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

IN THE MATTER OF THE CLAIM OF

EXXON CORPORATION

Claim No. G-2480

Decision No. G-3063

Under the International Claims Settlement Act of 1949, as amended

Counsel for Claimant: David G. Gill, Esquire

AMENDED FINAL DECISION

This claim in the asserted amount of $9,977,990.00 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 nationalization of Esso A.G.; four of the subsidiaries of Esso A.G., including Mineraloel-Raffinerie, Vereinigte Asphalt-und Teerprodukten-Fabriken G.m.b.H., Buesscher & Hoffmann A.G., Mecklenburgische Erdolgesellschaft G.m.b.H.; and the loss of certain property of Esso (Switzerland).

By Proposed Decision issued February 4, 1981, the Commission made an award to claimant. An objection was filed by claimant and an oral hearing was held on April 14, 1981. On May 6, 1981, the Commission issued a Final Decision in which it accepted claimant's argument that the award should be increased based upon additional evidence which had been submitted by claimant. The Final Decision as issued by the Commission increased claimant's award in the amount of $25,897.00. Claimant has called to the Commission's attention the fact that it appears that the Commission made a calculation error in determining the amount the award should be increased based upon the evidence accepted by the

Commission. The Commission has reviewed the file and concludes that the Commission did make an error in calculation and claimant's original award should have been increased in the amount of $36,172.00. The Commission therefore is issuing this Amended Final Decision to reflect a correct calculation of the increase which should be added to the award. In other regards, the Commission affirms its holding in the Final Decision.

The Commission therefore withdraws the awards made both in the Proposed Decision and the Final Decision and restates the following award as its final determination of this claim.

A W A R D

Claimant, EXXON CORPORATION, is therefore entitled to an award in the total amount of Four Million Five Hundred Two Thousand Five Hundred Sixty-Four Dollars ($4,502,564.00), plus interest at the rate of 6% simple interest per annum on $3,765,488.00 from September 1, 1949; on $9,755.00 from August 11, 1952; on $333,775.00 from July 1, 1950; on $365,636.00 from March 1, 1945; and on $27,910.00 from February 21, 1949, 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 Amended Final
Decision of the Commission.

MAY 15 1981

Richard W. Yarborough, Chairman

Francis L. June, Commissioner

Ralph W. Emerson, Commissioner

his is a true and correct copy of the decision
he Commission which was entered as the final
cision on MAY 15 1981

Executive Director

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Under the International Claims Settlement Act of 1949, as amended

Counsel for Claimant: David G. Gill, Esquire

Oral Hearing held on April 14, 1981

FINAL DECISION

This claim in the asserted amount of $9,977,990.00 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 nationalization of Esso A.G.; four of the subsidiaries of Esso A.G., including Mineraloel-Raffinerie, Vereinigte Asphalt-und Teerprodukten-Fabriken G.m.b.H., Buesscher & Hoffmann A.G., Mecklenburgische Erdolgesellschaft m.b.H.; and the loss of certain property of Esso (Switzerland).

By Proposed Decision issued February 4, 1981, the Commission made an award to claimant in the principle amount of $4,466,392.00. Claimant objected to the amount of the award and requested an Oral Hearing which was held on April 14, 1981. A written brief and documentary evidence was submitted by claimant in support of its objection.

Part of claimant's objection is to the denial by the Commission of an award for the working capital associated with the Teltow plant of VAT. The Commission denied this part of the claim on the ground that there was no evidence to establish the amount,

if any, that current assets exceeded current liabilities. Claimant asserts that it has provided evidence of the amount of current assets but concedes it does not have records to indicate the amount of current liabilities. Claimant urges that the Commission should assume there was some working capital and make an award in some amount. Claimant suggests a sum of half of the asserted current assets or RM 225,000.

A review of the record indicates that not only is there a lack of any evidence of current liabilities but there is no specific evidence to establish the amount of current assets. Evidence submitted in relation to the plants in Erfurt and Dresden provides specific amounts to the exact pfennig. In the case of Teltow, however, the figures listed are, cash RM 50,000, inventories RM 200,000, trade receivable RM 200,000. In comparison with the evidence submitted as to current assets of the plants in Erfurt and Dresden, the Teltow figures are clearly broad estimates in round numbers made by someone as to the amount of current assets. No underlying evidence is provided to allow the Commission even to judge the validity of the estimates for current assets, in addition to the lack of any evidence as to the current liabilities. The Commission therefore concludes that based on this state of the record any award for working capital for the Teltow plant would be nothing but pure speculation in which the Commission should not endulge.

In the Proposed Decision claimant argued that book value of fixed assets of Esso A.G., which had been depreciated by more than 75%, undervalued the fair value of such assets and that they should be valued at 25% of their initial book value. The Commission agreed with the proposition in principle but found that evidence had not been submitted which would allow the Commission to determine the amount of such assets which fell into this category.

Claimant has now referred the Commission to evidence of those items which had been depreciated by more than 75%. To increase these to a value of 25% of their original book value would increase the valuation of fixed assets of Esso A.G. by the amount of $27,129.00, which entitles claimant to an increase in its award in the amount of $25,897.00. The Commission therefore withdraws its previous finding that claimant, EXXON CORPORATION, is entitled to an award in the amount of $3,729,316.00 as a result of the expropriation of the business and assets of Esso A.G. and finds instead that claimant is entitled to an award in the amount of $3,755,213.00 for this loss.

In the Proposed Decision, the Commission agreed with claimant's contention that depreciated book values of fixed assets acquired before 1930 did not take into consideration appreciations in value which may have occurred between the date of acquisition and the date that the property was taken by the German Democratic Republic. The Commission found that it was reasonable to increase these items of book value by approximately 1/3.

By way of objection claimant argues that these values should be increased by a greater amount, suggesting a factor ranging from 1.59 to 1.71. Claimant's entire basis for this argument is computations from the index of building costs. This index for years after 1945 reflects the increase in building costs in the Federal Republic of Germany. Claimant admits it has no evidence of price or cost indexes applicable to the territory of the German Democratic Republic. The Commission finds no basis to assume that the economy of the territory which became the German Democratic Republic expanded at precisely the same rate as that which occurred in the territory of the Federal Republic of Germany and finds no basis to change its original calculations in this regard.

In the Proposed Decision the Commission translated evidence listing reichsmark values into dollars using the conversion rate of 4.2 marks to the dollar. Claimant argues that the Commission should have interpreted this evidence by assuming that 2.5 reichsmarl equalled a dollar or, in the alternative, 3.33 reichsmarks equalled a dollar.

The Commission finds no basis for the use of 2.5 reichsmarks to the dollar, the exchange rate which existed briefly in prewar Germany after 1934. The time during which this exchange rate was in existence represents neither the time when assets were recorded on the books of claimant's subsidiary nor the date of loss.

Between 1945 and 1949 when the exchange rate of 4.2 marks to the dollar was reestablished in the Federal Republic there was no actual exchange rate in the Federal Republic of Germany. An internal conversion rate was imposed by the occupying powers for the purpose of accounting for imports into and exports out of the Western Occupation Zone, which exports and imports were conducted by the occupying powers. Evidence provided by claimant shows that this varied between two marks and five marks to the dollar, although the most generally used internal conversion rate was 3.33. None of the evidence submitted by claimant establishes that this internal conversion rate can be equated with an actual foreign rate of exchange and, in fact, much of the evidence submitted clearly states that there was no exchange rate. During this period an exchange rate of 10 marks to the dollar was established by the military for conversion of military pay. The only evidence in relationship to an exchange rate for the East German mark is the black market rate which varied between 20 to 80 marks to the dollar.

The Commission, therefore, reaffirms its previous holding that the only equitable way of interpreting evidence of reichsmark values during the period between 1945 and 1949 is to use the rate of 4.2 marks to the dollar which, if the years of the World War I

inflation are eliminated, was the historic conversion rate in 45 of the previous 50 years and was the rate which was reestablished in the Federal Republic in 1949 after the currency conversion.

In all other regards the Commission affirms its findings in the Proposed Decision.

The Commission hereby withdraws its previous award and makes the following award as its final determination on this claim.

A W A R D

Claimant, EXXON CORPORATION, is therefore entitled to an award in the total amount of Four Million Four Hundred Ninety-Two Thousand Two Hundred Eighty-Nine Dollars ($4,492,289.00), plus interest at the rate of 6% simple interest per annum on $3,755,213.00 from September 1, 1949; on $9,755.00 from August 11, 1952; on $333,775.00 from July 1, 1950; on $365,636.00 from March 1, 1945; and on $27,910.00 from February 21, 1949, 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

Richard W. Yarborough, Chairman

Francis L. Jung

Francis L. Jung, Commissioner

Ralph W. Emerson

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IN THE MATTER OF THE CLAIM OF

EXXON CORPORATION

Under the International Claims Settlement Act of 1949, as amended

Claim No. G-2480

Decision No. G-3063

Counsel for Claimant: David G. Gill, Esquire

PROPOSED DECISION

This claim in the asserted amount of $9,977,990.00 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 nationalization of Esso A.G.; four of the subsidiaries of Esso A.G., including Mineraloel-Raffinerie, Vereinigte Asphalt-und Teerprodukten-Fabriken G.m.b.H., Buesscher & Hoffmann A.G., Mecklenburgische Erdolgesellschaft m.b.H.; and the loss of certain property of Esso (Switzerland).

The Commission finds that claimant, EXXON CORPORATION, was incorporated under the laws of the state of New Jersey on August 5, 1882 and that at all times herein relevant more than 50 percent of the stock of said company was owned by citizens of the United States. The Commission further finds that claimant was the sole owner of Esso A.G., whose name was changed from Deutsch-Amerikanische Petroleum Gesellschaft (DAPG) on December 16, 1950, and that at all times herein relevant claimant was the indirect owner through Esso A.G. of 95.46 percent of Mineraloel-Raffinerie, 100 percent of Vereinigte Asphalt-und Teerprodukten-Fabriken G.m.b.H.., 96.67 percent of Buesscher & Hoffmann, and 50 percent of Mecklenburgische Erdolgesellschaft m.b.H.

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. . ."

To establish the value of some of the losses, claimant has submitted balance sheets setting forth the "book value" of certain assets. The figures therein are recorded in reichsmarks which the Commission must convert to a dollar valuation in determining an award. Claimant argues that this conversion should be at the rate of 2.5 reichsmarks to the dollar or, in the alternative, at the rate of 3.33 reichsmarks to the dollar.

The Commission has previously held that, after the 1948 currency conversion, the exchange rate for Deutschmarks in the Federal Republic of Germany became set at 4.2 Deutschmarks to the dollar and has further held that for purposes of determining appropriate awards the Commission will consider that a Deutschmark issued in the German Democratic Republic, which is often referred to as an ostmark, had the same value as the West German Deutschmark. Claimant argues that, although this may be true, the books of a company reflect historical values and, as the assets would have been acquired prior to 1948, exchange rates which existed prior thereto should be used in assessing the dollar value as reflected by reichsmark balance sheets. While it is true that in general a company's books reflect historical values, this principle does not dictate the use of the exchange rates suggested by claimant. Prior to 1933, both the par value and official exchange rate of the mark approximated 4.2 marks to the dollar and it was not until February 1934 that the par value became approximately 2.5 marks to the dollar. The Commission held in the General War

Claims Program that during World War II the actual value of the mark was 4 marks to the dollar. This has been confirmed in several claims filed in the present program where claimants have submitted documentation that the actual exchange rate for dollar transfers to German bank accounts as of 1940 was at the rate of 4.1 marks to the dollar. Therefore, the exchange rate which claimant asserts the Commission should use was in existence for a relatively few years.

In the immediate postwar period prior to 1949, as claimant concedes, the German economy was in such chaos and disorganization that it became essentially a barter economy and there were few transactions involving foreign exchange conversion of marks. The Commission, therefore, concludes that in assessing the dollar value of assets expressed as reichsmark balance sheet entries a conversion at the rate of 4.2 to one is appropriate.

Claimant further asserts that depreciated book values understate the actual value of the company's assets because they do not reflect inflationary increases occurring over the life of the asset. Claimant submits that the index of construction values in Germany is a valid estimation of inflationary increases. Claimant then compares the cost index for 1930-1931 with the index for 1948 and asserts that depreciated book values should be increased by a factor of 1.74.

The Commission agrees that depreciated book values often undervalue assets because of inflationary increases in replacement costs. The Commission also agrees that the index of building costs is a valid indicator, in the absence of other evidence, of such increases in replacement costs, however, the index to which claimant refers records these increases after 1945 as they apply to the Federal Republic of Germany only. The Commission also

notes that to arrive at the figure suggested by claimant of 1.74, claimant compares the figures from 1930-1931, when values were already falling due to the beginning of the depression, with an abnormally high figure for 1948. The building costs index in the Federal Republic increased by over 32 percent between 1947 and 1948 and actually declined in 1949 and again in 1950.

The Commission has reviewed the building costs index which indicates that, after the 1924 stabilization of the reichsmark, building costs remained relatively stable for a six year period, dropped during the period of the prewar depression, and did not again achieve a level equal to the 1925 through 1930 average until 1945. In comparing the pre-1931 figures with the general increase in costs between 1945 and 1950, the Commission finds it appropriate to increase depreciated book values by a factor of 1.33 to reflect a fair value during the period when claimant's subsidiaries were nationalized.

Claimant asserts that a larger factor should be used to increase book values for land although acknowledging that they are aware of no index to establish this. The only basis supplied by claimant is an isolated sentence in an affidavit of Wolfgang Vorwerk that "Our experience has been that land increases 50% faster in value than fixed assets." This provides a much too tenuous basis for the Commission to apply any increased value factor to land, other than that which it will apply to other asset book values.

Esso A.G.

Esso A.G., formerly known as Deutsch-Amerikanische Petroleum Gesellschaft (DAPG) was a wholly owned subsidiary of claimant engaged in the distribution of petroleum products.

Pursuant to Order Number 104 of the Chief General of the Soviet Military Agency of the Supreme Commander of the group of Soviet occupation forces in Germany, the properties of Esso A.G. and its affiliates were registered and put under East Zone control pursuant to the requirements of protecting United Nations owned

property as required by Proclamation Number Two of the control counsel dated September 20, 1945. Thereafter, on various dates commencing April 15, 1948 in Mecklenburg and continuing until August 31, 1949 in Berlin, the assets of Esso A.G. were placed under various trusteeships and taken under administration by the various states and the administration in East Berlin. The Commission holds that such action constituted a nationalization and expropriation of the business and assets of Esso A.G. in the German Democratic Republic. As this process had been completed as of September 1, 1949, the Commission holds that Esso A.G.'s property was taken as of that date.

Claimant has submitted copies of extensive and detailed inventories of all of Esso A.G.'s assets, which inventories were filed with East German authorities in 1948 and 1949, and has submitted the depreciated values at which these items were carried on the company books as of 1948. The actual depreciated book values of all buildings and equipment, except for certain barges, totaled RM 1,773,908 and the book value of land totaled RM 1,340,372. Not reflected in these figures are assets with an original value of RM 16,462,124 which on the company books had been fully depreciated. Claimant asserts, and the Commission agrees, that the mere fact that an asset has been fully depreciated for accounting purposes in a company's books does not mean that the asset does not have an actual value. Claimant suggests that 25 percent of the original book value of such assets should be found as the actual value of these fully depreciated assets, consistent with regulations of German tax authorities for determining property tax values. The Commission agrees with this contention of claimant.

Claimant also asserts that the Commission should further increase the book value of assets by the estimated amount of RM 400,000 to reflect an overdepreciation of assets which had been depreciated over 75 percent. While the Commission agrees that

such assets may be to some extent undervalued, claimant has provided the Commission with no basis to determine the reasonableness of the asserted figure which admittedly is an estimate, and, therefore, the Commission does not feel warranted in further increasing the book value of claimant's assets. Finally, claimant asserts a claim for the loss of 12 dumb barges and self-propelled barges for which it asserts an actual value in the amount of RM 240,000. The Commission finds that the estimates submitted by claimant as to the value of these barges are reasonable. The Commission, therefore, finds that physical assets of a value of $2,346,583 were taken and claimant is entitled to an award in that amount for the loss of these assets.

In addition, Esso A.G. had current assets, including cash, bank accounts, inventories, materials and receivables, in the amount of RM 7,366,152. Against these current assets, Esso A.G. had trade accounts payable in the amount of RM 1,558,672 which when subtracted establishes a net working capital in the amount of RM 5,807,480 for which claimant is entitled to an award in the amount of $1,382,733.

The Commission notes that the company balance sheet also showed certain other current liabilities which the Commission has not deducted because they were intercompany payables and otherwise would constitute a compensable claim to claimant as debts owed by a nationalized company.

In summary, claimant, EXXON CORPORATION, is entitled to an award in the amount of $3,729,316 as a result of the expropriation of the business and assets of Esso A.G. in the German Democratic Republic.

Mineraloel-Raffinerie (formerly August Korff)

Claimant owned, indirectly through Esso A.G., 95.64 percent of the stock of Mineraloel-Raffinerie, a company engaged primarily in trading, transport, and storage of crude oil and refinery products. Claimant states that the assets of this company located in the GDR were taken during the period from 1947 until

1952, however, claimant is unable to submit documentation verifying an exact date of taking. The Commission holds, however, that, if not taken prior thereto, the assets of this company would have been taken on August 11, 1952, the date of the first implementing regulations of the decree of September 6, 1951 which took over administration of all foreign owned assets. Claimant has submitted balance sheet entries which establish that the depreciated book value of the physical assets of the company were in the amount of RM 25,450, in addition to net current assets in the amount of RM 8,989. The Commission, therefore, finds that assets of a value of $10,200 were taken and that claimant suffered a loss in the amount of $9,755 for its proportionate interest in this claim.

Vereinigte Asphalt-und Teerprodukten-Fabriken G.m.b.H. (VAT)

Claimant, through a wholly owned subsidiary, was indirectly the sole owner of VAT. VAT operated three plants in the German Democratic Republic, one located at Erfurt, one located in Dresden, and one located in Berlin-Teltow. The assets of these three plants were expropriated between March 17, 1950 and July 1, 1950 and for the purpose of this adjudication the Commission finds that all the assets of the three plants were taken as of July 1, 1950.

In support of the valuation of the Dresden plant, claimant has submitted an extremely detailed valuation made for fire insurance purposes in 1952. The Commission has reviewed this valuation which sets forth, as to machines, transport equipment and tools, the new or replacement value as of 1950 and the actual value of the particular property, taking into consideration the age and condition of the property. These latter estimates of actual value are those asserted by claimant as the value of their loss for this property. For the loss of the building and equipment, however, claimant asserts a value of DM 229,459. The evidence in support thereof is an insurance valuation which according to its terms and an explanatory statement submitted with it, appears to value the building at replacement value,

rather than actual value. As to each of the many items listed in this insurance valuation, a new or replacement value as of 1944 is given, along with the date the particular item was acquired and a percentage figure to determine actual present value from replacement value. The Commission recognizes that replacement value rather than actual value is not a valid basis for assessing a loss. The Commission has, therefore, carefully reviewed the extensive item valuations made and concludes that a deduction of 20 percent is both fair and appropriate to determine the actual value of the building and equipment and finds that the total value of all the physical assets at the plant located at Dresden is in the amount of DM 331,552, the equivalent of $78,941.

For the loss of the land, buildings and equipment at Erfurt, claimant has submitted evidence that the book value of this property was DM 95,532 from which the Commission determines that the company had assets in Erfurt of the value of $30,252.

Claimant asserts the value of the loss of the Teltow plant to be in the amount of DM 935,000. Little by way of evidence is provided in support of such a valuation. Claimant has submitted a poor copy of a map and drawing of the plant at Teltow. An affidavit of Mr. Schwenn Lindemann has been submitted which states in relevant part as follows:

> "Based on a comparison of the Dresden detailed valuation with the map and plan of the Teltow plant and my own considerable experience with all three plants of VAT, it is my opinion that the following is a fair evalua tion as of the day of loss, July 1, 1950, for the Teltow plant; land 200,000 DM ost, building including mechanical equipment 280,000 DM ost, machines and mechanical equipment 200,000 DM ost, transport equip ment and motor vehicles 190,000 DM ost, tool service and office equipment 65,000 DM ost, totaling 935,000 DM ost."

The affidavit establishes that Mr. Lindemann was a long time employee of VAT and held responsible positions with that company. The Commission has examined the map and plan of the plant. The property was located on Oderstrasse and the area of the land owned at that site by VAT was approximately 14,750 square meters. The Commission has compared the value asserted for the land with prewar assessments of value in Berlin and finds that the valuation

of DM 200,000 is reasonable. No other information is supplied as to the nature of the manufacturing process carried out at the Teltow plant or the type or amount of machines, transport equipment or tools and no description of the mechanical equipment included in the estimate of the building and the mechanical equipment included with the estimate of machines. This, therefore, provides the Commission with little basis to judge whether the estimates provided are reasonable. The Commission has, as far as it is possible, secured the dimensions of the various buildings and the general type of construction from the drawing presented and made rough computations of the estimated building costs of such structures in 1913, increased in value by the building costs index and reduced for depreciation. These figures, admittedly far from exact, indicate that the estimate for the value of the building submitted by claimant apppears to be high, however, as previously indicated, no information is provided as to what "mechanical equipment" was included within that estimate. The Commission also has considered the relationship between the values for building and equipment in the Dresden and Erfurt plants, compared with the values set for those plants for the categories of machines and mechanical equipment, transport equipment and motor vehicles, and for tools and office equipment and it appears that the estimates given for the Teltow plant show substantially higher values than would be expected, if the same ratios applied. The Commission concludes that the evidence submitted in support of the value of the Teltow plant is not sufficient to sustain the value asserted by claimant. The Commission, therefore, has made what it considers appropriate reductions in the estimates to obtain a value which it believes is supported by the limited evidence supplied and the relationships between the values of various types of assets demonstrated by the evidence as applicable to the Erfurt and Dresden plants. The Commission concludes that the evidence sustains a finding that the land was worth DM 200,000, machines and mechanical

equipment DM 110,000, transport equipment and motor vehicles DM 75,000, and tool service and office equipment DM 35,000, for a total of DM 420,000, the equivalent of $100,000.

In addition, claim is made for the difference between current assets and current liabilities attributable to VAT. The evidence submitted provides a basis for making this determination in the case of the plants in Erfurt and Dresden. However, as to the plant at Teltow, the entries for current assets appear on their fact to be gross estimates and no listing is made for current liabilities with a notation that there are no documents available. Therefore, the Commission is not in a position to determine to what extent, if any, the current assets of the Teltow plant exceeded the current liabilities. The Commission concludes that current assets of the Erfurt and Dresden plants exceeded trade accounts payable and deferred liabilities in the amount of DM 523,245 which had a value of $124,582.

In summary, the Commission holds that claimant is entitled to an award in the amount of $333,775 for the loss of assets of VAT.

Buesscher & Hoffmann A.G.

Claimant at times relevant herein had an indirect ownership interest to the extent of 86.67 percent in Buesscher & Hoffmann A.G. which operated two plants, one in Eberswalde and the other in Halle. The assets of Buesscher & Hoffmann A.G. at those two locations were taken on March 1, 1947.

Claimant has submitted a fire insurance evaluation of the property located at Eberswalde which valuation sets forth the replacement values as of 1944 and the lower current value based upon the age and condition of the assets. The Commission accepts this figure as a fair evaluation of the plant at Eberswalde and determines it had an actual value of DM 1,097,541 on the date of loss.

In support of the valuation of the plant at Halle, claimant submits an October 25, 1949 audit of the assets and liabilities related to the plant at Eberswalde and the plant at Halle. The audit sets forth the depreciated book value of the plant at Halle in the amount of RM 194,882 from which the Commission determines the actual value of the fixed assets were worth RM 260,000.

In addition, claim is asserted for the loss of net working capital. In determining this loss, there appears to be some conflict in the evidence. Claimant asserts a value of RM 936,636 as the value of all current assets in the GDR. The October 25, 1949 audit report submitted by claimant in support of the value of the fixed assets at Halle, however, sets forth a figure of RM 534,999 as the valuation of current assets after adjustments for certain valuation reserves. The Commission is unable to find in the record an explanation for this apparent discrepancy. On this state of the record, the Commission feels it has no alternative but to accept the figure submitted by claimant on the October 25, 1949 audit. The totals for current liabilities submitted by claimant, however, are in essential agreement with the liability figures as shown in the October 25, 1949 audit and, after the current assets are offset by appropriate current liabilities, the Commission finds that the net current assets had a value of RM 414,322.

The Commission, therefore, concludes that the value of all fixed and net current assets of the company in the GDR had a value of RM 1,771,863 or the equivalent of $421,872. Claimant is entitled to an award in the amount of $365,636 for its proportionate share of this loss.

Mecklenburgische Erdolgesellschaft m.b.H.

Claimant asserts on information and belief that all of the shares of Mecklenburgische Erdolgesellschaft m.b.H. were owned by Gewerkschaft Brigitta. Claimant further asserts that in 1952 "It is understood" that the company's name had been stricken out from the register of companies by the local court Schwerin. Claimant

asserts that on September 1, 1939 the share capital totaled RM 20,000 of which RM 5,000 had been paid in and, further, that at all times Esso A.G. has owned 50 percent of the shares of Gewerkschaft Brigitta. Claimant makes claim for 50 percent of the RM 5,000 paid in capital. No evidence or other information is provided as to the nature of this company, or as to the value of its assets and liabilities and the Commission, therefore, is unable to determine what, if any, compensable loss may have been suffered by claimant in relation to its asserted indirect ownership of this company and, therefore, this part of the claim must be and hereby is denied.

Esso Standard (Switzerland)

Claimant was the owner of 99.9 percent of Esso Standard (Switzerland). Claimant has submitted substantial documentation, including affidavits of eye witness reports, which establish that Esso Standard (Switzerland) was the owner of an oil barge (ESSO Schweiz 4). Prior to World War II, Esso Standard (Switzerland) used the barge on the Rhine until the outbreak of World War II. In the spring of 1940, it was seized and designated for war transport use by the German navy. An affidavit from Captain August Stutzer declares that he was the ship's captain and that the ship was comandeered by Soviet Russian military forces on June 1, 1945 and it was used as a bunker ship to support Soviet occupation forces in Berlin. In the summer of 1946, the vessel was towed to Stettin for onward shipment to the Soviet Union. However, after objections, the Soviet authorities apparently acknowledged that the ship carried Swiss registry and the ship was returned to Berlin and again used as a bunker ship. On November 1, 1948, the Soviet forces released the vessel and it was used by Esso A.G. as a bunker ship in the east section of Berlin. Subsequently, Esso A.G. was prohibited from carrying out the petroleum distribution business in the GDR and the vessel was taken over by the German Economic Commission, Shipping Division, on February 21, 1949. The Commission, therefore, holds that the

ship was taken as of that date. Based upon a detailed description of the vessel, including its dates of overhaul and condition and a professional appraisal made of the vessel, the Commission determines it had a value on the date of loss of DM 117,340, the equivalent of $27,938. From this, claimant suffered a loss in the amount of $27,910 for its proportionate indirect ownership of this vessel.

Therefore, claimant EXXON CORPORATION is entitled to a total award in the amount of $4,466,392.

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 (1078)).

A W A R D

Claimant, EXXON CORPORATION, is therefore entitled to an award in the total amount of Four Million Four Hundred Sixty-Six Thousand Three Hundred Ninety-Two Dollars ($4,466,392.00) plus interest at the rate of 6% simple interest per annum on $3,729,316.00 from September 1, 1949; on $9,755.00 from August 11, 1952; on $333,775.00 from July 1, 1950; on $365,636.00 from March 1, 1945; and on $27,910.00 from February 21, 1949, until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

Richard W. Yarborough

Richard W. Yarborough, Chairman

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

FEB 4 1981

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).