

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

IN THE MATTER OF THE CLAIM OF

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

Claim No. CZ-2,739

Decision No. CZ-3320

Under the International Claims Settlement
Act of 1949, as amended

Counsel for Claimant:

Philip Levy, Esquire
917 Fifteenth Street, N. W.
Washington 5, D. C.

FINAL DECISION

The Commission issued its Proposed Decision on this claim on May 2, 1962, a copy of which was duly served upon the claimant.

Full consideration having been given to the objections of the claimant and to the additional evidence and oral argument presented at the hearing on July 12, 1962, it is

ORDERED that the findings set forth in the Proposed Decision be re-stated as follows:

This is a claim against the Government of Czechoslovakia under Section 404, Title IV, of the International Claims Settlement Act of 1949, as amended, in the amount of \$15,650,000.00 by the SOCONY MOBIL OIL COMPANY, INC., a national of the United States within the meaning of Section 401(1)(B) of the Act.

The claim is based on the nationalization or other taking by the Government of Czechoslovakia of the following property:

- I. 100% interest in the enterprise of "Vacuum Oil Company, A. S.", hereinafter called "Vacuum".
- II. 100% interest in the enterprise of "Naftapol", hereinafter called "Nafta".
- III. Concession rights with respect to underground oil reserves.

Section 404 of the Act provides, inter alia, for the determination by the Commission in accordance with applicable substantive law, including international law, of the validity and amount of claims by nationals of the United States against the Government of Czechoslovakia for losses resulting from nationalization or other taking on and after January 1, 1945, of property including any rights or interests therein, owned at the time by nationals of the United States.

I. "Vacuum"

The Commission finds it established that claimant owned, directly or beneficially, 100% of the outstanding shares of capital stock of "Vacuum", a Czechoslovakian corporation which, in turn, owned certain real and personal property in Czechoslovakia including a 24% interest in "Nafta". "Vacuum's" main purpose was to manufacture and market petroleum products. The refinery was located in Kolin, Czechoslovakia, with bulk plants, warehouses and service stations throughout Czechoslovakia.

The Commission finds that "Vacuum" was nationalized without compensation by the Government of Czechoslovakia on October 27, 1945 pursuant to Decree 100/45 Sb.

Based upon the entire record including the testimony of F. J. Crowley at the oral hearing, the Commission finds that the value of "Vacuum" (excluding war damages and its 24% interest in "Nafta") was as follows:

<u>Assets</u>	
Land	\$ 452,297.00
Manufacturing plant	2,700,000.00
Tank cars	172,000.00
Marketing and other assets	561,421.00
Drums	58,625.00
Cash	1,680,000.00
Inventories	897,250.00
Property located in Kosice	19,479.63
	<u>\$6,541,072.63</u>

Liabilities

Accounts payable	<u>\$1,255,100.81</u>
	\$5,285,971.82

The amount of \$47,280.00, representing the initial cost of the 24% interest in "Nafta", is deducted (discussed hereinafter) leaving a balance of \$5,238,691.82.

The Commission further finds that certain structures and physical assets of "Vacuum" were damaged or totally destroyed during World War II. The record shows that the amount of war losses which remained unrepaired or unreplaced up to the date of nationalization was 22,000,000 crowns or \$440,000.00 converted at the rate of \$.02 per crown.

Therefore, the Commission finds that the amount of claimant's loss with respect to "Vacuum" was \$4,798,091.82 (\$5,238,091.82 less \$440,000.00 for war damages) and concludes that claimant is entitled to compensation under Section 404 of the Act.

II. "Nafta"

The Commission finds it established that claimant owned, directly or beneficially, 100% of the outstanding shares of capital stock of "Nafta", a Czechoslovakian corporation. The record shows that 76% of the capital stock was owned by claimant and 24% of the stock by "Vacuum", claimant's subsidiary corporation in Czechoslovakia.

The Commission finds that "Nafta" was nationalized without compensation by the Government of Czechoslovakia on October 27, 1945, pursuant to Decree 100/45 Sb.

In determining claimant's 100% interest in the firm "Nafta", the Commission considered all the evidence of record including balance sheets for the years 1937 through 1940, and 1944; a description of the properties; affidavits; and evidence showing that the firm sustained war damages amounting to 867,400 crowns (book value). The Commission finds that the fair and reasonable value of "Nafta" at the time of nationalization (excluding war damages) was 10,603,028.16 crowns as shown in the December 1944 balance sheet as follows:

	<u>Assets</u>	
	<u>Crowns</u>	
Current assets	7,004,764.40	
Fixed assets	3,768,335.66	
Prepaid charges	1,000,648.30	11,773,748.36 crowns
	<u>Liabilities</u>	
Accounts payable	1,170,720.20	10,603,028.16 crowns

The amount of 867,400 crowns for war damages has been deducted leaving a balance of 9,735,628.16 crowns or \$243,390.70, converted at 40 crowns per \$1.00.

Accordingly, the Commission finds that claimant is entitled to compensation with respect to this loss in the amount of \$243,390.70 plus interest.

III. Concession Rights with Respect to Underground Oil Reserves

Claimant seeks \$2,500,000.00 for its asserted loss of property rights and interests equivalent to 40% in certain concession rights with respect to underground oil reserves. Claimant alleges that the underground reserves in the concession territory exceeded one million metric tons of crude oil and 500 million cubic meters of natural gas.

Commencing in 1938, "Vacuum" had carried on extensive exploration for oil in South Moravia and West Slovakia. On April 14, 1939, the Czechoslovakian Government, in consideration of the exploration work done, orally agreed to grant a concession to "Vacuum". However, following the German occupation of Czechoslovakia, a concession covering substantially the identical area as the one proposed with respect to "Vacuum" was granted to a German corporation, Deutsche Erdoel, A. G., by the German puppet government. "Vacuum" obtained for its initial exploration work a forty percent (40%) interest in this concession from the Deutsche Erdoel, A.G. It should be noted that the concession granted to the German corporation was made through the occupying power (Germany).

After the re-establishment of the Czechoslovakian Government in 1945, that government by statute ^{1/} decreed that "all transfers of property and all judicial-property transactions, irrespective of whether they concern movable or immovable, public or private property, are invalid if they were concluded after September 29, 1938, under the pressure of the occupation or national, racial or political persecution".

^{1/} Law 5/45 Sb. of May 19, 1945.

The Commission holds that the granting of the concession to Deutsche Erdoel through the occupying power, whose "rights" existed only by virtue of occupation of Czechoslovakia, was a transaction within the purview of that statute. Therefore, under the laws of Czechoslovakia, the purported concession to the German corporation was without legal force and effect, as was the transfer in turn of 40% thereof to "Vacuum". It is concluded that neither claimant nor "Vacuum" acquired any property interest in the concession, and that this portion of the claim is not compensable under Section 404 of the Act.^{2/}

In the alternative, claimant seeks reimbursement of \$1,375,113.00 for assets, capitalized expenditures and other exploration and drilling expenses less recoveries and war losses relating to its alleged interest in the concession. Claimant states that this alternative claim is essentially for the value of investments and permanent improvements appropriated by the Czechoslovakian Government in 1945 and is based upon restitution and unjust enrichment.

With respect to the alternative claim, the record contains no evidence to show that any assets belonging to claimant and involved in this operation survived the war and were taken by the Government of Czechoslovakia on or after January 1, 1945. On the contrary, it appears that the equipment used in drilling for oil which may have belonged to claimant and/or "Vacuum" was totally destroyed during the war. Clearly, claims based upon such losses are not compensable under a statute which covers "losses resulting from the nationalization or other taking on and after January 1, 1945, of property . . ." Similarly, expenses incurred during such operation such as salaries, surveys, rents, etc., and not represented by tangible assets, cannot constitute the basis for an award under Section 404 of the Act.

Accordingly, for the reasons stated above, the portion of the claim based upon concession rights with respect to underground oil reserves is denied.

^{2/} See In the Matter of the Claim of JACK DORGIN and NATHAN FURMAN, Co-Executors of the Estate of FRIEDRICH M. L. ARNTZ, Deceased, Claim No. CZ-1,599, Decision No. CZ-2366.

A W A R D

Pursuant to the provisions of Title IV of the International Claims Settlement Act of 1949, as amended, an award is hereby made to SOCONY MOBIL OIL COMPANY, INC., in the principal amount of Five Million Forty-one Thousand Four Hundred Eighty-two Dollars and Fifty-two Cents (\$5,041,482.52) as follows: \$4,798,091.82 for "Vacuum" and \$243,390.70 for "Nafta", plus interest thereon at the rate of 6% per annum from October 27, 1945 to August 8, 1958, the effective date of Title IV of the Act, in the aggregate amount of Three Million Eight Hundred Sixty-five Thousand Five Hundred Ninety-six Dollars (\$3,865,596.00), for a total award in the amount of Eight Million Nine Hundred Seven Thousand Seventy-eight Dollars and Fifty-two Cents (\$8,907,078.52).

It is further

ORDERED that the Proposed Decision as amended herein be entered as the Final Decision; and it is further

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

Dated at Washington, D. C.

SEP 14 1962

*Edward A. De
Theodore Joffe
Lavern R. Dilweg*

COMMISSIONERS

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

4/20/62
D/K
JW

IN THE MATTER OF THE CLAIM OF

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

Claim No. CZ-2,739

Decision No. CZ- 3320

Under the International Claims Settlement
Act of 1949, as amended

Counsel for Claimant:

Philip Levy, Esquire
917 Fifteenth Street, N. W.
Washington 5, D. C.

PROPOSED DECISION

This is a claim against the Government of Czechoslovakia under Section 404 of Title IV of the International Claims Settlement Act of 1949, as amended, in the amount of \$15,650,000.00 by the SOCONY MOBIL OIL COMPANY, INC., a national of the United States within the meaning of Section 401(1)(B) of the Act.

The claim is based on the nationalization or other taking by the Government of Czechoslovakia of the following property:

I. 100% interest in the enterprise of "Vacuum Oil Company, A. S.", hereinafter called "Vacuum".

II. 100% interest in the enterprise of "Naftapol", hereinafter called "Nafta".

III. Concession rights with respect to underground oil reserves.

Section 404 of the Act provides, inter alia, for the determination by the Commission in accordance with applicable substantive law, including international law, of the validity and amount of claims by nationals of the United States against the Government of Czechoslovakia for losses resulting from nationalization or other taking on and after January 1, 1945, of property including any rights or interests therein, owned at the time by nationals of the United States.

I. "Vacuum"

The Commission finds it established that claimant owned, directly or beneficially, 100% of the outstanding shares of capital stock of "Vacuum", a Czechoslovakian corporation which, in turn, owned certain real and personal property in Czechoslovakia including a 24% interest in "Nafta". "Vacuum's" main purpose was to manufacture and market petroleum products. The refinery was located in Kolin, Czechoslovakia, with bulk plants, warehouses and service stations throughout Czechoslovakia.

The Commission finds that "Vacuum" was nationalized without compensation by the Government of Czechoslovakia on October 27, 1945 pursuant to Decree 100/45 Sb.

In determining the value of the enterprise "Vacuum" thus taken the Commission considered all the evidence of record, including: financial statements for the years 1937 through 1941, 1944 and as of April 30, 1945; a description of the property; affidavits; other financial records maintained by claimant; profit and loss statements from 1935 through 1941; and a detailed affidavit, dated July 8, 1960, executed by F. J. Crowley of claimant's Comptroller's Department concerning book depreciation of fixed assets, returnable drums, restated book values and estimates of the amount of war damage.

The value of "Vacuum" (excluding war damages and its 24% interest in "Nafta") was 163,583,224.56 crowns, as shown in the April 30, 1945 balance sheet as follows:

	<u>Assets</u>	
	<u>Crowns</u>	
Fixed assets	53,068,204.70	
Inventory	40,249,429.21	
Other assets	118,554,423.15	
Other assets	<u>1,915,200.00</u>	<u>213,787,257.06</u> crowns
	<u>Liabilities</u>	
Accounts payable in local currency	49,155,292.40	
Accounts payable	1,044,066.10	
Accounts payable	<u>4,674.00</u>	<u>50,204,032.50</u>
		<u>163,583,224.56</u> crowns

The amount of 1,915,200.00 crowns, representing the initial cost of the 24% interest in "Nafta", is deducted (discussed hereinafter), leaving a balance of 161,668,024.56 crowns or \$4,041,700.60, converted at \$1.00 per 40 crowns.

The Commission further finds that certain structures and physical assets of "Vacuum" were damaged or totally destroyed and that 50% of the inventory (20,124,714.60 crowns or \$503,117.86 converted at the rate of \$1.00 per 40 crowns) shown in the April 1945 balance sheet was lost or destroyed as the result of the war. The April 30, 1945 balance sheet showed no war damages and the inventory of 40,249,429.21 crowns represents what existed prior to war damage of 50% thereof. The books and records of "Vacuum" also show that subsequent to April 30, 1945 and prior to October 27, 1945, the amount of 15,745,000 crowns was expended from the surplus or cash account for the purpose of reconstructing the refinery in order to resume operations. Inasmuch as this expenditure did not change the net worth of "Vacuum" as shown in the April 30, 1945 balance sheet and no further investments in "Vacuum" were made by claimant, no adjustment of "Vacuum's" net worth as of October 27, 1945 is required. However, it appears from the record that the sum of 22,000,000 crowns or \$550,000.00 (converted at \$1.00 per 40 crowns) was set aside for the purpose of further reconstruction and repairs. Since the Commission has consistently held that claims for war damages are not compensable under Section 404 of the Act, it is concluded that the sum of \$1,053,117.86 must be deducted in determining the amount which should be allowed under the Act for the loss of claimant's interest in "Vacuum".

Accordingly, the Commission finds that claimant is entitled to compensation with respect to this loss in the amount of \$2,988,582.74 (\$4,041,700.60 less \$1,053,117.86 for war damages) plus interest.

II. "Nafta"

The Commission finds it established that claimant owned, directly or beneficially, 100% of the outstanding shares of capital stock of "Nafta", a Czechoslovakian corporation. The record shows that 76% of the capital stock was owned by claimant and 24% of the stock by "Vacuum", claimant's subsidiary corporation in Czechoslovakia.

The Commission finds that "Nafta" was nationalized without compensation by the Government of Czechoslovakia on October 27, 1945, pursuant to Decree 100/45 Sb.

In determining claimant's 100% interest in the firm "Nafta", the Commission considered all the evidence of record including balance sheets for the years 1937 through 1940, and 1944; a description of the properties; affidavits; and evidence showing that the firm sustained war damages amounting to 867,400 crowns (book value). The Commission finds that the fair and reasonable value of "Nafta" at the time of nationalization (excluding war damages) was 10,603,028.16 crowns as shown in the December 1944 balance sheet as follows:

	<u>Assets</u>	
	<u>Crowns</u>	
Current assets	7,004,764.40	
Fixed assets	3,768,335.66	
Prepaid charges	<u>1,000,648.30</u>	<u>11,773,748.36</u> crowns
	<u>Liabilities</u>	
Accounts payable		<u>1,170,720.20</u>
		10,603,028.16 crowns

The amount of 867,400 crowns for war damages has been deducted leaving a balance of 9,735,628.16 crowns or \$243,390.70, converted at 40 crowns per \$1.00.

Accordingly, the Commission finds that claimant is entitled to compensation with respect to this loss in the amount of \$243,390.70 plus interest.

III. Concession Rights with Respect to Underground Oil Reserves

Claimant seeks \$2,500,000.00 for its asserted loss of property rights and interests equivalent to 40% in certain concession rights with respect to underground oil reserves. Claimant alleges that the underground reserves in the concession territory exceeded one million metric tons of crude oil and 500 million cubic meters of natural gas.

Commencing in 1938, "Vacuum" had carried on extensive exploration for oil in South Moravia and West Slovakia. On April 14, 1939, the Czechoslovakian Government, in consideration of the exploration work done, orally agreed to grant a concession to "Vacuum". However, following the

German occupation of Czechoslovakia, a concession covering substantially the identical area as the one proposed with respect to "Vacuum" was granted to a German corporation, Deutsche Erdoel, A. G., by the German puppet government. "Vacuum" obtained for its initial exploration work a forty percent (40%) interest in this concession from the Deutsche Erdoel, A. G. It should be noted that the concession granted to the German corporation was made through the occupying power (Germany).

After the re-establishment of the Czech Government in 1945, that government by statute ^{1/} decreed that "all transfers of property and all judicial-property transactions, irrespective of whether they concern movable or immovable, public or private property, are invalid if they were concluded after September 29, 1938, under the pressure of the occupation or national, racial or political persecution".

The Commission holds that the granting of the concession to Deutsche Erdoel through the occupying power, whose "rights" existed only by virtue of occupation of Czechoslovakia, was a transaction within the purview of that statute. Therefore, under the laws of Czechoslovakia, the purported concession to the German corporation was without legal force and effect, as was the transfer in turn of 40% thereof to "Vacuum". It is concluded that neither claimant nor "Vacuum" acquired any property interest in the concession, and that this portion of the claim is not compensable under Section ^{2/} 404 of the Act.

In the alternative, claimant seeks reimbursement of \$1,375,113.00 for assets, capitalized expenditures and other exploration and drilling expenses less recoveries and war losses relating to its alleged interest in the concession. Claimant states that this alternative claim is essentially

^{1/} Law 5/45 Sb. of May 19, 1945.

^{2/} See In the Matter of the Claim of JACK DORGIN and NATHAN FURMAN, Co-Executors of the Estate of FRIEDRICH M. L. ARNTZ, Deceased, Claim No. CZ-1,599, Decision No. CZ-2366.

for the value of investments and permanent improvements appropriated by the Czechoslovakian Government in 1945 and is based upon restitution and unjust enrichment.

With respect to the alternative claim, the record contains no evidence to show that any assets belonging to claimant and involved in this operation survived the war and were taken by the Government of Czechoslovakia on or after January 1, 1945. On the contrary, it appears that the equipment used in drilling for oil which may have belonged to claimant and/or "Vacuum" was totally destroyed during the war. Clearly, claims based upon such losses are not compensable under a statute which covers "losses resulting from the nationalization or other taking on and after January 1, 1945, of property . . ." Similarly, expenses incurred during such operation such as salaries, surveys, rents, etc., and not represented by tangible assets, cannot constitute the basis for an award under Section 404 of the Act.

Accordingly, for the reasons stated above, the portion of the claim based upon concession rights with respect to underground oil reserves is denied.

A W A R D

Pursuant to the provisions of Title IV of the International Claims Settlement Act of 1949, as amended, an award is hereby made to SOCONY MOBIL OIL COMPANY, INC., in the principal amount of Three Million Two Hundred Thirty-one Thousand Nine Hundred Seventy-three Dollars and Forty-four Cents (\$3,231,973.44) as follows: \$2,988,582.74 for "Vacuum" and \$243,390.70 for "Nafta", plus interest thereon at the rate of 6% per annum from October 27, 1945 to August 8, 1958, the effective date of Title IV of the Act, in the

aggregate amount of Two Million Four Hundred Seventy-eight Thousand Three Hundred Seventy-four Dollars and Nineteen Cents (\$2,478,374.19), for a total award in the amount of Five Million Seven Hundred Ten Thousand Three Hundred Forty-seven Dollars and Sixty-three Cents (\$5,710,347.63).

Dated at Washington, D. C.

MAY 2 1962

BY DIRECTION OF THE COMMISSION:

A handwritten signature in cursive script that reads "Francis T. Masterson". The signature is written in dark ink and is positioned above a horizontal line.

Francis T. Masterson
Clerk of the Commission