

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

CPC INTERNATIONAL, INC.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-2092

Decision No. G-3292

Counsel for Claimant:

Luis Schuchinski, Esquire
Charles M. Ullman, Esquire
James G. Wills, Esquire
Mark K. Neville, Jr., Esquire

Hearing on the Record held on **MAY 06 1981**

FINAL DECISION

This claim in the amended amount of \$5,546,946.88 against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended by Public Law 94-542 (90 Stat. 2509), is based upon the loss of property in the German Democratic Republic, including East Berlin, owned by companies in which CPC INTERNATIONAL, INC. owned a direct or indirect interest.

In its Proposed Decision dated February 25, 1981, the Commission granted claimant an award in the total amount of \$2,505,832.52, plus interest, for its losses relating to certain German corporations whose assets were taken by the East German authorities. Portions of the claim as filed were denied, including the claim for losses of inventory located at the Barby plant of the Deutsche Maizena Werke A.G. (DMW) in which claimant had a 100% ownership interest.

Under cover of a letter dated March 16, 1981, claimant, through counsel, filed objection to that portion of the Proposed Decision which denied the claim for the loss of inventory at the Barby plant. In support of the objection, argument and copies of documentation in the record were submitted.

The Commission has considered claimant's argument and the documentation referred to and now finds that claimant, through its ownership interest in DMW owned some 6,158,244 reichsmarks in inventory at the Barby plant site consisting of finished goods, semi-finished goods, raw materials, operating materials and factory supplies, all of which were taken by the East German authorities on February 19, 1946. The Commission also finds that the dollar value of the inventory on the date of loss was \$1,539,561.00.

The Commission further finds that claimant has received proportional payments on an award granted in Claim No. W-20235 under Public Law 87-846 for the same property identified as inventory owned by DMW which was taken under "special measures." Accordingly, pursuant to the terms of section 605 of the Act set forth below, claimant is entitled to an award under section 602 of the Act in the amount of \$596,703.05 for the difference between the value of the property loss found above under section 602 of the Act and the proportional payment received under Public Law 87-846 on account of the loss of the same property.

Section 605 provides:

"In determining the amount of any claim, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses, including any amount claimant received under section 202(a) of the War Claims Act of 1948, as amended, for losses which occurred as a direct consequence of special measures directed against such property in any area covered under this title."

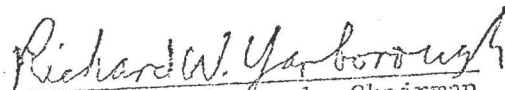
Accordingly, it is ordered that the award to claimant be restated as set forth below; that the Proposed Decision be affirmed in all other respects; and that the foregoing be entered as the Commission's final determination on this matter.

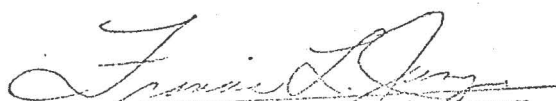
A W A R D

Claimant, CPC INTERNATIONAL INC., is therefore entitled to an award in the amount of Three Million One Hundred Two Thousand Five Hundred Thirty-Five Dollars and Fifty-Seven Cents (\$3,102,535.57), plus interest at the rate of 6% simple interest per annum on: \$92,455.00 from June 1, 1945; \$97,800.00 from October 10, 1945; \$8,313.00 from October 30, 1945; \$102,886.00 from December 13, 1945; \$1,908,699.05 from February 19, 1946; \$134,882.00 from March 6, 1946; \$54,076.00 from March 28, 1946; \$158,352.00 from April 1, 1946; \$71,851.00 from April 4, 1946; \$12,593.52 from May 1, 1946; \$152,234.00 from May 19, 1946; \$268,124.00 from September 9, 1946; \$40,270.00 from November 8, 1946, until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

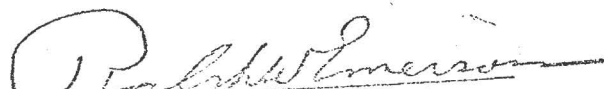
Dated at Washington, D.C.
and entered as the Final
Decision of the Commission.

MAY 6 1981


Richard W. Yarborough, Chairman


Francis L. Jung, Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on MAY 6 1981


Ralph W. Emerson, Commissioner


Executive Director

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

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Counsel for Claimant:

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PROPOSED DECISION

This claim in the amended amount of \$5,546,946.88 against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended by Public Law 94-542 (90 Stat. 2509), is based upon the loss of property in the German Democratic Republic, including East Berlin, owned by companies in which CPC INTERNATIONAL, INC. (CPC) owned a direct or indirect interest.

Under section 602, Title VI of the Act, the Commission is given jurisdiction as follows:

"The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against the German Democratic Republic for losses arising as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property, including any rights or interests therein, owned wholly or partially, directly or indirectly, at the time by nationals of the United States whether such losses occurred in the German Democratic Republic or in East Berlin . . ."

Based upon the evidence of record in this claim, including evidence in the record in Claim No. W-20235 filed previously by the Corn Products Company, claimant's predecessor, in the General War Claims Program under Public Law 87-846, the Commission finds that CPC is incorporated under the laws of the State of Delaware and that it is a publicly owned corporation and that the majority of its stock is owned by United States citizens as required for eligibility under section 601(1)(b) of the Act.

Based upon all the evidence of record, the Commission further finds that CPC had the following direct or indirect ownership interests in German corporations which lost property in the German Democratic Republic, including East Berlin:

1. Deutsche Maizena Werke A.G.	100%
2. Diamalt A.G.	25.16%
3. Finkenheerder Obstwerke A.G.	100%
4. Koehlmann-Werke A.G.	54.4%
5. Norddeutsche Eiswerke A.G.	57.6%
6. Norddeutsche Portlandcementfabrik Misburg A.G. (Schwanebeck plant)	30%
7. Saatwirtschaft C. Braune G.m.b.H	66.7%
8. Seidel & Naumann A.G.	25.6%
9. Transport-und Lagerhaus G.m.b.H.	1100%
10. W.A. Scholten Staerke-und Syrup-Fabriken A.G.	95.8%
11. Mondamin G.m.b.H	79.4%

1. Deutsche Maizena Werke A.G. (DMW).

The evidence of record in this claim establishes and the Commission finds that: DMW was the largest operating complex of CPC in Germany and that it was the largest enterprise in the starch industry in Europe; that the company owned a factory at Barby/Elbe which is now in the German Democratic Republic and which was taken by the East German authorities on or about February 19, 1946 pursuant to an Order of the President of the Province of Sachsen taking over the management of the plant dated February 19, 1946; and that between March and October of 1946, the plant was dismantled.

The Commission notes that an award for a loss of the same property as the result of "special measures" was granted to the claimant's predecessor in W-20235 in the total amount of \$5,085,098.25 based upon a finding that the land and buildings associated with the plant at Barby/Elbe had a wartime value of \$1,099,615.50; the machinery and equipment had a value of \$2,285,482.75, and the inventory at the plant had a value of \$1,700,000.

Based upon all the evidence of record, the Commission concludes that there was no substantial change in the value of the subject property between World War II and February 19, 1946, the date of loss and therefore the land and buildings at the Barby plant site had a value of \$1,099,615.50 on February 19, 1946 and that the machinery and equipment had a value of \$2,285,482.75 on that date. Accordingly, since claimant owned a 100% interest in the plant, the total value of claimant's loss under section 602 of the Act with respect to the property owned by DMW is \$3,385,098.25.

With respect to that portion of this claim based upon the loss of inventories at the Barby site, the Commission notes that the evidence of record includes a letter dated June 14, 1946 from Erwin Dircks, Custodian, DMW, to the Military Government Property Control Section in Hamburg, which indicates that "a considerable quantity of goods stored there [at Barby] by [DMW] burnt." The letter also indicates that the reserves of corn on hand in the first two months of 1945 had been exhausted and that large quantities of the stocks at the Barby plant had to be delivered on "reparation account" in 1945. While the Commission has held in the Claim of INTERNATIONAL TELEPHONE & TELEGRAPH, Claim No. G-2401, Decision No. G-3164, that the dismantling and shipping of property to the Soviet Union after August 2, 1945, the date of the Potsdam Agreement, are compensable as losses for which the Commission has found the German Democratic Republic responsible, the record in this claim is not sufficient for the Commission to determine the extent of such losses or the value of the property taken. Accordingly, this portion of the claim must be and it is hereby denied.

2. Diamalt A.G.

The evidence of record with respect to this operation indicates and the Commission finds that: Diamalt was one of the leading German manufacturers of baking powder, malt extract, candies, syrups and related products; that it had a plant at Diemetz near Halle/Saale; that the plant was initially sequestered under Order No. 124 of the Chief of the Soviet Military Administration, on or about October 30, 1945, ostensibly returned by "deed" as of September 30, 1946 and later turned over to the Labor-Union Management of the plant as of September 6, 1949. Based upon the foregoing, the Commission concludes that the subject plant at Diemetz was taken by the East German authorities on October 30, 1945.

It is noted that in W-20236 the Commission found that the Diemetz plant was lost as the result of "special measures" and that the plant, consisting of land and buildings, had a wartime value of \$85,250.00. The Commission now finds that there was no substantial appreciation or depreciation of this property between the wartime value and the date of taking by the East German authorities, that is, October 30, 1945, and that therefore, the value of claimant's 25.16% interest in the subject property at the time of loss under section 602 of the Act was \$21,448.90

3. Finkenheerder Obstwerke A.G. (FO)

The evidence of record establishes and the Commission finds that FO, which manufactured jams, table syrups and related products by further refining and utilizing glucose and other products manufactured at Barby, owned two plants in the German Democratic Republic, one at Finkenheerder and one at Zorbig, which were taken by the East German authorities on September 9, 1946 and March 6, 1946, respectively.

With respect to the plant at Finkenheerder the Commission finds that it suffered war damage to the extent of \$69,987.75. The Commission has no authority to grant awards for war damage losses under Public Law 94-542. The evidence also establishes that some \$40,000 worth of machinery and equipment was apparently dismantled by the Soviet Army prior to August 2, 1945. Accordingly, no award can be granted for this loss since the record indicates that the subject property was taken prior to August 2, 1945, the date of the Potsdam Agreement. The Commission has held in the Claim of INTERNATIONAL TELEPHONE & TELEGRAPH, Claim No. G-2401, Decision No. G-3164, that takings for reparations by the Soviet military authorities after August 2, 1945, the date of the Potsdam Agreement, are compensable under Public Law 94-542 as losses for which the German Democratic Republic is responsible, whereas takings prior to August 2, 1945 are in the nature of war damage losses, which are not compensable under Public Law 94-542.

With respect to the remaining property, including land, buildings, and machinery, the Commission finds that it had a total value of \$691,790.25 on the date of loss, which includes 6% depreciation on the remaining machinery.

The plant at Zorbig consisted of nine acres of land, several factory buildings and residences. It processed beets into sugar. The Commission finds, based upon the evidence of record, that the improved real property at the Zorbig plant had a value of \$109,698.75 on the date of taking and that it had some \$238,312.52 worth of inventories on hand at the time of loss under section 602 of the Act.

4. Koehlmann-Werke A.G. (K-W)

K-W was a large company in the German starch industry with two plants at Frankfurt/Oder and other plants at Fuerstenwalde, Wellmitz and Loitz, all in what is now the German Democratic Republic. Based upon all the evidence of record, the Commission finds that the property at the plants at Frankfurt, Fuerstenwalde and Wellmitz was taken by the East German authorities on or about June 1, 1945 and that the property at Loitz was taken on November 8, 1946.

With respect to the value of the property at these plants at the time of loss, the record establishes and the Commission finds as follows:

(1) After deduction for war damages to the plants at Frankfurt in the total amount of \$26,551.00 and deduction for depreciation on the machinery and equipment (assuming that one-third of the value of the plants represents machinery and equipment) the Commission finds that the value of the remaining property on the date of loss under section 602 of the Act was \$389,367.86.

(2) The property at the plant in Fuerstenwalde was destroyed by fire during the last weeks of World War II and that the remaining property had a value of \$7,687.00 at the time of loss under section 602 of the Act.

(3) The property in Loitz, after depreciation of the machinery and equipment, had a total value of \$103,901.72 as of the date of loss under section 602 of the Act.

(4) The Wellnitz plant, after deductions for war damages in the amount of \$5,719.75 and for depreciation of the machinery and equipment remaining had a value of \$85,828.65 on the date of loss under section 602 of the Act.

(5) With respect to the inventories of K-W which were stored at Barby, as indicated before, in view of the war damage and other actions which severely diminished the stock of raw materials and other items of inventory at the Barby plant, set forth in item 1, above, and the fact that the basis for the valuation of the stocks submitted by claimant is an audit report as of August 31, 1946, which was compiled to "reconstruct" the company's bookkeeping system since such system was destroyed by fire during the last days of the war, the Commission finds that there is insufficient evidence of record to establish the amount or value of the inventory items, if any, at Barby which were on hand at the time of the loss under section 602 of the Act. Accordingly, this portion of the claim must be and it is hereby denied.

(6) As to the inventories at Frankfurt/Oder on the date of loss under section 602 of the Act and certain other items requisitioned by the Mayor's Office of the City of Frankfurt, the Commission finds that they had a combined value of \$42,713.40.

Accordingly, the Commission concludes that the total value of claimant's 54.4% interest in the property of K-W taken by the East German authorities was \$342,447.25.

5. Norddeutsche Eiswerke A.G. (NE)

The record in this claim indicates and the Commission finds that: NE operated the largest cold storage plant in Germany and that several of the plants and an office were located in East Berlin at Koepenicker Strasse 40-41; that the company was taken by the East German authorities on April 4, 1946; and that the company suffered heavy war damage resulting in a loss of a total of 70% of the collective capacity of the cold storage plants.

Based upon all the evidence of record, the Commission finds that claimant's 57.6% interest in the remaining real property and machinery, less depreciation of the remaining machinery, had a value of \$185,384.37 at the time of loss under section 602 of the Act.

6. Norddeutsche Portlandcement Fabrik Misburg A.G. (NPFM)

One of the largest enterprises in the German cement industry, NPFM owned one plant in Schwanebeck which was taken by the East German authorities on March 28, 1946. Based upon the record, the Commission finds that NPFM had a total value of \$465,073.50, less depreciation of the machinery and equipment, on the date of taking under section 602 of the Act, and that claimant's 30% ownership interest therefore had a value of \$139,522.05.

7. Saatzuchtwirtschaft C. Braune G.m.b.H. (SCB)

The evidence of record establishes that SCB owned a 2000 acre farm in Bernburg/Saale which was devoted to the cultivation of sugar beets, corn barley and other grains; that the company was taken by the East German authorities on October 10, 1945; and that the company suffered war damage in the amount of \$7,750. Based upon the foregoing, and considering all the evidence of record concerning value, the Commission finds that claimant's 66.7% share in the loss of SCB, after the deduction of \$7,750 war damage, was \$252,334.71.

8. Seidel & Naumann A.G. (S&N)

S & N was a large manufacturer of sewing machines and typewriters at Dresden. The company and its assets were taken by the East German authorities on December 13, 1945. Having considered all the evidence of record regarding value, including evidence that the buildings, machinery, equipment and inventory at the plant in Dresden sustained war damage to the extent of 60% and considering depreciation on the remaining machinery and equipment, the Commission finds that claimant's 25.6% interest in the loss of S & N was \$265,457.22 on the date of taking under section 602 of the Act.

9. Transport-und Lagerhaus G.m.b.H. (T&L)

T & L was engaged in shipping and warehousing on the Elbe and operated both the public and private port of DMW at Barby. The company owned 33 acres of land, warehouses, railway tracks, three steel ships, cranes and other heavy equipment. The property of the company was taken by the East German authorities on May 19, 1946.

Based upon all the evidence of record, including the value for the property found in W-20235, and having deducted the amount of war damage sustained by the property and depreciation on the remaining assets, the Commission finds that the value of claimant's loss with respect to T & L at the time of taking by the East German authorities is \$392,781.54.

10. W.A. Scholten Staerke-und Syrup-Fabriken A.G. (WASS)

WASS owned a potato starch factory at Brandenburg which was leased to DMW. This plant was taken by the East German authorities on or about April 1, 1946.

Based upon all the evidence of record, including the record in Claim No. W-20235, the Commission finds that the value of the claimant's interest in the remaining property of the WASS factory in Brandenburg, after deduction of war damage in the amount of \$169,250 and depreciation on the remaining machinery, on the date of taking was \$409,030.07.

11. Mondamin G.m.b.H.

A portion of this claim is based upon the losses of Mondamin G.m.b.H., a large producer of baby foods, puddings and baking powder, resulting from the dismantling of DMW in the second quarter of 1946. The Commission finds, based upon the audit report of the company as of December 31, 1946, that Mondamin suffered a loss of \$15,860.86 resulting from a taking on or about May 1, 1946 of property owned by the company, but which was at the site of the DMW Barby plant. Accordingly, the Commission finds that the value of claimant's interest in the loss under section 602 of the Act is \$12,593.52.

In summary, the Commission finds that CPC INTERNATIONAL INC. had an interest in the above losses of property under section 602 of the Act in the total amount of \$6,445,899.40.

The Commission further finds that claimant has received proportional payments on the award in W-20235 for the same property in items 1-10 above (before the deduction for federal tax benefits as required under Public Law 87-846) in the amount of \$3,940,006.88. Accordingly, pursuant to the terms of section 605 of the Act set forth below, claimant is entitled to an award under section 602 of the Act in the amount of \$2,493,239.00 for the difference between the value of the property losses (exclusive of item 11 above, for which no award was made previously under Public Law 87-846) found above under section 602 of the Act and the proportional payment received under Public Law 87-846 on account of the loss of the same property.

Section 605 provides:

"In determining the amount of any claim, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses, including any amount claimant received under section 202(a) of the War Claims Act of 1948, as amended, for losses which occurred as a direct consequence of special measures directed against such property in any area covered under this title."

Claimant is also entitled to an award in the amount of \$12,593.52 as compensation for its interest in the loss of property owned by Mondamin G.m.b.H. for which no award was granted under Public Law 87-846.

Therefore the Commission concludes that CPC INTERNATIONAL INC., is entitled to a total award in the amount of \$2,505,832.52 as compensation under section 602 of the Act.

The Commission notes that in the memorandum submitted in support of the instant claim, it is urged that it would be incorrect and unfair to grant an award under Title VI of the International Claims Settlement of 1949, as amended, based upon the net award granted in Claim No. W-20235, which reflects an offset for federal tax benefits realized on losses compensable under Title II of the War Claims Act of 1948, as amended. In order to counteract the effects of the tax benefits recognized in the prior claims program, a credit calculation has been proposed by claimant. However, in view of the fact that the Commission agrees with the claimant's position as to the unfairness of using the net award granted in W-20235 to determine the amount of the present award, after an offset, as required under section 605 of the International Claims Settlement Act of 1949, for payments received under Title II of the War Claims Act of 1949, and the fact that the actual total award granted in W-20235, before deduction of federal tax benefits, has been used as the basis for calculation of the claimant's award under section 602, any further adjustment by way of a credit as proposed by claimant is not warranted.

The Commission has concluded that in granting awards on claims under section 602 of Title VI of the Act, for the nationalization or other taking of property or interests therein, interest shall be allowed at the rate of 6% per annum from the date of loss to the date of settlement. (Claim of GEORGE L. ROSENBLATT, Claim No. G-0030, Decision No. G-0100 (1978)).

A portion of this claim is based upon the losses of the Aktien-Malzfabrik Landsberg A.G. (AML) in which claimant, through its wholly owned subsidiary known as Gesellschaft fur Industriebeteiligungen m.b.H. (GIB) was found by the Commission in Claim No. W-20235 to have owned an 87.5% interest.

The Commission notes, however, that in the Claim of MARGOT S. MARON, Claim No. G-2894, Decision No. G-3276, the Commission has determined that Margot S. Maron's predecessor in interest, the partnership known as Boehm & Reitzenbaum (B&R), a Berlin banking firm, originally owned in excess of 93% of Aktien-Malzfabrik Landesberg prior to World War II.

The Commission also found in its decision on Claim No. G-2894 that the record established that legal title to the interest in AML was originally lost during the Nazi regime as a result of racial and religious persecution. The Commission had held in the Claim of MARTHA TACHAU, Claim No. G-0177, Decision No. G-1071, that such persecutory losses will not be considered by the Commission to have cut off all rights of the original owners or their heirs, and that the persecuted owners will be found to have retained a beneficial interest in the property. Accordingly, an award was granted to Margot S. Maron for her interest in the loss of AML as the owner of a beneficial interest in the company.

Based upon the foregoing, the Commission can only conclude that in the instant claim of CPC INTERNATIONAL, INC., the record does not establish that claimant owned either directly or indirectly an interest in AML for which an award may be granted under Public Law 94-542 for the reason that GIB could only have acquired title to its interest in AML as a result of the original persecutory loss of Margot S. Maron's predecessor.

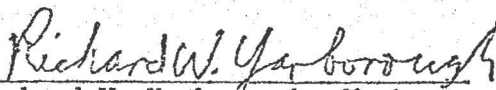
For the foregoing reasons, this portion of the claim of CPC INTERNATIONAL, INC. based upon its asserted interest in AML must be and it is hereby denied.

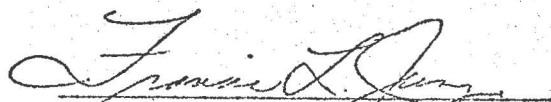
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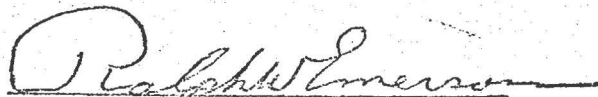
Claimant, CPC INTERNATIONAL INC., is therefore entitled to an award in the amount of Two Million Five Hundred Five Thousand Eight Hundred Thirty-Two Dollars and Fifty-Two Cents (\$2,505,832.52), plus interest at the rate of 6% simple interest per annum with interest on: \$92,455.00 from June 1, 1945; \$97,800.00 from October 10, 1945; \$8,313.00 from October 30, 1945; \$102,886.00 from December 13, 1945; \$1,311,996.00 from February 19, 1946; \$134,882.00 from March 6, 1946; \$54,076.00 from March 28, 1946; \$158,352.00 from April 1, 1946; \$71,851.00 from April 4, 1946; \$12,593.52 from May 1, 1946; \$152,234.00 from May 19, 1946; \$268,124.00 from September 9, 1946; \$40,270.00 from November 8, 1946, until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

Dated at Washington, D.C.
and entered as the Proposed
Decision of the Commission.

FEB 25 1981


Richard W. Yarborough, Chairman


Francis L. Jung, Commissioner


Ralph W. Emerson, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5 (e) and (g), as amended.)