

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

IN THE MATTER OF THE CLAIM OF

INTERNATIONAL TELEPHONE AND
TELEGRAPH CORPORATION
320 Park Avenue
New York 22, New York

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CZ-4227

Decision No. CZ-

GPO 942329

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 \$6,548,015.50 as restated, by INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION, a national of the United States as defined in Section 401(1) of the Act, at all times pertinent herein.

The claim is based on the nationalization or other taking of properties in Czechoslovakia.

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.

Section 405 of the Act provides as follows --

A claim under Section 404 of this title shall not be allowed unless the property upon which the claim is based was owned by a national of the United States on the date of nationalization or other taking thereof and unless the claim has been held by a national of the United States continuously thereafter until the date of filing with the Commission.

The claim, as restated, is as follows:

		<u>Value of Property</u>	<u>% Claimed</u>	<u>Amount of Claim</u>
(1)	Telegrafia Ceskoslovenska Tovarna na Telegrafy, A.S.			\$ 336,394.04
(2)	Standard Electric Doms A.S.	Kc 2,944,051	100	58,881.02
(2)	ISEC Receivable from Standard Doms	Kc 2,112,616		42,252.32
(2)	Receivables of ISEC Subsidiaries from Standard Doms	Kc 8,350,353		167,007.06
(3)	C. Lorenz A. G. Berlin			
	(a) Bank and Cash Balances			
	Ceska Eskomptni Banka, Prague	Kc 37,260	98.7	735.52
	Ceska Banka Union, Podmokly	RM 255,000	98.7	50,337.00
	Cash on premises at Podmokly	RM 3,773	98.7	744.80
	Allegemine Vorschusskasse- Chrast	RM 237,000	98.7	46,783.80
	Deutsche Bank-Neutitschein	RM 9,534	98.7	1,882.00
	(b) Vrchlabi Plant			
	Bank Accounts:			
	Dresdner Bank-Trutnov	RM 1,265,532	98.7	249,816.00
	District Savings Bank	Kc 10,408	98.7	205.00
	Fixed Assets	RM 7,939,308	98.7	1,959,024.25
	Inventories	RM 10,000,000	98.7	1,974,000.00
	(c) Podmokly (Bodenbach) Plant	RM 1,700,000	98.7	365,000.00
	(d) Chrast Plant	Kc 1,690,730	98.7	33,375.00
(4)	Mix & Genest A.G., Berlin			
	Jaromer Plant:			
	Land and buildings	RM 160,000	94.12	37,648.00
	Machinery testing equipment, etc.	RM 1,117,000	94.12	262,830.00
	Inventory	RM 3,354,000	94.12	631,357.00
	Cash on hand and in banks	RM 45,000	94.12	8,470.80
	Teplice-Sanov Sales Office	Kc 112,540	94.12	2,118.46
(5)	Ferdinand Schuchardt, A.G.			
	Bruntal (Freudenthal)	RM 621,500	99.57	140,419.00
(6)	ISEC Bank Accounts			51,974.43
(7)	ISEC Patents			126,760.00
				\$ 6,548,015.50

The Commission finds that at all times relevant to this claim, the claimant (INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION) was the owner, directly or indirectly, of all of the capital stock of INTERNATIONAL STANDARD ELECTRIC CORPORATION (hereafter referred to as ISEC), a Delaware corporation which owned 100 per cent of BELL TELEPHONE CO. of Belgium (hereafter referred to as BELL) which in turn owned 99.99% of

STANDARD ELECTRIC DOMS A.S., a Czechoslovak partnership (hereafter referred to as STANDARD DOMS; and that ISEC owned 32.44 per cent of TELEGRAFIA CESKOSLOVENSKA TOVARNA NA TELEGRAFY A.S., a Czechoslovak corporation (hereafter referred to as TELEGRAFIA), all of LE MATERIEL TELEPHONIQUE of France (hereafter referred to as MATERIEL), 90.70 per cent of STANDARD TELEPHON UND TELEGRAPHEN AS of Austria (hereafter referred to as STANDARD AUSTRIA), all of STANDARD TELEPHONE ET RADIO S.A., of Switzerland (hereafter referred to as STANDARD SWISS), all of CREED & CO., LTD., of England, (hereafter referred to as CREED, and all of STANDARD TELEPHONE AND CABLES, LTD., of ENGLAND, which latter in turn owned all of KOLSTER & BRANDES, LTD. Additionally, the Commission finds that at the earliest date pertinent to any part of this claim, the claimant owned 100 per cent of STANDARD ELEKTRIZITATS GESELLSCHAFT, A.G. (hereafter referred to as SEG), and 98.74 per cent of C. LORENZ A.G. (hereafter referred to as LORENZ). Further, the Commission finds that at the earliest date pertinent to any part of this claim, SEG owned 18.52 per cent of TELEGRAFIA, 94.1 per cent of MIX & GENEST A.G., 99.57 per cent of FERDINAND SCHUCHARDT BERLINER FERNSPRECH-UND TELEGRAPH-ENWERK A.G. of Germany (hereafter referred to as FERDINAND SCHUCHARDT) and 100 per cent of SUDDEUTSCHE APPARATE-FABRIK G.m.b.H (hereafter referred to as SAF).

On May 11, 1954, MIX & GENEST and SAF merged with SEG, and claimant thus owned 94.1 per cent of the new SEG; its total interest in TELEGRAFIA was reduced to 49.86 per cent, and its total interest in FERDINAND SCHUCHARDT was reduced to 93.69 per cent. In May, 1956, SEG became known as STANDARD ELEKTRIK, A.G.

On April 23, 1958, LORENZ merged with STANDARD ELEKTRIK, A.G., the new company being known as STANDARD ELEKTRIK LORENZ, A.G. (hereafter referred to as SEL). Accordingly, claimant then owned 92.91 per cent of SEL (which figure is applicable to any of the properties of the former MIX & GENEST, LORENZ, SAF, and SEG); claimant's total interest in TELEGRAFIA

was 49.64 per cent and its total interest in FERDINAND SCHUCHARDT was 92.51% for purposes of any award which may be made in this matter. SEL owns 2.56% of STANDARD AUSTRIA.

Such ownership interests may be recapitulated as follows:

IT&T owned 100% of ISEC
ISEC owned 100% of BELL
BELL owned 99.99% of STANDARD DOMS
ISEC owned 32.44% of TELEGRAFIA
ISEC owned 100% of CREED
ISEC owned 100% of STANDARD TEL. & CABLE
STANDARD TEL. & CABLE owned 100%
of KOLSTER & BRANDES
ISEC owned 100% of LE MATERIEL
ISEC owned 90.70% of STANDARD AUSTRIA
ISEC owned 100% of STANDARD SWISS
IT&T owned 100% of SEG until 1954
SEG owned 18.52% of TELEGRAFIA
SEG owned 94.1% of MIX & GENEST
SEG owned 99.57% of FERDINAND SCHUCHARDT
SEG owned 100% of SAF
SEL owned 2.56% of STANDARD AUSTRIA
IT&T had owned 98.74% of LORENZ

After the merger of May 11, 1954, claimant owned 94.1% of SEG and as to:

TELEGRAFIA, $49.86\% (94.1\% \times 18.52\% - 17.42\%, \text{ plus } 32.44\%)$

FERDINAND SCHUCHARDT, $93.69\% (94.1\% \times 99.57\%)$

After the merger of April 23, 1958, claimant owned 92.91% of SEL ($94.1\% \times 98.74\%$) and as to:

TELEGRAFIA, $49.64\% (92.91\% \times 18.52\% - 17.20\%, \text{ plus } 32.44\%)$

FERDINAND SCHUCHARDT, $92.51\% (92.91\% \times 99.57\%)$

STANDARD AUSTRIA, $93.07\% (92.91\% \times 2.56\% - 2.37\%, \text{ plus } 90.70\%)$.

The record reflects other changes in the corporate structure, as follows:

By 1954 SEG's interest in MIX & GENEST increased to 94.37%;

By 1954 ISEC held 26.39% of SEG and by 1955 claimant held 68.79% of SEG, a total of 95.18%;

After the war, claimant's interest in LORENZ increased to 99.13%;

In 1956 ISEC held the 95.18% of SEG; in 1956 ISEC took over the 99.13% of LORENZ, and as stated previously, in 1958 LORENZ merged into SEL, and ISEC's interest was 95.43%.

However, neither the increases nor decreases, after date of loss, in claimant's ownership interests, may form the basis for compensation under the Act, inasmuch as such percentages are not shown to have been owned by a United States national, or this claimant, continuously from the time of loss until the date of filing claim (See Sec. 405, Supra).

It further appears, from a letter of December 7, 1949, from claimant's Czechoslovakian representative that the property of Frantisek Doms, a nominal partner in STANDARD DOMS, had been separated so that the remaining property in STANDARD DOMS belonged indirectly 100% to the claimant.

(1) TELEGRAFIA

TELEGRAFIA, engaged in the manufacture and sale of telephone and telegraph apparatus and dry cells, maintaining headquarters in Prague and branch offices in Brno and Moravska Ostrava, with factories in Pardubice and Jablonne, was nationalized by the Government of Czechoslovakia pursuant to the provisions of Decree 100/45 Sb., effective October 27, 1945.

Claim is asserted for \$285,274.24, the equivalent of Kc 9,690,916 paid by ISEC in 1928 and 1929 for 19,462 shares of stock in TELEGRAFIA; and for \$51,119.80, the equivalent of Kc 2,555,990, paid by SEG in 1940 for 11,113 shares of stock in TELEGRAFIA. The latter purchase was made from the AGRAR BANK, trustee for the Czechoslovakian Government, which subsequent to the enactment of Law 128/46 Sb., did not pursue any right it may have had to object thereto. In December, 1932, the investment of \$285,274 was reduced to par, or \$115,410 on the books of ISEC, as part of a program of this corporation in 1932 to revalue its assets more

conservatively, including the write-down to the then market value of its minority holdings or the closest equivalent to market value. However, claimant contends that it was not permitted to examine the books of TELEGRAFIA and that when a taking is accomplished by a method which intentionally precludes valuation of assets, the measure of loss in terms of original investment is equitable.

The Commission has considered the above assertions and the following matters: A 1938 balance sheet reflecting capital and surplus of Kc 12,213,260 (equivalent to \$423,800, converted at the then current rate of exchange of \$.0347 per crown); a 1943 balance sheet reflecting capital and surplus of Kc 26,059,903 (equivalent to \$651,497.57, converted at the then current rate of exchange of \$.025 per crown); a memorandum of November 29, 1946, submitted by ISEC to the American Embassy in Prague, stating that whereas in September, 1945, LORENZ owed TELEGRAFIA Kc 31,000,000, at the end of the war TELEGRAFIA had on hand about Kc 80,000,000 of unfinished war material manufactured for LORENZ, and that it was not known how much was salvageable, and further stating that assuming a portion of the account was reflected in the December 31, 1944 balance sheet of TELEGRAFIA and was unpaid, and assuming also that the large amount of unfinished war material resulted in a substantial loss, it was conceivable that the equity for the stock interests of ISEC and SEG (in TELEGRAFIA) was wiped out on October 27, 1945, but that this could not be determined without an examination of the books. The balance sheet for 1944 was never received by claimant. The balance sheet for December 31, 1943 is set forth below:

<u>Assets</u>		
Plant, Property and Equipment	Kc 43,407,253	
Less: Reserve for Depreciation	<u>33,075,367</u>	10,331,886
Investments		725,350
Special Deposits and Deferred Charges		541,503
Current Assets		725,350
Cash	554,929	
Accounts Receivable	15,191,098	
Inventory - Completed Merchandise	10,199,192	
Raw Material, Work in Process	47,841,498	
Installation in Process	1,635,578	
Other Current Assets	<u>277,769</u>	<u>75,700,064</u>
Total Assets		<u>87,298,803</u>

<u>Capital and Liabilities</u>		
Capital Stock		12,000,000
Surplus		14,059,903
Reserves for Pensions and Benefits		4,209,696
Reserve for Contingencies		5,256,087
Other Reserves		1,059,004
Current Liabilities:		
Bank Borrowings	17,903,576	
Advance Payments by Customers	6,402,432	
Accrued Taxes	5,478,714	
Other Accounts Payable	<u>20,929,391</u>	<u>50,714,113</u>
Total Capital and Liabilities		<u>87,298,803</u>

It may be observed that when the debt due from LORENZ of 31,000,000 crowns and the item of 80,000,000 crowns for useless war material are considered in connection with the above balance sheet, it appears that the loss of 49,000,000 crowns exceeds the capital, surplus and reserve for contingencies by about 17,684,010 crowns, the equivalent of \$353,680.20 (at the post-war rate of exchange of \$.02 per crown), even exceeding the original investment.

The Commission has also considered claimant's contention that a property increase tax was imposed on the block of shares ISEC held in TELEGRAFIA, pursuant to Law 134 of May 15, 1946. It appears from claimant's Schedule A-1, submitted December 12, 1961, that ISEC itself reported said shares, at par value, for November 15, 1945, although by a letter to the Czechoslovak Ministry of Industry under date of November 5, 1945, claimant indicated it was aware that TELEGRAFIA had come within the purview of Decree 100, effective October 27, 1945. The Czechoslovak Minister of

Industry's Announcement No. 194, that TELEGRAFIA had been nationalized, was dated December 27, 1945, and the utilization of its properties by the Czech national enterprise TESLA was published on April 18, 1946. Further, claimant's letter of June 18, 1952 makes reference to a property tax assessment of Kc 4,083,770 on 19,387 shares of the block held by ISEC, although nothing further appears in the record as to this, but by letter of January 20, 1953, the Czech Government "attached" said shares in connection with a tax debt (discussed in Section (6), below).

The Commission has considered all the evidence reflecting claimant's investments in TELEGRAFIA. However, such evidence is not controlling in determining the value of the property at the time of nationalization. The burden of establishing the amount of the loss herein rests upon the claimant. Section 531.6(d) of the Commission's regulations (45 CFR) provides --

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim.

On the basis of the entire record, the Commission finds that it has not been established that claimant's interest in TELEGRAFIA on October 27, 1945, when it was nationalized, had any value. Accordingly, this portion of the claim is denied.

(2) STANDARD DOMS;
ISEC RECEIVABLE FROM STANDARD DOMS:
RECEIVABLES OF ISEC SUBSIDIARIES FROM STANDARD DOMS

STANDARD DOMS, engaged in the assembling and installation of telephone apparatus and accessories, wire transmission systems, commercial radio and radio broadcast transmitting systems, etc., having a telephone factory, was nationalized without compensation by the Government of Czechoslovakia pursuant to the provisions of Law 114/48 Sb., effective January 1, 1948.

Claim is made for the net worth of STANDARD DOMS; for an account receivable due to ISEC from STANDARD DOMS, described as contract service

charges, 1940 through 1947, in an amount of Kc 1,953,880 and interest from 1943 through 1947 in an amount of Kc 158,236; and further, for accounts receivable due from STANDARD DOMS to other subsidiaries of ISEC, arising from merchandise transactions, as follows:

BELL	323,148	Belgium francs
	2,144,784	Crowns
STANDARD TEL. & CABLES	29,070	British pounds sterling
	(40,723)	Crowns
CREED	142	British pounds sterling
MATERIEL	786,044	French francs
	(1,500)	Crowns
STANDARD AUSTRIA	9	Austrian shillings
STANDARD SWISS	228	Swiss francs

The net worth of Kc 2,944,051 is reflected in the balance sheet of STANDARD DOMS of November 30, 1947, which further shows the account payable to the parent company, and accounts payable to ISEC subsidiaries in a stated amount of Kc 8,350,352.64. Claimant contends that these liabilities of STANDARD DOMS should be compensated as otherwise the Czechoslovakian Government "is completely released from these liabilities" and that therefore STANDARD DOMS becomes worth correspondingly more, its net worth being increased to Kc 13,407,020 or \$268,140, and that whereas the Czechoslovakian Government took the assets of STANDARD DOMS and assumed its liabilities, the omission of compensation to the claimant for said liabilities of STANDARD DOMS to the ITT System would create a "windfall" for the Czechoslovakian Government. Moreover, the claimant contends that the accounts payable involved are due to the ITT System, owners of STANDARD DOMS, representing a different set of conditions than those applicable In the Matter of the Claim of SKINS TRADING CORPORATION (FCSC Claim No. CZ-3978, Decision No. CZ-734).

The Commission has considered all the above contentions. It appears that the transactions between STANDARD DOMS and the other entities, which gave rise to the claim for accounts receivable, were no different from similar transactions between any unrelated concerns; charges were

made for goods sold and for services rendered, payments were made from time to time as in any case of an open account, and interest was assessed on unpaid balances. The Commission finds that the circumstances herein cannot be distinguished basically from those appearing in the Claim of SKINS TRADING CORPORATION or in any other claim of an unsecured creditor which has been consistently denied under Section 404 of the Act. Accordingly, the portion of the claim for such accounts receivable is denied.

The Commission finds that the net worth of STANDARD DOMS is best shown by the balance sheet of November 30, 1947, and that this amount, Kc 2,944,051 converted at the rate of exchange prevailing in 1948, \$.02 per crown, equals \$58,881.02. It is concluded that claimant is entitled to compensation in this amount, plus appropriate interest.

(3) LORENZ

(a) Bank Accounts

In support of its claim for a bank account assertedly held in the Ceska Eskomptni Banka at Prague, claimant relies upon an assertion made in a 1949 Statement of Claim addressed to the Department of State and a copy of its registration (Prihlaska No. 1005) under Decree 95/45 Sb. Said Decree 95/45 Sb., provides that bank depositors shall register their accounts existing as of November 15, 1945, and pursuant to Decree 91/45 Sb., such accounts were blocked. Generally copies of these registration statements were submitted to the appropriate bank which was required to confirm the existing balances as of November 15, 1945. In this case the document bears no acknowledgment by a bank of a balance as of November 15, 1945. With respect to three asserted accounts in Ceska Banka Union, Podmokly, Allegemine Vorschusskasse, Chrast, Deutsche Bank-Neutitschein, Novy Jicin, claimant relies upon audit reports of C. LORENZ, A.G., of Berlin, showing that blocked accounts were written off

in 1948 as worthless, as well as upon affidavits. Additionally, in connection with the asserted account in Ceska Banka Union, Podmokly, claimant has submitted a copy of its registration (Prihlaska No. 1004) which, however, bears no acknowledgment by the bank of a 1945 balance. Although the properties of LORENZ in Czechoslovakia were formally nationalized without compensation by the Government of Czechoslovakia pursuant to the provisions of Decree 100/45 Sb., effective October 27, 1945 (apart from certain other specific properties which may have been taken on other dates as discussed below), the Commission finds that the claimant has not sustained the burden of proving that any balances remained in these accounts on October 27, 1945. Accordingly, this part of the claim is denied.

Two additional bank accounts in the Okresni Zalozna Hospodarska of Vrchlabi and in the Dresdner Bank of Trutnov, which were registered under Decree 95/45 Sb. and established, are concerned with the net worth of a plant at Vrchlabi, discussed below.

(b) Vrchlabi

The Commission finds that the properties of LORENZ at Vrchlabi, consisting of a radio tube factory, were nationalized without compensation by the Government of Czechoslovakia pursuant to the provisions of Decree 100/45 Sb., effective October 27, 1945.

In valuing the property at Vrchlabi, claimant at first relied upon a balance sheet of August 14, 1945, summarized as follows:

<u>Assets</u>		<u>Liabilities</u>	
Bank Accounts:			
Dresdner Bank, Trutnov	Kc 3,282,961	Creditors	Kc 3,050,013
Okresni Zalozna Hosp.,		Capital account	108,563,286
Vrchlabi	10,408		
Fixed assets	106,319,930		
Inventory	<u>2,000,000</u>		
	Kc 111,613,299		Kc 111,613,299

Thereafter, claimant submitted the statement of WILHELM BRENNER, Comptroller of SEL, who gave the following net values for the plant, as of December 31, 1944:

Fixed assets	RM 3,439,308.45
Production machinery	<u>4,500,000</u>
	RM 7,939,308.45

It was further stated that there should have been an inventory of RM 10,000,000. No liabilities were given. To the figures supplied by said WILHELM BRENNER, claimant added RM 1,265,532 for the bank account at the Dresdner Bank, Trutnov, and Kc 10,408 for the bank account at Okresni Zalozna Hospodarska, Vrchlabi.

In determining the value of this item of claim, the Commission has considered all pertinent matter of record as described hereafter. Claimant's 1949 Statement of Claim asserted that in 1944 the plant investment was RM 11,750,000 and inventory was valued at RM 1,500,000. The memorandum of November 29, 1946, previously mentioned, states that in September, 1945, LORENZ owed TELEGRAFIA some Kc 31,000,000.

A report of A. PLOCEK, a former employee of the claimant in Czechoslovakia, of June 21, 1945, forwarded to the American Embassy at Prague, stated in pertinent substance as follows --

The valve factory was put into service in 1943 /a valve development plant at Novy Jicin had been removed to Vrchlabi/; the factory has a working space roughly estimated at 5,000 to 6,000 square meters; in 1943 and 1944 investments of about 65 million crowns were made. Mr. Koci was appointed as national administrator. Raw material is at hand for a period of about three months.

The evidence of record reflects some dispute as to whether the Vrchlabi plant constituted war booty subject to removal by the USSR, as that country contended. The record shows that the plant was dismantled to a large extent by the USSR, beginning December 7, 1945, despite strong protests that the United States would hold Czechoslovakia responsible for such removal. However, prior to this date, the plant at

Vrchlabi was nationalized without compensation by the Government of Czechoslovakia pursuant to Decree 100/45 Sb., effective October 27, 1945.

The Commission is of the opinion, after analyzing all the evidence, that the values listed on the said balance sheet of August 14, 1945, are more representative of claimant's loss than the values asserted for December 31, 1944, and further, that the said assets (Kc 111,613,299) included the property given by the Czechoslovak Government to the USSR commencing December 7, 1945. However, the liabilities listed, of Kc 3,050,013, should be increased by the debt to TELEGRAFIA of Kc 31,000,000, above mentioned. Accordingly, the Commission finds that the value of the entire plant at Vrchlabi, taken by the Government of Czechoslovakia was Kc 77,563,286 or \$1,939,082.15 converted at \$.025 per crown prevailing on October 27, 1945, and concludes that claimant is entitled to compensation in the amount of \$1,801,601.23 plus appropriate interest for its 92.91% interest therein.

(c) Podmokly

The Commission finds that the properties of LORENZ in Czechoslovakia included a radar equipment and cyphering machine plant in rented premises at Podmokly (Bodenbach) of which the Government of Czechoslovakia took complete control on June 6, 1945, to the extent that the claimant was excluded from the free and unrestricted use of its property and the fruits thereof. The Commission concludes that this action constituted a taking of property within the meaning of Section 404 of the Act.

In arriving at the value of this plant, the Commission considered a statement made on August 1, 1945, that the Russians had taken RM 100,000 of aviation radar equipment; a statement made on September 14, 1945, that the Russians were planning to remove additional

material; a statement that the Russians took 38 cases of materials, contents and value thereof unknown, leaving 378 packing cases in the possession of Czechoslovakia; statements that the plant was established in March and April 1945, and that in May 1945, the assets of the plant were RM 1,700,000 (RM 500,000 for machinery and tools, and RM 1,200,000 for materials). Any property which might have been taken by the Russian Army prior to the Government of Czechoslovakia taking control of the plant would not be compensable under Title IV of the Act. However, the Commission finds that value of the property on June 6, 1945, including property taken thereafter by the USSR, was RM 1,700,000 or \$425,000, converted at \$.25 per Reichsmark, the rate prevailing on June 6, 1945, and concludes that claimant is entitled to compensation in the amount of \$394,867.50 plus appropriate interest for its 92.91% interest therein.

With respect to claim for cash in the amount of RM 3,773 on the company premises at Podmokly, the Commission finds that it has not been established that such cash was present and nationalized or otherwise taken by the Government of Czechoslovakia. Accordingly, this part of the claim is denied.

and equipment removed by LORENZ (d) Chrast 62,000 or 62,000, con-

The Commission finds that the properties of LORENZ in Czechoslovakia included a telecommunication equipment laboratory and plant in rented premises at Chrast, of which the Government of Czechoslovakia took complete control on June 6, 1945, to the extent that the claimant was excluded from the free and unrestricted use of its property and the fruits thereof. The Commission concludes that this action constituted a taking of property within the meaning of Section 404 of the Act.

In determining the value of the properties at Chrast, the Commission has considered a statement of values as of May 11, 1945, upon

1945, stated that the property was then under national administration

which the claimant relies, as follows:

Measuring instruments	Kc 987,660
Equipment of mechanical and technical working places	45,000
Machine equipment	21,500
Inventory of the office and shop equipment removed	141,000
The existing office and shop equipment according to the inventory	75,570
Stocks:	
Raw materials and tools	20,000
Semi-manufactured products	250,000
Wireless tubes	150,000
	Kc 1,690,730

Further, the Commission has considered the above-mentioned report of A. PLOCEK, of June 21, 1945, which recites in pertinent substance the following --

LORENZ transferred its carrier laboratory to Chrast during 1944. The laboratory was installed in rented buildings with a working area of about 1500 square meters. I am, however, informed that they have taken off all more costly instruments and equipment in time and transferred them to an unknown place, probably in Germany/Bavaria/. Practically only some drawing-tables have been left. What has been left has already been taken away by the Red Army as war booty.

On the basis of all evidence of record, the Commission finds that the value of the property on June 6, 1945, not including instruments and equipment removed by LORENZ, was Kc 562,070 or \$14,051.75, converted at \$.025 per crown prevailing on June 6, 1945 and that claimant is entitled to compensation in the amount of \$13,055.48 plus appropriate interest for its 92.91% interest therein.

(4) MIX & GENEST

The Commission finds that the property of MIX & GENEST in Czechoslovakia consisted of a telecommunication equipment plant on rented premises at Jaromer and its property in a sales office in Teplice-Sanov which were placed under national administration by the Government of Czechoslovakia. The report above-mentioned of A. PLOCEK, of June 21, 1945, stated that the property was then "under national administration

and in a state of liquidation." Accordingly, the Commission further finds that the property at Jaromer and Teplice-Sanov was placed under national administration, on June 21, 1945, for the purpose of liquidation, and that such action was a taking of property without compensation by the Government of Czechoslovakia.

In determining the value of claimant's loss, the Commission has considered, among other things, the communication of claimant to the Secretary of State, of April 16, 1949, stating as to MIX & GENEST, that it had a "telecommunication equipment plant in rented premises at Jaromer" with a net worth in June, 1945 of over Kc 11,000,000 "formulated on the spot at the time," not including communication equipment valued at Kc 1,000,000 said to have been taken by the Czech Army. The plant valuation of June, 1945, follows:

<u>Assets</u>		<u>Liabilities</u>	
Machine equipment	Kc 2,084,000	Debts and invoices due	Kc 1,210,975
Shop & Office Equipment	1,633,000	Obligation to the factory Policky & Reiker	750,000
Tools & Instruments in Shop	50,000	Estimated net worth	10,107,025
Measuring instruments	2,700,000		
Installation of electricity, water, heating and air conditioning	2,300,000		
Articles in process of manufacture	2,200,000		
Stock and tools	<u>1,101,000</u>		
	Kc 12,068,000		Kc 12,068,000

Consideration has also been given to the affidavit of ALEXANDER G. P. SANDERS, Financial and Accounting Director, who states that he has determined that MIX & GENEST "during 1943 established a plant on rented premises in Jermer,/Jaromer/, Czechoslovakia, for the assembly of carrier equipment. In May, 1945, the assets at the Jermer location were estimated"as follows:

MIX & GENEST set up a plant in Czechoslovakia for the manufacture of carrier equipment, after their factory in Berlin was bombed out in 1943. It was

Land and buildings	RM	160,000
Machinery		254,000
Tools		6,000
Testing equipment and apparatus		780,000
Other assets		77,000
Inventory		1,700,000
Drawings		1,500,000
Payment on account		154,000
Cash on hand and in banks, and postal checks		<u>45,000</u>
	RM	4,676,000

No liabilities are included in the above statement.

In connection with bank accounts, claimant submitted on October 17, 1960, a listing of three accounts as follows:

Jaromer Postal Savings Office Kc	118,851
Zivnostenska Banka, Teplice	
Sanov	44,560
Dresdner Bank, Teplice Sanov	663

Claimant stated that Audit Reports of MIX & GENEST do not show that these had been written off as worthless. Thereafter claimant tentatively withdrew claim based on a bank account of Kc 118,851 as it was not clear whether it was duplicated in the item "RM 45,000." Further, claimant submitted evidence of an attempt to register these accounts under Decree 95/45 Sb. (Prihlaskas Nos. 1006, 1007, and 1008). Additionally, there was filed a letter of February 10, 1947, from the Postal Savings Office at Jaromer to claimant stating that the application "for an account in the name of the management of the firm of MIX & GENEST at Jaromer should be filed by said firm as owner of the property under consideration." The accounts are further considered below in connection with the value of the Jaromer plant and of the Teplice-Sanov office.

The Commission has also considered the full report of A. PLOCEK, above-mentioned, of June 21, 1945, in connection with MIX & GENEST which reads in substance as follows --

MIX & GENEST set up a plant in Czechoslovakia for the manufacture of carrier equipment, after their factory in Berlin was bombed out in 1943. It was

installed in rented buildings of a former textile factory in Jaromer in the east of Bohemia. The factory used about 2,000 square meters as working space, and employed about 600 people. I am, however, of the opinion that manufacture has not really been started there, perhaps only some assembly has been done. Piece parts for assembly have been brought from BELL ANTWERP. I learn, furthermore, that already during 1944 they had started to take off all worthy new machines, as automatic revolver-banks, punch presses, etc., installed shortly before and transferred them most probably to their work in Berlin which in the middle of 1944 has again been put into operation. Only a few old machines have been left. The factory is now under a national administrator and is in the state of liquidation. At this time the plant is occupied by the Red Army.

In the afore-mentioned communication of April 16, 1949, claimant stated its understanding that the Russians did not remove any property from Jaromer.

The Commission is of the opinion that the listing made "on the spot" in June, 1945, is more nearly representative of the claimant's loss than the "estimate" for May, 1945. However, it is concluded that the improvements (installation of electricity, water, heating, and air conditioning) totalling Kc 2,300,000 attached to the real property of another so as to become part thereof cannot be considered the personal property of MIX & GENEST. Accordingly, the value of the assets has been reduced to Kc 9,768,000, to which may be added the registered bank account, Kc 118,851, for a total of Kc 9,886,851. After deducting the liabilities, the Commission finds that the value of the property of MIX & GENEST at Jaromer at the time of loss, was Kc 7,925,876, which, converted at the rate of \$.025, prevailing on June 21, 1945 is \$198,146.90, and the Commission concludes that claimant is entitled to compensation in the amount of \$184,098.28 plus appropriate interest for its interest of 92.91 per cent therein.

The claim as originally filed, was based on the aforesaid valuation made in June, 1945, with an additional item of Kc 1,000,000 for communications equipment. Thereafter, on October 17, 1960, claimant revised

the basis for evaluation, relying on the affidavit of ALEXANDER G. P. SANDERS; and on March 15, 1961, claimant stated that the said item of Kc 1,000,000 for communications equipment could be assumed to be within the inventory in the May, 1945, estimate, and reduced the amount of its claim accordingly. Although, as stated above, the Commission regards the valuation of June, 1945, as the best evidence of the value of the Jaromer plant, nevertheless the item of Kc 1,000,000 has not been included as the record does not establish that said communications equipment was taken by the Czechoslovakian Government on or after January 1, 1945.

In connection with the value of the property at Teplice Sanov, the Commission has considered the financial statement made by the national administrator on September 17, 1945, which includes the bank accounts in the Zivnostenska Banka and Dresdner Bank. The Commission finds that at the time of loss the value of this property was as follows:

Assets	Kc 116,119.10
Less Liabilities	<u>3,578.80</u>
Net Worth	Kc 112,540.30

Converted at \$.025 per crown, prevailing on June 21, 1945, this is equal to \$2,813.51, and the Commission concludes that claimant is entitled to compensation in the amount of \$2,614.03 plus appropriate interest for its interest of 92.91 per cent therein.

(5) FERDINAND SCHUCHARDT

This company operated a portable army telephone manufacturing plant on rented premises at Bruntal.

The properties involved are shown in a report of April 16, 1949 as:

Machinery, tools and furniture	RM 334,500
Raw materials, piece parts and completed sets	280,000
Cash	7,000

It is asserted that raw materials, piece parts and completed sets were looted by the Russian Army in "May, 1945" and that the cash

"disappeared." Inasmuch as it is not established that this occurred while the properties were under the control of the Czechoslovak Government, the Commission finds that this was not a nationalization or other taking by the Government of Czechoslovakia within the meaning of the Act, and this part of the claim is denied.

On about August 1, 1945, a Czechoslovakian firm applied for appointment as national administrator of the properties (pursuant to Decree No. 5 of May 19, 1945) which appointment was made on August 24, 1945. The record discloses that the machinery, tools and furniture were distributed to various Czechoslovakian firms, which effected a liquidation of the remaining properties of the plant. The Commission finds that the said national administration was imposed for the purpose of liquidation, that such action was a taking of property without compensation by the Government of Czechoslovakia, that the value of the property was RM 334,500 or \$83,625 converted at \$.25 per Reichsmark, the rate prevailing on August 24, 1945, and that claimant is entitled to compensation in the amount of \$77,361.49 plus appropriate interest for its 92.51 per cent interest therein.

(6) ISEC BANK ACCOUNTS

Claim is made for four asserted bank accounts in the Czechoslovak State Bank as follows: (a) "old crowns" in the amount of Kc 2,515,539, (b) a "Special" account in the amount of Kc 80,159, and (c) an account in the amount of 3,023 "new crowns."

The record discloses as to account (a) that this was closed on January 11, 1952, by a transfer of 2,515,539.40 "old crowns" to the District National Committee of Prague for "property taxes"; as to (b) which account was opened in 1948, having a balance of 80,159 crowns on December 31, 1951, that it was revalued pursuant to the provisions of Law 41/53 Sb., and had a balance of 11,522 crowns on December 31, 1956; and as to (c) that this account said to be in "new crowns" had a balance of 3,023 crowns on December 31, 1951, and that an amount of 3,000 crowns was transferred therefrom

to the District National Committee of Prague, also on account of the afore-mentioned property tax.

Law 41/53 Sb., effected a monetary reform, and among other things, annulled blocked bank accounts in "old crowns" existing on June 1, 1953, and revalued accounts in "new crowns" established by Decree 91/45 Sb., but it did not annul the right to payment of bank deposits in "new crowns" made after such date. There is no evidence to show that the revalued account (b), or the balance of 23 crowns in account (c) have been taken by the Government of Czechoslovakia prior to August 8, 1958. Moreover, a prohibition against the transfer of funds outside of a country, is an exercise of sovereign authority which, although it may cause hardship to nonresidents having currency on deposit within the country, may not be deemed a "taking" of their property within the meaning of Section 404 of the Act.^{1/}

With respect to the transfer of 2,515,539.40 "old" crowns, and another item of 3,000 crowns to the District National Committee of Prague, claimant has contended that the accounts represented principally payments for royalties that accrued during the war but that the tax (to which the accounts were applied) was computed in 1947 based on ISEC accounts receivable, patents, royalties and assets of STANDARD DOMS, nationalized January 1, 1948. Documentation submitted by claimant indicates that the following taxes were assessed upon property assertedly held by ISEC and STANDARD DOMS:

- (1) Kc 4,225,250 - Tax on property increase between January 1, 1939 and December 31, 1945, under Law 134/46 Sb.
 - (2) 1,156,600 - Capital Levy on value as of December 31, 1945, under Law 134/46 Sb. (after deducting (1) above)
 - (3) 4,071,849 - Tax on increase in value between December 31, 1945 and December 31, 1947, under Law 185/47 Sb. (after deducting (1) and (2) above)
 - (4) 1,227,824 - Tax on value as of December 31, 1947, under Law 185/47 Sb. (after deducting taxes above)
- Kc 10,681,523

^{1/} In the Matter of the Claim of KAROLIN FURST, Claim No. CZ-1381, Decision No. 682

It further appears that as a result of non-payment, penalties were assessed: (a) in the amount of Kc 908,420 (total, Kc 5,133,670 on January 21, 1952); (b) in the amount of Kc 248,670 (total, Kc 1,405,270); (c) and (d) in the amount of Kc 794,940 (total Kc 6,094,613 by June, 1951, which apparently increased to Kc 6,578,206 by September 1, 1952).

The Government of Czechoslovakia applied the two bank accounts to the tax debt, attached the shares of TELEGRAFIA and royalties due from KABLO National Enterprise of Czechoslovakia (which had absorbed certain licensees of claimant and its subsidiaries).

It appears that in computing the property increase tax under Law 134/46 Sb., claimant sought exemption of an amount of Kc 5,589,902 and deducted it in the tax return on the ground that this figure consisted of an account receivable to ISEC from STANDARD DOMS and license fees from KABLO and TELEGRAFIA, which assets were in Czechoslovakia on November 15, 1945, solely because of inability to transfer them to New York, a circumstance beyond claimant's control. The Czechoslovakian Government restored the items as a basis for tax and denied the request for exemption.

Claimant further points: (1) to asserted duplication in the assessment base inasmuch as ISEC declared its capital investment in STANDARD DOMS and earned surplus, whereas the Government of Czechoslovakia then added the assets of STANDARD DOMS; and to schedules submitted by the claimant indicating that ISEC reported a net loss as of November 15, 1945 from its investment in STANDARD DOMS with which contention it appears the Government of Czechoslovakia did not agree; (2) to the fact that the assets of ISEC upon which taxes were based include the capital stock held in TELEGRAFIA, which had been nationalized pursuant to Decree 100/45 Sb., and that ISEC had itself reported these shares, at par value; (3) to the fact that various amounts added by the Government of Czechoslovakia

could not be traced by the claimant to any financial statements, or otherwise identified; (4) to the fact that the Government of Czechoslovakia's program of capital levy and "millionaire's" taxes was conducted so as to overlap or pre-date nationalization of the properties upon which the taxes were levied; and (5) claimant contends that the bank accounts in question were "attached" and that this constituted nationalization.

The Commission has considered the above matters and the letter of December 7, 1949, from the claimant's Czechoslovakian counsel, explaining the revisions made by the Government of Czechoslovakia in the tax base. It appears that claimant, through its subsidiaries, was not discriminated against in the application of the Czechoslovakian tax laws and that the Government of Czechoslovakia merely exercised its sovereign authority in applying the bank accounts in some satisfaction of the tax debt.

Inasmuch as it has not been established that the Government of Czechoslovakia took any action with respect to the bank accounts in question which amounted to a nationalization or other taking of property within the meaning of the Act, this part of the claim must be and hereby is denied.

(7) ISEC PATENTS

This item of claim is based on costs of investments in patents, the total amount \$126,760 being said by the claimant to represent the costs of filing applications, and maintaining patents that existed prior to the war. Claimant states that the discontinuance in 1952 by ISEC and its subsidiaries, of maintenance of patents and the prosecution of applications, was occasioned by the policy of the Government of Czechoslovakia pursuant to its nationalization program, although the German subsidiaries (LORENZ, MIX & GENEST and SAF) ceased maintenance after

nationalization of Czechoslovakian industry. Claimant contends that the continued use of its techniques by Czechoslovakia without which the using enterprises could not operate, is a taking under the Act.

Claimant's patent claim in Czechoslovakia is stated as follows:

<u>Patents in Force</u>		<u>Approximate Average Cost</u>	
ISEC		55	\$ 225
STANDARD DOMS	50		
CREED	23		
KOLSTER & BRANDES	2		
STANDARD TEL. & CABLE	1		
LORENZ	27		
MIX & GENEST	3		
SAF	<u>1</u>	<u>107</u>	\$ 207
		162	\$34,540
<u>Applications Pending</u>			
ISEC		658	\$ 120
STANDARD DOMS	5		
CREED	18		
LORENZ	147		
MIX & GENEST	2		
SAF	<u>1</u>	<u>173</u>	\$ 76
		831	\$92,220
			\$126,760

The figure of \$225 consists of filing (preparation) costs, \$70; fees, \$30; maintenance for 7½ years to 1952, \$75; and manpower hours expended in consideration thereof, \$50; the figure \$120 consists of local filing, \$70 and headquarters time, \$50. The items \$207 and \$76, for the German subsidiaries patents and patent applications, were computed in like manner. It is further stated that the costs of patents and patent applications to ISEC and its subsidiaries was not capitalized and carried as an asset in the accounts as a matter of policy in effect for many years.

Claimant contends that a large proportion of its patents and patent applications were directed to telephone, switching apparatus, printing, telegraph apparatus, direct line and radio communication and aerial navigation, fields of burgeoning importance during the post-war years, and disclosed novel techniques which were of considerable commercial

value at the time. It is said that these elements continue to represent techniques standardized throughout the world today. The claimant further states that in submitting a patent application, sufficient engineering data was included to demonstrate the technical working of the invention, that this is an obvious disclosure of the fundamental principles, and the mere filing of the application placed in the hands of the Czechoslovakian Government a vast potential of technical background.

The Commission has considered Czechoslovakian decrees listing patents among property taken; evidence that the Czechoslovakian Government placed a value on patents of ISEC and STANDARD DOMS in computing the taxes based on Law 134/46 Sb. although the patents involved and the basis for the evaluation are not shown; material in the book Telephonie published in 1958 by Czech Akademie Ved., concerning devices produced or used in Czechoslovakia, with its references to TELEGRAFIA and STANDARD DOMS, bearing on the use by the Czechoslovakian Government of the property involved in the patents and patent applications; nationalization of three companies licensed to use methods and patent rights of ISEC and its associated companies; and that royalties due from KABLO NATIONAL ENTERPRISE, which absorbed CABLE MANUFACTURING CO., of Bratislava, KABLO CABLE & WIRE ROPE MILL CO., and KRIZIK CABLE CO., both of Prague (the three companies operating under license agreements with ISEC) were attached on January 20, 1953, although the amounts are not established.

The Commission finds that the patents outstanding and the pending applications for patents were for the uses set out below and that the Government of Czechoslovakia, without compensation, took the patents, and utilized the material filed with the pending applications, for the benefit of the economy of the Czechoslovakian State, on the dates indicated:

<u>Patents outstanding:</u>	<u>Taken</u>	<u>Claimant's Interest</u>
ISEC - 55:		
20 used by TELEGRAFIA	October 27, 1945	100%
15 used by STANDARD DOMS	January 1, 1948	100%
20 used by Licensees, succeeded by KABLO NATIONAL ENTERPRISE	January 20, 1953	100%
STANDARD DOMS - 50	January 1, 1948	100%
LORENZ - 27	October 27, 1945	92.91%
MIX & GENEST - 3	June 21, 1945	92.91%
Used by Licensees (KABLO)		
CREED - 23	January 20, 1953	100%
KOLSTER & BRANDES - 2	January 20, 1953	100%
STANDARD TEL. & CABLES - 1	January 20, 1953	100%
SAF - 1	January 20, 1953	92.91%

Patent Applications Pending:

ISEC - 14 pre-war:		
5 for TELEGRAFIA	October 27, 1945	100%
4 for STANDARD DOMS	January 1, 1948	100%
5 for Licensees (KABLO)	January 20, 1953	100%
ISEC - 644 post-war:		
for STANDARD DOMS	January 1, 1948	100%
STANDARD DOMS - 5 pre-war	January 1, 1948	100%
LORENZ - 147 pre-war	October 27, 1945	92.91%
MIX & GENEST - 2 pre-war	June 21, 1945	92.91%
CREED - 17 post-war	January 20, 1953	100%
1 pre-war	January 20, 1953	100%
SAF - 1 pre-war	January 20, 1953	92.91%

In determining the value of this item of claim, the Commission has considered the evidence of value attributed by the Czechoslovakian Government to patents of ISEC and STANDARD DOMS in the imposition of the taxes afore-mentioned, although the record does not reflect how the Czechoslovakian Government arrived at these figures. It is also noted that, with the exception of 31 patents registered in the German subsidiaries, the others (131 in number) were maintained for $7\frac{1}{2}$ years to 1952, although some were taken in 1945 and 1948. Accordingly, the Commission finds that the claimant is entitled to compensation under Section 404 of the Act, based on the cost of developing the patents and patent applications. It does not appear, however, that such maintenance fees paid after the patents were taken may be regarded as part of the claimant's loss within the meaning of the Act. Further, it appears that a depreciation factor is applicable as claimant recognized in submitting its tax return under Law 134/46 Sb.

The Commission finds that the claimant's interests in the patents outstanding at the time of their taking by the Government of Czechoslovakia had a value of \$26,945.37 and the claimant's interests in the pending patent applications had a value of \$90,362.89.

Recapitulation of Award

	<u>Principal Award</u>
STANDARD DOMS	\$ 58,881.02
LORENZ:	
Vrchlabi plant	1,801,601.23
Podmokly plant	394,867.50
Chrast plant	13,055.48
MIX & GENEST:	
Jaromer plant, including bank accounts	184,098.28
Teplice Sanov	2,614.03
FERDINAND SCHUCHARDT	77,361.49
Patents Outstanding	26,945.37
Patent Applications	<u>90,362.89</u>
	\$2,649,787.29
Interest	<u>2,022,324.13</u>
Total Award	\$4,672,111.42

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 the INTERNATIONAL TELEPHONE AND TELEGRAPH CORPORATION in the principal amount of Two Million Six Hundred Forty-Nine Thousand Seven Hundred Eighty-Seven Dollars and Twenty-Nine Cents (\$2,649,787.29) for industrial property, including patents, plus interest thereon at the rate of 6% per annum from the respective dates of taking to August 8, 1958, the effective date of Title IV of the Act, in the aggregate amount of Two Million Twenty-Two Thousand Three Hundred Twenty-Four Dollars and

Thirteen Cents (\$2,022,324.13) for a total award in the amount of Four Million Six Hundred Seventy-Two Thousand One Hundred Eleven Dollars and Forty-Two Cents (\$4,672,111.42).

Dated at Washington, D. C.

BY DIRECTION OF THE COMMISSION:

Francis T. Masterson
Clerk of the Commission