is currently available for use in the Commission's office by appointment. A subset of leading decisions from all of the Commission's completed programs is also available on the Commission's website.

The Commission also continued to make more of its decisions from active programs available to the public and other federal agencies. All of the Commission's decisions and orders in the Albania Claims Program and the First and Second Libya Claims

Programs are available on its website. All Final Decisions in the Third Libya Claims Program and the First and Second Iraq Claims Programs are also available on the Commission's website (<http://www.justice.gov/fcsc>).

SECTION III: POSSIBLE FUTURE PROGRAMS

A. Advisory Program

Under the Foreign Assistance Act of 1961, (as amended by Pub. L. No. 88-205, 77 Stat. 379, 386 (1973) (22 U.S.C. § 2370)) (“Hickenlooper Amendment”), the President is authorized to suspend assistance to the government of any country which, on or after January 1, 1962, has nationalized or expropriated the property of U.S. nationals, taken steps to repudiate or annul contracts with U.S. nationals, or imposed discriminatory taxation or restrictive conditions having the effect of seizing ownership or control of property of U.S. nationals, and has failed to take appropriate steps to discharge its obligations under international law.

The Hickenlooper Amendment extends the jurisdiction of the Commission from determination and adjudication of claims to an advisory capacity in the area of foreign expropriations and other seizures of American-owned property. Under the amendment, the Commission is authorized, upon the request of the President, to evaluate expropriated property, determine the full value of any property nationalized, expropriated, seized, or subjected to discriminatory actions, and to render an advisory report to the President within 90 days after such request. Unless authorized by the President, the Commission may not publish its advisory report except to the citizen or entity owning the property at issue.

SECTION IV: SUMMARY OF PAST PROGRAMS

A. Claims Under the International Claims Settlement Act of 1949

The jurisdiction of the Commission and its predecessor, the International Claims Commission, has encompassed the administration of 21 claims programs under the authority of the seven titles of the International Claims Settlement Act of 1949, as amended (“ICSA”). Pub. L. No. 81-455, 64 Stat. 12 (1950) (22 U.S.C. § 1621 *et seq.*) These programs have involved claims of U.S. nationals for losses in specific foreign countries as a result of the nationalization or other taking of property during specific periods of time by the governments of those countries. These 21 claims programs are briefly summarized below. Statistics and other relevant information on the programs appear in Sections V and VI of this report.

1. Yugoslavia - First Program

The provisions of Title I of the ICSA (22 U.S.C. § 1623(a)(1)(A)) authorized the International Claims Commission, predecessor to the Foreign Claims Settlement Commission, to administer a program to determine the validity and amount of claims of U.S. nationals for the nationalization or other taking of property included within the terms of the U.S. - Yugoslavia Claims Settlement Agreement of July 19, 1948, 62 Stat. 2658. That agreement resulted in a fund of \$17 million from which payments were made on the awards granted in the claims. The first Yugoslavia Claims Program was completed on December 31, 1954.

2. Panama

Under section 4(a) of Title I of the ICSA (22 U.S.C. §1623 (a)(1)(B)), the International Claims Commission was authorized to adjudicate claims of U.S. nationals for the nationalization or other taking of property included within the terms of any claims settlement agreement thereafter concluded between the United States and a

foreign government (exclusive of governments against which the United States declared the existence of a state of war during World War II). Pursuant to this authorization, the International Claims Commission administered a program to determine U.S. nationals' property claims against the Government of Panama following the conclusion of a claims settlement agreement between the Governments of the United States and Panama on October 11, 1950. This agreement resulted in a fund of \$400,000 for payments on the awards granted in the claims. The Panamanian Claims Program was completed on December 31, 1954.

3. Bulgaria, Hungary, and Romania - First Programs

Title II of the ICSA (22 U.S.C. § 1631a) provided for the vesting and liquidation of enemy assets which had been blocked by the United States during World War II, and Title III (22 U.S.C. § 1641a) provided for the deposit of the proceeds into separate special funds, according to the respective enemy government ownership of those assets prior to blocking. Pub. L. No. 84-285, §§ 202, 302, 69 Stat. 562, 571 (1955) (22 U.S.C. §§ 1631a, 1641a). The proceeds were deposited into funds by the Department of the Treasury, which were designated the Bulgarian Claims Fund, the Hungarian Claims Fund, and the Romanian Claims Fund, for payments on awards granted by the Commission in claims against those governments under Title III of the ICSA.

Pursuant to 22 U.S.C. § 1641b, the Commission considered claims of U.S. nationals for losses arising out of war damages, nationalization, compulsory liquidation, or other taking of property prior to August 9, 1955, by the Governments of Bulgaria, Hungary, and Romania. Pub. L. No. 84-285, § 303, 69 Stat. 562, 571 (1955) (22 U.S.C. § 1641b). The Commission was also authorized to consider claims of U.S. nationals for losses based on the failure of those governments to meet certain debt obligations expressed in the currency of the United States. Payments on the awards granted in these claims were made from the appropriate claims funds created under the ICSA. The amounts available from these funds for

payments were: Bulgarian Claims Fund, \$2,676,234.49; Hungarian Claims Fund, \$2,235,750.65; and Romanian Claims Fund, \$20,164,212.68. The Bulgarian, Hungarian, and Romanian Claims Programs were completed on August 9, 1959.

4. Italy - First Program

Title III of the ICSA (22 U.S.C. § 1641c) also authorized the Commission to consider claims of U.S. nationals against Italy for losses resulting from war damages during World War II sustained in areas outside of Italy and outside of the territories ceded by Italy under the Treaty of Peace concluded on September 15, 1947. (Claims for losses arising from war damages sustained within Italy and within the territories ceded by Italy were compensated by Italy under the Treaty of Peace.) Under a subsequent amendment to § 1641c, the Commission was further authorized to reconsider claims filed by persons who were U.S. nationals on the date of authorization of the claims program, even though they had not been U.S. nationals on the date of the losses upon which their claims were based. In addition, the Commission was authorized to reconsider claims wherein the claimant had a direct ownership interest in a corporation regardless of the per centum of ownership vested in the individual. Pub. L. No. 85-604, 72 Stat. 527, 531 (1958) (22 U.S.C. § 1641c). Awards granted by the Commission were paid out of the Italian Claims Fund. That fund was established with the sum of \$5 million paid to the United States by the Government of Italy, pursuant to a Memorandum of Understanding concluded by the two governments which became effective on August 14, 1947. *Memorandum of Understanding Regarding Settlement of Certain Wartime Claims and Related Matters*, U.S. - Italy, Aug. 14, 1947, 61 Stat. 3962. The Italian Claims Program was completed on August 9, 1959, as required by the statute. Reconsideration of the Italian claims was completed on May 31, 1960.

5. Soviet Union

Between 1956 and 1959, the Commission also administered a Soviet Claims Program pursuant to separate provisions of Title III of the ICSA (22 U.S.C. § 1641d). Those provisions authorized the Commission to consider claims of U.S. nationals arising prior to November 16, 1933, against the Soviet Government, and claims of U.S. nationals based on liens held on property in the United States assigned to the United States Government by the Government of the Union of Soviet Socialist Republics under the Litvinov Assignment of November 16, 1933. This program was completed on August 9, 1959.

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

6. Czechoslovakia - First Program

Upon enactment of Title IV of the ICSA (22 U.S.C. § 1642 *et seq.*), the Commission commenced a program to determine the validity and amount of claims of U.S. nationals against the Government of Czechoslovakia based upon losses resulting from the nationalization or other taking of property by that government. Pub. L. No. 85-604, 72 Stat. 527 (1958). The funds for payment of awards granted by the Commission in these claims were derived from the sale in 1954 of certain Czechoslovakian assets in the United States. The net proceeds for the funds amounted to \$8,540,768.41. On September 15, 1962, as required by statute, the program was completed. Subsequently, additional funds in the amount of \$74,550,000 were obtained through the conclusion of a claims settlement agreement with Czechoslovakia in 1982. (For information concerning the

Commission's second Czechoslovakian Claims Program, see subsection C.3, below.)

7. Poland

On July 16, 1960, the Governments of the United States and Poland entered into a claims settlement agreement under which the Government of Poland agreed to pay the sum of \$40 million to the United States over a period of 20 years in full settlement and discharge of claims of U.S. nationals arising between May 8, 1945, and the date the agreement was concluded. *Agreement Regarding Claims of Nationals of the United States*, U.S.-Pol., July 16, 1960, 11 U.S.T. 1953. The Commission was authorized to adjudicate the claims covered by this agreement under 22 U.S.C. § 1623(a)(1)(B). The Polish Claims Program was completed on March 31, 1966.

8. Cuba - First Program

Title V of the ICSCA (22 U.S.C. § 1643 *et seq.*), enacted on October 16, 1964 authorized the Commission to determine the amount and validity of claims of U.S. nationals against the Government of Cuba, based upon: (1) losses resulting from the nationalization, expropriation, intervention, or other taking of, or special measures directed against, property by that government; and (2) the disability or death of U.S. nationals resulting from actions taken by or under the authority of that government. Pub. L. No. 88-666, 73 Stat. 1110 (1964). The program covered claims for losses which occurred between January 1, 1959, when the Castro regime took power, and October 16, 1964, the program's authorization date.

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

Commission adjudicated a total of 8,816 claims in the program, of which it found 5,911 to be compensable. The adjudicated total principal value of those claims was \$1,851,057,358.00.

9. Yugoslavia - Second Program

A second claims agreement was concluded between the Governments of the United States and Yugoslavia on November 5, 1964, covering claims against the Government of Yugoslavia which arose subsequent to the 1948 agreement (*see* subsection A.1, above) and providing a fund of \$3.5 million for payments on awards. *Agreement Regarding Claims of United States Nationals, U.S.-Yugo.*, Nov. 5, 1964, 16 U.S.T. 1. The second Yugoslavia Claims Program was administered by the Commission under authority of section 4(a) of Title I of the ICSA (22 U.S.C. § 1623(a)(1)(B)). The program was completed on July 15, 1969.

10. China - First Program

The first China Claims Program was administered pursuant to an amendment to Title V of the ICSA. Pub. L. No. 89-780, 80 Stat. 1365 (1966) (22 U.S.C. § 1643 *et seq.*). That amendment authorized the Commission to determine claims of U.S. nationals against the Government of the People's Republic of China (PRC) based on (1) losses resulting from the nationalization, expropriation, intervention, or other taking of, or special measures directed against, property by that government; and (2) the disability or death of U.S. nationals resulting from actions taken by or under the authority of that government. The program covered claims for losses which occurred between October 1, 1949, when the PRC government ascended to power, and November 6, 1966, the program's authorization date.

When the program was authorized, no funds were available with which to make payment on the claims. In this case as well, the statute provided only for the determination of the validity and amounts of such claims and the certification of the Commission's findings to the Secretary of State for use in the future negotiation of

a claims settlement agreement with the PRC. The first China Claims Program was completed on July 6, 1972.

Subsequently, the Governments of the United States and the PRC concluded a formal claims agreement settling claims of U.S. nationals which arose between October 1, 1949, and May 11, 1979 (the date of the agreement). Pursuant to the provisions of this agreement, the PRC agreed to pay a total of \$80.5 million to the United States for deposit in a China Claims Fund established by the Department of the Treasury. Under the agreement, the schedule of payments to the Department of the Treasury provided for an initial payment of \$30 million on October 1, 1979 and five annual payments of \$10.1 million on October 1 of each year thereafter, beginning in 1980 and ending in 1984. Pursuant to the statutory payment provisions in section 8 of Title I of the ICSCA (22 U.S.C. § 1627(f)), payments were made from the China Claims Fund by the Department of the Treasury on the losses certified in this program, and also on the awards certified in the second China Claims Program. (See subsection A.15, below.)

11. Bulgaria and Romania - Second Programs

On July 2, 1963, the United States concluded a formal claims settlement agreement with the Government of Bulgaria. *Agreement Regarding Claims of United States Nationals and Related Financial Matters*, U.S.-Bulg., July 2, 1963, 14 U.S.T. 969. Under that agreement, the Government of Bulgaria paid the sum of \$400,000 in settlement of claims of U.S. nationals. This amount was deposited into the Bulgarian Claims Fund to supplement the amount derived from the prior liquidation of Bulgarian assets for payments on awards granted by the Commission in both Bulgarian claims programs. (See subsection A.3, above.)

On March 30, 1960, the United States concluded a formal claims settlement agreement with the Government of Romania. *Settlement of Claims of United States Nationals and Other Financial Matters*, U.S.-Rom., Mar. 30, 1960, 11 U.S.T. 317. That agreement

provided for the payment of the sum of \$2.5 million in settlement of claims of U.S. nationals. This amount was deposited into the Romanian Claims Fund to supplement the amount derived from the prior liquidation of Romanian assets for payments on awards granted by the Commission in both Romanian claims programs. (*See* subsection A.3, above.)

An amendment to Title III of the ICSA (22 U.S.C. § 1641b) authorized the Commission to consider claims against Bulgaria and Romania which arose after the first programs were authorized (*see* subsection A.3, above) but prior to the effective date of the claims settlement agreements with the governments of those countries. Pub. L. No. 90-421, 82 Stat. 420 (1968). The second Bulgarian and Romanian Claims Programs were completed on December 24, 1971, as required by the amendment.

12. Italy - Second Program

The second Italian Claims Program was administered pursuant to a further amendment to Title III of the ICSA; in effect, this was an extension of the first Italian Claims Program (*see* subsection A.4, above). Pub. L. 90-421, approved July 24, 1968, 82 Stat. 422 (22 U.S.C. § 1641c). The Commission was authorized to consider claims of U.S. nationals who were eligible to file in the first Italian Claims Program, but who failed to file, as well as claims of U.S. nationals against Italy which arose in certain areas ceded by Italy under the Treaty of Peace, including the Dodecanese Islands. Excluded from consideration were claims of persons who had previously received compensation in the first Italian Claims Program or under the Treaty of Peace with Italy. Payments on awards granted by the Commission in this program were made from the balance remaining in the Italian Claims Fund following payment of the awards granted in the first Italian Claims Program. This second program was completed on December 24, 1971.

13. Hungary - Second Program

On March 6, 1973, the United States concluded a formal claims settlement agreement with the Government of Hungary under which that government agreed to pay the sum of \$18.9 million, to be paid in installments, in settlement of claims of U.S. nationals. *Agreement Regarding the Settlement of Claims*, U.S.-Hung., Mar. 6, 1973, 24 U.S.T. 522. These payments were deposited in the Hungarian Claims Fund to supplement the amount derived from the prior liquidation of Hungarian assets for payments on awards granted by the Commission in both Hungarian claims programs. (See subsection A.3, above.) The final installment payment was made on June 9, 1980.

As in the second programs for Bulgaria and Romania, under a subsequent amendment to Title III of the ICSA (22 U.S.C. § 1641b), Congress authorized the Commission to determine claims of U.S. nationals against the Government of Hungary based on nationalization or other taking of property between August 9, 1955, the date on which the first Hungarian Claims Program was approved, and March 6, 1973, the date of the agreement with Hungary. Pub. L. No. 93-460, 88 Stat. 1386 (1974). The Commission was also authorized to adjudicate certain claims which should have been filed in the first Hungarian Claims Program, but were not, due to an administrative error which caused notices of that program to be mailed to non-existent addresses. The second Hungarian Claims Program was completed on May 16, 1977.

14. German Democratic Republic (East Germany)

Title VI of the ICSA (22 U.S.C. § 1644 *et seq.*) authorized the Commission to receive and determine claims against the German Democratic Republic (GDR) for losses which arose from the nationalization, expropriation or other taking by that government of property interests of U.S. nationals. Pub. L. No. 94-542, 90 Stat. 2509 (1976). When the program was authorized, no funds were available for payment of the awards issued by the Commission. The program was completed on May 16, 1981.

The Department of State subsequently conducted negotiations with the GDR—and, after the unification of Germany on October 1, 1990 with the Federal Republic of Germany—to obtain a claims settlement providing funds for payment of the Commission’s awards. Those negotiations culminated in the signing of a settlement agreement on May 13, 1992, in which Germany assented to payment of up to \$190 million to settle and discharge the claims against it. *Agreement Concerning the Settlement of Certain Property Claims*, U.S.-F.R.G., May 13, 1992, T.I.A.S. 11,959. Its initial payment was \$160 million, with up to an additional \$30 million to be paid if needed. The agreement allowed claimants to elect either to accept payment of their Commission awards or to waive their right to payment in order to pursue claims for their properties under German law. 1992 FCSC Ann. Rep. 87. In April 1997, the United States and Germany exchanged diplomatic notes fixing the amount of “final transfer” under the May 1992 agreement at \$102,010,961.47 to cover the claims of claimants who elected to receive payment of their Commission awards. 1997 FCSC Ann. Rep. 58.

15. China - Second Program

As discussed in subsection A.10, above, in 1972 the Commission completed the first China Claims Program, adjudicating claims of U.S. nationals which arose between October 1, 1949 and November 6, 1966. On May 11, 1979, an agreement was entered into with the People’s Republic of China settling claims of U.S. nationals arising through the date of that agreement. *Agreement Concerning the Settlement of Claims*, U.S.-P.R.C., May 11, 1979, 30 U.S.T. 1957. The Commission thereafter proceeded under section 4(a) of Title I of the ICSCA (22 U.S.C. § 1623(a)(1)(B)) to adjudicate claims by U.S. nationals which arose between November 6, 1966 and May 11, 1979. The awards granted in the second China Claims Program were also paid out of the funds received under the 1979 agreement. The Commission completed the second China Claims Program on July 31, 1981.

16. Vietnam

On February 25, 1986, the Commission completed a program to determine the validity and amount of claims of U.S. nationals against the Socialist Republic of Vietnam arising from the nationalization or other taking of property on or after April 29, 1975, when the Government of the Republic of Vietnam (South Vietnam) was overthrown. The program was authorized under Title VII of the Act. Pub. L. No. 96-606, 94 Stat. 3534 (1980) (22 U.S.C. § 1645 *et seq.*). A claims settlement agreement was concluded with the Socialist Republic of Vietnam on January 28, 1995, which provided funds in the total amount of \$203,504,248.00 for payment of the Commission's awards. *Agreement Concerning the Settlement of Certain Property Claims, U.S.-Vietnam, Jan. 28, 1995, T.I.A.S. 12,602.*

17. Ethiopia

On December 19, 1985, the United States Government concluded a compensation agreement with the Provisional Military Government of Socialist Ethiopia for the settlement of claims against that government arising as a result of the nationalization, expropriation, or other taking of, or restrictive measures directed against, property rights or interests of U.S. nationals. *Compensation Agreement, U.S.-Eth., Dec. 19, 1985, T.I.A.S. 11,193.* The agreement provided for payment to the United States of a total of \$7 million as compensation for the claimants, with \$5.5 million of that amount paid in ten equal semi-annual installments ending in January 1991.

Exercising its authority under section 4(a) of Title I of the ICSA (22 U.S.C. § 1623(a)(1)(B)), on March 31, 1986, the Commission began adjudication of the claims covered by the settlement agreement, and set a program completion date of September 30, 1987. During the course of the program, the Commission issued decisions on a total of 45 claims. It found 27 of those claims to be compensable, and made awards amounting to

\$14,387,510.96 in principal and \$10,024,589.00 in interest. Following completion of the program on September 30, 1987, the Commission made a final certification of the awards to the Secretary of the Treasury for payment, in accordance with section 5 of the ICSA (22 U.S.C. § 1624).

18. Egypt

On June 29, 1990, the Commission completed the adjudication of claims against the Government of Egypt, pursuant to its authority under section 4(a) of Title I of the ICSA (22 U.S.C. § 1623(a)(1)(B)). The claims were based on uncompensated “nationalization, expropriation, confiscation and other restrictive measures of or against” U.S. nationals’ property between January 1, 1952 and October 27, 1976. Initial decisions on most of the claims were issued by the Office of the Legal Adviser in the Department of State, following entry into force of the U.S.-Egyptian Claims Settlement Agreement of 1976. *Agreement Concerning Claims of Nationals of the United States, U.S.-Egypt, May 1, 1976, 27 U.S.T. 4214* (entered into force Oct. 27, 1976). However, to expedite distribution of the amounts remaining from the original \$10 million paid to the United States under the agreement, the Legal Adviser requested, by letter dated May 11, 1989, that the Commission take jurisdiction over the claims and determine the claimants’ entitlement to share proportionately in those remaining funds. In most of the claims, this was accomplished by issuance of awards of interest, which had not been included in the awards made by the Department of State.

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

19. Cuba - Second Program

By letter dated July 15, 2005, Secretary of State Condoleezza Rice, pursuant to her authority under 22 U.S.C. § 1623(a)(1)(C),

requested that the Commission conduct a second Cuban Claims Program. This letter is reprinted on page 16 of the Commission's Annual Report to Congress for 2005 (2005 FCSC Ann. Rep. 16). As specified in the Secretary of State's referral letter, the purpose of the program was to effect the adjudication and certification by the Commission of claims for uncompensated taking of U.S. nationals' property by the Cuban government that arose after May 1, 1967, and were not adjudicated in the Commission's original Cuban Claims Program, conducted between 1965 and 1972. (See subsection A.8, above.) The Commission published notice of the commencement of the claims program in the *Federal Register* on August 11, 2005 (*Notice of Commencement of Claims Adjudication Program and of Program Completion Date*, 70 Fed. Reg. 46,890 (Aug. 11, 2005)), in accordance with its usual procedures, and set a filing period of six months and a program length of twelve months, as specified in the Secretary of State's letter. The notice announced that the filing deadline was February 13, 2006, and that the program would end on August 11, 2006.

The Commission received five claims during the six month filing period; awards were issued in two claims and three claims were denied. Following the completion of the program in August 2006, the Commission certified the awards to the Secretary of State for use in future negotiations of a lump-sum claims settlement agreement with the Cuban government.

20. Libya - First Program

By letter dated December 11, 2008, U.S. Department of State Legal Adviser John B. Bellinger, III, requested, pursuant to 22 U.S.C. § 1623(a)(1)(C), that the Commission adjudicate claims of U.S. nationals against Libya for physical injury arising out of certain terrorist incidents occurring prior to June 30, 2006. This referral letter is reprinted in its entirety in the Commission's 2012 Annual Report. 2012 FCSC Ann. Rep. 9-11. As specified in the referral letter, the purpose of the program was to effect the adjudication and certification by the Commission of one category of claims within the scope of

Article I of the *Claims Settlement Agreement Between the United States of America and the Great Socialist People's Libyan Arab Jamahiriya*, 2008 U.S.T. Lexis 72 (“Claims Settlement Agreement”), which was entered into by the United States and Libyan Governments on August 14, 2008, as part of the process toward normalization of diplomatic relations. On March 23, 2009, the Commission published notice in the *Federal Register* announcing the commencement of the Libya Claims Program pursuant to Title I of the International Claims Settlement Act of 1949 and the Legal Adviser’s December 2008 referral letter. *Notice of Commencement of Claims Adjudication Program*, 74 Fed. Reg. 12,148 (March 23, 2009).

The Commission received 50 claims pursuant to the December 2008 referral letter and rendered Final Decisions in all of the claims, issuing awards totaling approximately \$100.5 million. Following completion of the program on May 21, 2013, *see* 78 Fed. Reg. 15,377 (March 11, 2013), the Commission made a final certification of the awards to the Secretary of the Treasury for payment, in accordance with section 5 of the ICSA (22 U.S.C. § 1624).

21. Libya - Second Program

By a letter dated January 15, 2009, U.S. Department of State Legal Adviser John B. Bellinger, III, requested, pursuant to 22 U.S.C. § 1623(a)(1)(C), that the Commission conduct a second Libya Claims Program. The Legal Adviser referred six categories of claims within the scope of the Claims Settlement Agreement for adjudication and certification by the Commission, including claims for hostage-taking or unlawful detention, mental pain and anguish, wrongful death, severe physical injury, and commercial claims. This second referral letter is reprinted in its entirety in the Commission’s 2012 Annual Report. 2012 FCSC Ann. Rep. 12-19. On July 7, 2009, the Commission published notice in the *Federal Register* announcing the commencement of adjudication of claims. *Notice of Commencement of Claims Adjudication Program*, 74 Fed. Reg. 32,193 (July 7, 2009). By letter dated March 26, 2010, Deputy Legal Adviser Jonathan B.

Schwartz amended Attachment 1 to the January 2009 referral letter to include one additional case as part of the “Pending Litigation” described therein. The letter amending the second referral is reprinted in its entirety in the Commission’s 2012 Annual Report. 2012 FCSC Ann. Rep. 20-21.

The Commission received 195 claims pursuant to the different categories of claims provided in the January 2009 referral letter. The Commission rendered Final Decisions in all of these claims and made \$270.3 million in awards. In the adjudication of the claims, the Commission dealt with numerous complex legal issues, including the determination of continuous nationality of individual and commercial claimants, the proper standards for hostage-taking and unlawful detention, and an assessment of the severity of physical injury claims. Following completion of the program on May 21, 2013, *see* 78 Fed. Reg. 15,377 (March 11, 2013), the Commission made a final certification of the awards to the Secretary of the Treasury for payment, in accordance with section 5 of the ICSA (22 U.S.C. § 1624).

B. Claims under the War Claims Act of 1948

1. Title I

Pursuant to Title I of the War Claims Act of 1948 (Pub. L. No. 80-896, 62 Stat. 1240 (1948) (50 U.S.C. App. § 2001 *et seq.*) and amendments thereto (“WCA”), the Commission and its other predecessor, the War Claims Commission, were authorized to administer 10 prisoner-of-war (POW) and civilian internee compensation programs and four war damage and loss compensation programs. These programs consisted of (in chronological order):

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

- Section 5(a): Claims of American citizens who were interned or in hiding in specified areas in the Pacific during World War II (50 U.S.C. App. § 2004(a));
- Section 7(a): Claims of religious organizations in the Philippines or their personnel for goods and services furnished to civilian American internees and members of the Armed Forces of the United States who were held as prisoners of war during World War II (50 U.S.C. App. § 2006(a));
- Section 6(d): Claims of members of the Armed Forces of the United States who were mistreated while imprisoned by the enemy during World War II (50 U.S.C. App. § 2005(d));
- Sections 7(b) and (c): Claims of United States-affiliated religious organizations in the Philippines for damage or destruction of educational, medical and welfare institutions and other connected non-religious facilities during World War II (50 U.S.C. App. § 2006(b-c));
- Section 6(e): Claims of members of the Armed Forces of the United States captured during the Korean conflict (50 U.S.C. App. § 2005(e));
- Section 5(g): Claims of civilian American internees in Korea during the Korean conflict (50 U.S.C. App. § 2004(g));
- Section 5(f): Claims of civilian American employees of contractors interned by the Japanese forces during World War II (50 U.S.C. App. § 2004(f));
- Section 15: Claims of Americans who were captured and held as POWs while serving in the Allied Forces during World War II (50 U.S.C. App. § 2014);

- Section 16: Claims of American merchant seamen interned during World War II (50 U.S.C. App. § 2015);
- Section 17: Claims of American citizens and business entities for losses as a result of the sequestration of accounts, deposits and other credits in the Philippines by the Imperial Japanese Government (50 U.S.C. App. § 2016);
- Section 7(h): Claims of non-United States affiliated religious organizations in the Philippines of the same denomination as those of religious organizations functioning in the United States or their personnel for the value of relief furnished to American civilians and POWs and for damage to or loss of educational institutions and other connected non-religious facilities during World War II (50 U.S.C. App. § 2006(h));
- Section 5(h): Claims based upon the death or imprisonment of Guamanians by the Japanese forces on Wake Island during World War II (50 U.S.C. App. § 2004(h)); and
- Section 6(e): Claims of military and civilian personnel assigned to duty on board the U.S.S. Pueblo who were captured by the military forces of North Korea on January 23, 1968, and thereafter imprisoned by the Government of North Korea (50 U.S.C. App. § 2005(e)).

2. Title II

Under the authority of Title II of the WCA (Pub. L. No. 87-846, 76 Stat. 1107 (1962) (50 U.S.C. App. § 2017 *et seq.*)), the Commission also administered the General War Claims Program. In this program, the Commission determined the validity and amount of claims of U.S. nationals for loss or destruction of, or physical damage to, property located in certain specified areas of Europe and the

Pacific and for certain deaths and personal injuries resulting from military operations during World War II. Section 615 of Pub. L. No. 94-542, approved October 18, 1976, allowed consideration of protests relating to awards in decisions on these claims issued during the last 10 calendar days of the program (May 7-17, 1967).

* * * * *

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

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

C. Claims Under Other Statutory Authority

1. Philippines

The Commission was authorized to administer a Philippine Claims Program pursuant to Public Law No. 87-616, 76 Stat. 411 (1962), as amended by Pub. L. No. 88-94, 77 Stat. 122 (1963) (50 U.S.C. App. §§ 1751-1763 note)). This statute provided for the recertification of the unpaid balances of awards previously granted by

the United States-Philippine War Damage Commission under the Philippine Rehabilitation Act of 1946, as compensation for damage to and destruction of property in the Philippines during World War II. This legislation did not authorize the filing of any new claims or the reconsideration of any previously filed claims. It authorized additional payments only to persons or the successors of persons to whom payments had been made on account of awards granted by the Philippine War Damage Commission, which had completed its functions on March 31, 1951. This program was completed on December 23, 1964.

2. Lake Ontario

Public Law No. 87-587 gave the Commission the unique assignment of conducting a program to determine the validity and amounts of claims of citizens of the United States for damages caused during 1951 and 1952 by the Government of Canada's construction and maintenance of the Gut Dam in the Saint Lawrence River. 76 Stat. 387 (1962). The Commission's responsibility was to adjudicate the claims and report its findings and conclusions to the President of the United States for such action as he might deem appropriate. The statute further provided that, if an agreement was concluded between the Governments of the United States and Canada for arbitration or adjudication of these claims, the Commission would discontinue its activities and transfer its records to the Secretary of State.

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

3. Czechoslovakia - Second Program

As discussed in subsection A.6, above, in 1962, the Commission completed its first Czechoslovakian Claims Program, in

which it adjudicated claims by U.S. nationals arising between January 1, 1945, and August 8, 1958. On December 29, 1981, Congress enacted the Czechoslovakian Claims Settlement Act of 1981 (Pub. L. No. 97-127, 95 Stat. 1675 (1981) (22 U.S.C. note prec. § 1642)), approving a claims settlement agreement which had been reached between the United States and Czechoslovakia. *See Agreement on the Settlement of Certain Outstanding Claims and Financial Issues, U.S.-Czechoslovakia, Jan. 29, 1982, T.I.A.S. 11,264* (entered into force Feb. 2, 1982). Under that agreement, the Government of Czechoslovakia paid to the United States a total of \$81.5 million in settlement of all claims which had arisen up to the date of the agreement.

The claims statute directed that three accounts be created out of the total settlement amount. The first account, amounting to \$74.55 million, was set aside to make further payments on the unpaid balance of awards made in the first Czechoslovakia Claims Program. The second account in the amount of \$1.5 million was established to pay claimants who had suffered losses subsequent to August 8, 1958. The statute also directed the Commission to conduct a program to determine such claims. A third account, consisting of the remainder of settlement funds available, \$5.4 million, was set aside to make *ex gratia* payments to certain claimants whose claims had previously been denied due to their lack of U.S. citizenship on the date of loss. The Commission was directed to re-adjudicate the claims of those claimants and to find them valid if the owner of the confiscated property had become a U.S. citizen by February 26, 1948. This was referred to informally as the “Beneš” claims program, because the claims at issue in it had originally arisen during the term of the socialist Czech president Edouard Beneš. On February 24, 1985, the Commission completed the second Czechoslovakian Claims Program, including the “Beneš” claims program, as required by the 1981 statute.

4. Iran

On May 13, 1990, the United States concluded an agreement with the Government of Iran providing for the lump-sum settlement of claims of U.S. nationals against Iran of under \$250,000 per claim (“small claims”), which had been pending against Iran at the Iran-U.S. Claims Tribunal (“the Tribunal”) in The Hague, Netherlands. *Settlement Agreement in Claims of Less Than \$250,000, Case No. 86 and Case No. B38* (the “Settlement Agreement”). The claimants had filed these claims through the Department of State following the conclusion of the Algiers Accords by the United States and Iran on January 19, 1981.

To ensure that the Commission would be able to implement an agreement settling the small claims, Congress enacted legislation in 1985 giving the Commission standby jurisdiction to adjudicate the claims once an agreement was reached. Pub. L. No. 99-93, 99 Stat. 437 (1985) (50 U.S.C. § 1701 note). That jurisdiction became effective when the Settlement Agreement was approved by the Tribunal, which took place on June 22, 1990. *Iran - U.S. Claims Tribunal Award No. 483*.

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

On June 28, 1990, the Department of State formally transferred responsibility for the small claims to the Commission, as provided in the Settlement Agreement, and began transferring the files pertaining to the claims from the Tribunal to Washington, D.C.

In addition, the Department issued a formal determination dividing the settlement fund between the small claims and the USAID loan claims, allocating \$50 million to the former and \$55 million to the latter.

The Iran Claims Program was completed on February 24, 1995; by May 1995, the payment process had been substantially completed. The Commission published its final report on the claims program in its 1995 Annual Report. 1995 FCSC Ann. Rep. 5-9.

5. Holocaust Survivors Claims Program

The Commission conducted the Holocaust Survivors Claims Program pursuant to a September 1995 agreement between the United States and the Federal Republic of Germany settling the claims of certain individuals who, as U.S. nationals, suffered “loss of liberty or damage to body or health” through persecution by the German Nazi regime. *Agreement Concerning Final Benefits to Certain United States Nationals Who Were Victims of National Socialist Measures of Persecution*, U.S.-F.R.G., Sept. 19, 1995, T.I.A.S. 13,019. The Commission was granted authority to implement the agreement and conduct the program on January 26, 1996, upon enactment of Public Law No. 104-91, as amended by Public Law No. 104-99, enacting into law House Report 104-378 (22 U.S.C. § 1644 note).

The Commission began receiving claims in the spring of 1996 and in 1997 issued a Proposed Decision and a Final Decision setting forth its findings and conclusions on the scope of the program; these are reprinted in its 1997 Annual Report. By September 19, 1997, the Commission had issued individual Proposed Decisions on all of the claims received in the program, and by the end of February 1998 it had issued Final Decisions on all of the objections to those Proposed Decisions. In March 1998, the Commission certified the decisions issued in the program to the Secretaries of State and Treasury, in accordance with the claims statute. Following this certification, the Department of State began negotiations with the Government of the Federal Republic of Germany to obtain a lump-sum settlement of the

claims found compensable in the Commission's program. In December 1998, the United States and Germany succeeded in concluding an agreement in principle on a settlement. The agreement was subsequently implemented via an exchange of diplomatic notes and made public on January 25, 1999. *See Supplementary Agreement to the Agreement of September 19, 1995, Concerning Final Benefits to Certain United States Nationals Who Were Victims of National Socialist Measures of Persecution*, U.S.-F.R.G., Jan. 25, 1999, T.I.A.S. 13,019. These notes were reprinted in the Commission's 1999 Annual Report. 1999 FCSC Ann. Rep. 8.

The agreement provided for a lump-sum payment by Germany to the United States of 34.5 million Deutsche Marks (approximately \$18.5 million), to be made as soon as funds in that amount were appropriated by the German Parliament. The actual transfer of the funds took place on June 7, 1999, and the Department of the Treasury immediately began the process of disbursing award payments to the eligible claimants.

Under both the terms of the Commission's jurisdictional statute and the terms of the U.S.-German diplomatic exchanges, the identities of individual claimants, the number of claims received and awarded, and the amounts of the individual awards may not be publicly disclosed. Accordingly, this program is not included in the index and tables that appear in Sections V and VI of this report.

SECTION V: COMPLETED PROGRAMS INDEX

A. International Claims Settlement Act of 1949

| Claims Against | Title of Act | Statutory Authority | |
|-----------------------------------|--------------|---------------------|---------------------|
| | | Public Law No. | Title 22, U.S. Code |
| Bulgaria | | | |
| - First Program | III | 84-285 | 1641b |
| - Second Program | III | 90-421 | 1641b |
| China | | | |
| - First Program | V | 89-780 | 1643 |
| - Second Program | I | 81-455 | 1623(a) |
| Cuba | | | |
| - First Program | V | 88-666 | 1643 |
| - Second Program | I | 81-455; 105-277 | 1623(a) |
| Czechoslovakia* | IV | 85-604 | 1642 |
| Egypt | I | 81-455 | 1623(a) |
| Ethiopia | I | 81-455 | 1623(a) |
| German Democratic Republic | VI | 94-542 | 1644 |
| Hungary | | | |
| - First Program | III | 84-285 | 1641b |
| - Second Program | III | 93-460 | 1641b |
| Italy | | | |
| - First Program | III | 84-285 | 1641c |
| - Second Program | III | 90-421 | 1641c |
| Iraq | | | |
| - First Program | I | 81-455; 105-277 | 1623(a) |
| Libya | | | |
| - First Program | I | 81-455; 105-277 | 1623(a) |
| - Second Program | I | 81-455; 105-277 | 1623(a) |
| Panama | I | 81-455 | 1623(a) |
| Poland | I | 81-455 | 1623(a) |
| Romania | | | |
| - First Program | III | 84-285 | 1641b |
| - Second Program | III | 90-421 | 1641b |
| Soviet Union | III | 84-285 | 1641d |
| Vietnam | VII | 96-606 | 1645 |
| Yugoslavia | | | |
| - First Program | I | 81-455 | 1623(a) |
| - Second Program | I | 81-455 | 1623(a) |

* The second Czechoslovakian Claims Program was authorized by the Czechoslovakian Claims Settlement Act of 1981. See C. Under Other Statutory Authority, below.

B. War Claims Act of 1948

| Type of Claim | Section of Act | Statutory Authority | |
|--|----------------|---------------------|---------------------------|
| | | Public Law No. | Title 50, U.S. Code App. |
| A. CIVILIAN INTERNEE | | | |
| Korean Conflict | 5(g) | 83-615 | 2004(g) |
| U.S.S. Pueblo Incident | 6(e) | 91-289 | 2005(e) |
| Vietnam Conflict | 5(i) | 91-289 | 2004(i) |
| World War II (Pacific area) | | | |
| - Guamanians (Wake I.) | 5(h) | 87-617 | 2004(h) |
| - U.S. Citizens | 5(a) | 80-896 | 2004(a) |
| - Employees of Contractors | 5(f) | 83-744 | 2004(f) |
| World War II (Worldwide) | | | |
| - Merchant Seamen | 16 | 83-744 | 2015 |
| B. DAMAGE OR LOSS OF PROPERTY | | | |
| World War II (Philippines) | | | |
| - Bank Accounts | 17 | 83-744 | 2016 |
| - Religious Organizations | | | |
| - Non-U.S. Affiliated | 7(h) | 84-997 | 2006(h) |
| - U.S. Affiliated Aid to U.S. Armed Forces | 7(a) | 80-896 | 2006(a) |
| - Educational & Other non-Religious Facilities | 7(b-c) | 82-303 | 2006(b-c) |
| World War II General | 202 | 87-846 *(94-542) | 2017(a) *(2017i, j, note) |
| C. PRISONER OF WAR | | | |
| Korean Conflict | 6(e) | 83-615 | 2005(e) |
| U.S.S. Pueblo Incident | 6(e) | 91-289 | 2005(e) |
| Vietnam Conflict | 6(f) | 91-289 | 2005(f) |
| World War II U.S. Armed Forces | | | |
| - Inadequate food rations | 6(b) | 80- 896 | 2005(b) |
| - Inhumane treatment | 6(d) | 82-303 | 2005(d) |
| U.S. Citizens Allied Armed Forces | 15 | 83-744 | 2014 |

*Authorized protest period for claims decisions issued during last ten days of General War Claims Program.

C. Under Other Statutory Authority

| Title of Claims Program | Statutory Authority | |
|-------------------------------|---------------------|-------------------------------|
| | Public Law No. | U.S. Code |
| Iran | 99-93 | 50 U.S.C. 1701 note |
| Lake Ontario | 87-587 | |
| Philippine | 87-616 | 50 U.S.C. App. 1751-1763 note |
| Second Czechoslovakian | 97-127 | 22 U.S.C. note prec. 1642 |
| Holocaust Survivors | 104-99 | 22 U.S.C. 1644 note |

SECTION VI: COMPLETED PROGRAMS TABLE

A. International Claims Settlement Act of 1949 (Program Details)

| Title/Country | Program Dates | | No. of Awards | No. of Denials |
|------------------------------------|-----------------|------------|---------------|--------------------|
| | Filing Deadline | Completion | | |
| Title I | | | | |
| Yugoslavia-First | 6/30/51 | 12/31/54 | 876 | 671 |
| Yugoslavia-Second | 1/15/68 | 7/15/69 | 519 | 1,354 |
| Panama | 8/4/52 | 12/31/54 | 62 | 5 |
| Poland | 3/31/62 | 3/31/66 | 5,022 | 5,147 |
| China-Second | 8/31/79 | 7/31/81 | 3 | 78 |
| Ethiopia | 9/30/86 | 9/30/87 | 27 | 18 |
| Egypt | 11/30/89 | 6/29/90 | 83 | 2 |
| Cuba-Second | 2/13/06 | 8/11/06 | 2 | 3 |
| Libya-First | 7/23/09 | 5/21/2013 | 34 | 16 |
| Libya-Second | 7/07/10 | 5/21/2013 | 107 | 95 |
| Iraq-First | 6/26/2013 | 2/2/2016 | 14 | 14 |
| Title III | | | | |
| Bulgaria-First | 9/30/56 | 8/9/59 | 217 | 174 |
| Bulgaria-Second | 6/30/70 | 12/24/71 | 13 | 49 |
| Hungary-First | 9/30/56 | 8/9/59 | 1,153 | 1,572 |
| Hungary-Second | 5/15/75 | 5/16/77 | 365 | 1,159 |
| Romania-First | 9/30/56 | 8/9/59 | 498 | 575 |
| Romania-Second | 6/30/70 | 12/24/71 | 85 | 300 |
| Italy-First | 9/30/56 | 8/9/59 | 482 | 1,764 |
| Italy-Second | 6/30/70 | 12/24/71 | 90 | 324 |
| Soviet Union | 4/02/56 | 8/9/59 | 1,925 | 2,205 |
| Title IV | | | | |
| Czechoslovakia | 9/15/59 | 9/15/62 | 2,630 | 1,346 |
| Title V | | | | |
| ¹ Czechoslovakia-Second | | | | |
| - "Beneš" Claims | None | 2/24/85 | 128 | |
| - Post-1958 Claims | 2/24/83 | 2/24/85 | 327 | 1,292 |
| Title VI | | | | |
| Cuba-First | 5/1/67 | 7/6/72 | 5,911 | 2,905 |
| China-First | 7/6/69 | 7/6/72 | 378 | 198 |
| Title VII | | | | |
| German Democratic Republic | 5/16/78 | 5/16/81 | 1,899 | 1,999 |
| Iran Claims Act | | | | |
| Iran | 6/22/90 | 2/24/95 | 1,066 | ² 2,000 |

¹ Under an agreement signed on January 29, 1982, the Czechoslovakian Government paid \$81.5 million for settlement of all claims of U.S. nationals between January 1, 1945 and February 2, 1982. Under the Czechoslovakian Claims Settlement Act of 1981 (Pub. L. No. 97-127) Congress established a \$74.55 million fund for further payment of awards under Title IV and authorized the Commission to redetermine certain claims for losses of property owned by persons who became U.S. nationals on or before February 26, 1948, and to adjudicate claims for losses arising after August 8, 1958, the end of the period covered by the first Czechoslovakian Claims Program. Funds of \$5.4 million and \$1.5 million, respectively, were set aside by Congress for payment of these awards.

² Includes 578 claims that were ordered dismissed.

B. International Claims Settlement Act of 1949 (Awards and Payments)

| Title/Country | Principal Amt. of Awards | Funds for Payment | Approx. Pro Rata % of Awards Paid |
|-----------------------------------|----------------------------|---------------------------|--|
| Title I | | | |
| Yugoslavia-First | \$18,417,113 | \$17,000,000 | 91% |
| Yugoslavia-Second | \$9,685,093 | \$3,500,000 | 36.1% |
| Panama | \$441,892 | \$400,000 | 90% |
| Poland | \$100,737,682 | \$40,000,000 | 33% |
| China-Second | \$176,455 | ¹ \$80,500,000 | \$1,000 plus 39.03% |
| Ethiopia | \$14,387,511 | \$7,000,000 | \$1,000 plus 48.55% |
| Egypt | ² \$5,885,369 | \$10,000,000 | 100% of principal plus 81.13% of Interest |
| Cuba-Second | \$51,144,926.95 | (None) | |
| Libya-First | \$100,500,000 | | 100% |
| Libya-Second | \$258,865,939 | | 100% (plus 100% of Interest when awarded) |
| Iraq-First | \$14,500,000 | | 100% |
| Title III | | | |
| Bulgaria-First | \$4,684,186 | \$2,676,234 | \$1,000 plus 69.71% |
| Bulgaria-Second | \$141,400 | \$400,000 | \$1,000 plus 69.71% |
| Hungary-First | \$58,277,458 | \$2,235,751 | ³ \$1,000 plus 37% |
| Hungary-Second | \$3,729,228 | \$18,900,000 | ³ \$1,000 plus 37% |
| Romania-First | \$60,011,348 | \$20,164,213 | \$1,000 plus 37.84% |
| Romania-Second | \$1,091,102 | \$2,500,000 | \$1,000 plus 37.84% |
| Italy-First | \$2,239,413 | \$5,000,000 | 100% plus Interest (\$762,294) |
| Italy-Second | \$348,934 | \$1,086,520 | 100% plus Interest (\$110,652) |
| Soviet Union | \$70,466,019 | \$8,658,722 | \$1,000 plus 9.717% |
| Title IV | | | |
| Czechoslovakia | ⁴ \$113,645,205 | \$8,540,768 | \$1,000 plus 5.30% |
| | | \$74,550,000 | 70.93% |
| Czechoslovakia-Second | | | |
| - "Benes" Claims | \$43,906,382 | \$5,400,000 | 12.30% |
| - Post-1958 Claims | \$5,120,928 | \$1,500,000 | 29.29% |
| Title V | | | |
| Cuba-First | \$1,851,057,358 | (None) | |
| China-First | \$196,681,841 | \$80,500,000 | \$1,000 plus 39.03% |
| Title VI | | | |
| German Democratic Republic | \$77,880,353 | \$102,010,961 | 100% of principal plus approx. 50% of Interest |
| Title VII | | | |
| Vietnam | \$99,471,984 | \$203,504,248 | 100% of principal plus 80.30% of Interest |
| Iran Claims Act | | | |
| Iran | \$41,570,936 | \$57,822,759 | 100% of principal plus 34.96% of Interest |

¹ Also covers awards issued in the first China Claims Program under Title V of the Act.

² Includes awards in the principal amount of \$5,767,610.34 issued by the State Department before transfer of the claims to the Commission in 1989.

³ \$1,000 plus 40% paid on war damage claims in which awards were granted in this program (38.5% from War Claims Fund).

⁴ Includes both principal and interest, since payment priorities and limitations under this Title were based on the total amount of awards whereas such priorities and limitations under Titles I and III were based on prorated payments on principal amount of awards, prior to making payments on awards of interest. Breakdown of Czechoslovakia awards amount is: principal – \$72,614,634; interest – \$41,030,571.

C. War Claims Act of 1948 (Program Details)

| Authority | Type of Claim | Filing Period |
|-------------------|--|--|
| Title I § | | |
| 6(b) | Members of U.S. Armed Forces held as prisoners of war during World War II-\$1 per day for inadequate food rations. | 1/30/50-3/31/52 |
| 5(a) | U.S. civilians interned by Japanese or in hiding in U.S. territories and possessions during World War II-\$60 per month. | 1/30/50-3/31/52 |
| 7(a) | U.S. affiliated religious organizations and personnel for reimbursement for aid furnished to U.S. Armed Forces and civilians during World War II in Philippines. | 1/30/50-3/31/52 |
| 6(d) | Members of U.S. Armed Forces held as prisoners of war during World War II-\$1.50 per day for forced labor and inhumane treatment. | 4/9/52-8/1/54 |
| 7(b-c) | U.S. affiliated religious organizations for damage or loss of educational and other non-religious facilities in Philippines during World War II. | 4/9/52-8/1/54 |
| 6(e) | Members of U.S. Armed Forces held as prisoners of war during the Korean Conflict-\$2.50 per day. | 8/21/54-8/21/55 |
| 5(g) | U.S. civilians interned or in hiding during Korean Conflict \$60 per month. | 8/21/54-8/21/55 |
| 5(f) | U.S. civilian employees of contractors interned by Japanese in U.S. Territories and possessions during World War II-\$60 per month. | 8/31/54-8/31/55 |
| 15 | U.S. citizens serving in Armed Forces of U.S. Allies held as prisoners of war during World War II-\$2.50 per day. | 8/31/54-8/31/55 |
| 16 | U.S. merchant seamen interned during World War II (not covered under Sec. 5(a))-\$60 per month. | 8/31/54-8/31/55 |
| 17 | Sequestration of bank accounts of U.S. civilians, members of U.S. Armed Forces, U.S. business firms, and bank institutions in Philippines during World War II. | 8/31/54-8/31/55 |
| 7(h) | Non-U.S. affiliated religious organizations in Philippines of same denomination of religious organizations functioning in U.S. for reimbursement for aid and damages as covered under Sec. 7(a-c). | 8/6/56-2/6/57 |
| 5(h) | Detention benefits to Guamanians captured by Japanese on Wake Island during World War II-\$60 per month. | 8/31/62-2/28/63 |
| 6(e) | Civilians and members of U.S. Armed Forces assigned to U.S.S. Pueblo who were held as prisoners by North Korea-\$2.50 per day. | 9/16/70-6/24/71 |
| Title II § | | |
| 202 | War damage or loss of property in certain Eastern European countries, and in territories occupied or attacked by Japanese forces during World War II; damage to ships; losses to insurers, and by passengers on ships. | 7/15/63-1/15/65 ¹ (11/8/76-2/7/77) |

¹ These dates represent protests and additional awards granted pursuant to Section 615 of Public Law No. 94-542, approved October 18, 1976.

D. War Claims Act of 1948 (Awards and Payments)

| Authority | Number of Claims | No. of Denials | No. of Awards | Amount of Awards | Program Completed |
|-----------------------------|------------------|----------------------|------------------|----------------------------|-----------------------|
| Title I § | | | | | |
| 6(b) | 286,315 | ¹ 106,590 | 179,725 | \$49,935,899 | 3/31/55 |
| 5(a) | 23,000 | 13,740 | 9,260 | \$13,679,329 | 3/31/55 |
| 7(a) | 10,194 | 10,159 | 35 | \$2,858,560 | 3/31/55 |
| 6(d) | 254,228 | 75,328 | 178,900 | \$73,492,926 | 3/31/55 |
| 7(b-c) | 89 | 41 | 48 | \$17,238,597 | 3/31/55 |
| 6(e) | 9,877 | 427 | 9,450 | \$8,874,458 | 8/21/56 |
| 5(g) | 10 | 0 | 10 | \$16,774 | 8/21/56 |
| 5(f) | 2,968 | 746 | 2,222 | \$4,082,086 | 8/31/56 |
| 15 | 266 | 59 | 206 | \$335,836 | 8/31/56 |
| 16 | 385 | 214 | 171 | \$333,594 | 8/31/56 |
| 17 | 3,626 | 459 | 3,167 | \$10,570,917 | 8/31/56 |
| 7(h) | 109 | 67 | 42 | \$8,711,482 | 2/6/58 |
| 5(h) | 35 | 0 | 35 | \$91,782 | 12/31/63 |
| 6(e) | 82 | 0 | 82 | \$68,256 | 6/24/71 |
| Title II § | | | | | |
| 202 | 22,605 | 15,566 | 7,039 | ² \$334,783,630 | 5/17/67 |
| | ³ (4) | ³ (1) | ³ (3) | ³ (\$1,026,548) | ³ (3/4/77) |
| Totals, All Programs | 613,789 | 223,396 | 390,392 | \$526,100,674 | |

¹ Many thousands of claims for prisoner-of-war compensation were filed by residents in U.S. possessions and territories occupied by enemy forces during World War II who were not officially listed as members of duly recognized units of the Armed Forces of the U.S. during World War II. Those claimants were ineligible to receive prisoner of war compensation, which accounts for the high number of disallowances.

² As of December 31, 1974, the cumulative amount available in the War Claims fund for payment of claims was \$417,145,075. 1974 FCSC Ann. Rep. 13. Pursuant to Section 103 of Public Law No. 87-846, enacted on October 22, 1962, payment of awards was to be made in the order of priority set forth in Section 213 of Title II of the War Claims Act of 1948, as amended by the 1962 Act.

³ These dates, numbers, and amounts represent protests and additional awards granted pursuant to Section 615 of Public Law 94-542, approved October 18, 1976.

SECTION VII: LIST OF CHAIRS AND COMMISSIONERS

WHITNEY GILLILLAND, Chairman, August 6, 1954 to November 15, 1959

HENRY J. CLAY, August 6, 1954 to August 15, 1958

PEARL CARTER PACE, August 6, 1954 to November 30, 1959; **Chair**, December 1, 1959 to March 28, 1961

ROBERT L. KUNZIG, August 21, 1958 to January 19, 1961

THOMAS W.S. DAVIS, December 2, 1959 to March 28, 1961

EDWARD D. RE, Chairman, March 29, 1961 to February 27, 1968

LAVERN R. DILWEG, April 14, 1961 to January 2, 1968

THEODORE JAFFE, March 29, 1961 to October 21, 1971

LEONARD v. B. SUTTON, Chairman, March 28, 1968 to October 21, 1969

SIDNEY FREIDBERG, June 24, 1968 to August 24, 1970

LYLE S. GARLOCK, Chairman, February 25, 1970 to October 31, 1973; continued as Commissioner until July 30, 1975

KIERAN O'DOHERTY, June 22, 1972 to October 21, 1973

J. RAYMOND BELL, Chairman, November 1, 1973 to October 21, 1977

WILFRED J. SMITH, August 28, 1974 to October 21, 1979

ROBERT E. LEE, April 7, 1976 to October 21, 1978

RICHARD W. YARBOROUGH, Chairman, December 8, 1978 to October 21, 1981

FRANCIS L. JUNG, June 28, 1980 to December 6, 1981

RALPH W. EMERSON, December 31, 1980 to August 28, 1981

FRANK H. CONWAY, August 31, 1981 to November 2, 1994

J. RAYMOND BELL, Chairman, October 22, 1981 to September 6, 1983

JOSEPH W. BROWN, December 7, 1981 to March 15, 1988

BOHDAN A. FUTEY, Chairman, May 3, 1984 to May 27, 1987

ROBERT J. KABEL, March 15, 1988 to February 1, 1991

STANLEY J. GLOD, Chairman, August 12, 1988 to September 8, 1992

BENJAMIN F. MARSH, February 1, 1991 to November 3, 1994

JAMES H. GROSSMAN, Chairman, September 8, 1992 to November 26, 1993

DELISSA A. RIDGWAY, Chair, October 13, 1994 to May 28, 1998

RICHARD T. WHITE, November 3, 1994 to September 21, 2002

JOHN R. LACEY, November 4, 1994 to December 31, 2000; **Chairman**, February 15, 2001 to December 20, 2001

LARAMIE F. MCNAMARA, January 12, 2001 to December 20, 2001

MAURICIO J. TAMARGO, Chairman, February 6, 2002 to February 18, 2010

JEREMY H. GONZALEZ IBRAHIM, March 20, 2003 to March 2, 2006

STEPHEN C. KING, March 2, 2006 to May 29, 2009

RAFAEL E. MARTINEZ, May 28, 2008 to September 13, 2013

TIMOTHY J. FEIGHERY, Chairman, March 21, 2011 to February 16, 2013

ANUJ C. DESAI, April 6, 2012 to present

SYLVIA M. BECKER, September 16, 2013 to present