

UNITED STATES CODE ANNOTATED
TITLE 22. FOREIGN RELATIONS AND INTERCOURSE
CHAPTER 21--SETTLEMENT OF INTERNATIONAL CLAIMS
SUBCHAPTER I--GENERAL PROVISIONS
§ 1623. Claims

TEXT (a)

(a) Jurisdiction of Commission; bases for determination; fair market value

(1) The Commission shall have jurisdiction to receive, examine, adjudicate, and render a final decision with respect to any claim of the Government of the United States or of any national of the United States--

(A) included within the terms of the Yugoslav Claims Agreement of 1948;

(B) included within the terms of any claims agreement concluded on or after March 10, 1954, between the Government of the United States and a foreign government (exclusive of governments against which the United States declared the existence of a state of war during World War II) similarly providing for the settlement and discharge of claims of the Government of the United States and of nationals of the United States against a foreign government, arising out of the nationalization or other taking of property, by the agreement of the Government of the United States to accept from that government a sum in an en bloc settlement thereof; or

(C) included in a category of claims against a foreign government which is referred to the Commission by the Secretary of State.

(2) In the decision of claims under this subchapter, the Commission shall apply the following in the following order:

(A) The provisions of the applicable claims agreement as provided in this subsection.

(B) The applicable principles of international law, justice, and equity. In determining the value of a claim under international law, the Commission shall award the fair market value of the property as of the time of the taking by the foreign government involved (without regard to any action or event that occurs after the taking), except that the value of the claim shall not reflect any diminution in value attributable to actions which are carried out, or threats of action which are made, by the foreign government with respect to the property before the taking. Fair market value shall be ascertained in accordance with the method most appropriate to the property taken and equitable to the claimant, including--

(i) market value of outstanding equity securities;

(ii) replacement value;

(iii) going-concern value (which includes consideration of an enterprise's profitability); and

(iv) book value.

In the case of any claim for losses in a service industry, the appropriate basis of valuation shall be presumed to be that referred to in clause (iii). For purposes of the preceding sentence, the term

"service" means economic activity the output of which is other than tangible goods.

(b) Notice of filing time; publication; basis of decisions; finality of decision

The Commission shall give public notice of the time when, and the limit of time within which, claims may be filed, which notice shall be published in the Federal Register. In addition, the Commission is authorized and directed to mail a similar notice to the last known address of each person appearing in the records of the Department of State as having indicated an intention of filing a claim with respect to a matter concerning which the Commission has jurisdiction under this subchapter. All decisions shall be upon such evidence and written legal contentions as may be presented within such period as may be prescribed therefor by the Commission, and upon the results of any independent investigation of cases which the Commission may deem it advisable to make. Each decision by the Commission pursuant to this subchapter shall be by majority vote, and shall state the reason for such decision, and shall constitute a full and final disposition of the case in which the decision is rendered.

(c) Administration of oaths; examination of witnesses; subpoenas; reporting of hearings; witness fees; contempt

Any member of the Commission, or any employee of the Commission, designated in writing by the Chairman of the Commission, may administer oaths and examine witnesses. Any member of the Commission may require by subpoena the attendance and testimony of witnesses, and the production of all necessary books, papers, documents, records, correspondence, and other evidence, from any place in the United States at any designated place of inquiry or of hearing. The Commission is authorized to contract for the reporting of inquiries or of hearings. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of disobedience to a subpoena, the aid of any district court of the United States, as constituted by chapter 5 of Title 28, and the United States court of any Territory or other place subject to the jurisdiction of the United States may be invoked in requiring the attendance and testimony of witnesses and the production of such books, papers, documents, records, correspondence, and other evidence. Any such court within the jurisdiction of which the inquiry or hearing is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) Depositions

The Commission may order testimony to be taken by deposition in any inquiry or hearing pending before it at any stage of such proceeding or hearing. Such depositions may be taken, under such regulations as the Commission may prescribe, before any person designated by the Commission and having power to administer oaths. Any person may be compelled to appear and depose, and to produce books, papers, documents, records, correspondence, and other evidence in the same way as witnesses may be compelled to appear and testify and produce documentary evidence before the Commission, as hereinabove provided. If a witness whose testimony may be desired to be taken by

deposition be in a foreign country, the deposition may be taken, provided the laws of the foreign country so permit, by a consular officer, or by an officer or employee of the Commission, or other person commissioned by the Commission, or under letters rogatory issued by the Commission. Witnesses whose depositions are taken as authorized in this subsection, and the persons taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(e) Penalties

In addition to the penalties provided in section 1001 of Title 18, any person guilty of any act, as provided therein, with respect to any matter under this subchapter, shall forfeit all rights under this subchapter, and, if payment shall have been made or granted, the Commission shall take such action as may be necessary to recover the same.

(f) Attorney's fees; limitation

No remuneration on account of services rendered on behalf of any claimant in connection with any claim filed with the Commission under this subchapter shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this subchapter on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section, shall be fined not more than \$5,000 or imprisoned not more than twelve months, or both.

(g) Representation by United States; payments

The Attorney General shall assign such officers and employees of the Department of Justice as may be necessary to represent the United States as to any claims of the Government of the United States with respect to which the Commission has jurisdiction under this subchapter. Any and all payments required to be made by the Secretary of the Treasury under this subchapter pursuant to any award made by the Commission to the Government of the United States shall be covered into the Treasury to the credit of miscellaneous receipts.

(h) Notification of disposition of claims; right to hearing; finality of Commission's decision

The Commission shall notify all claimants of the approval or denial of their claims, stating the reasons and grounds therefor, and, if approved, shall notify such claimants of the amount for which such claims are approved. Any claimant whose claim is denied, or is approved for less than the full amount of such claim, shall be entitled, under such regulations as the Commission may prescribe, to a hearing before the Commission, or its duly authorized representatives, with respect to such claim. Upon such hearing, the Commission may affirm, modify, or revise its former action with respect to such claim, including a denial or reduction in the amount theretofore allowed with respect to such claim. The action of the Commission in allowing or denying any claim under this subchapter shall be final and conclusive on

all questions of law and fact and not subject to review by the Secretary of State or any other official, department, agency, or establishment of the United States or by any court by mandamus or otherwise.

(i) Separation of awards

The Commission may in its discretion enter an award with respect to one or more items deemed to have been clearly established in an individual claim while deferring consideration and action on other items of the same claim.

(j) Compliance with administrative procedure law

The Commission shall comply with the provisions of subchapter II of chapter 5, and chapter 7, of Title 5 except as otherwise specifically provided by this subchapter.

(k) Compliance with principles of international law, justice and equity; fair market value

In exercising authority granted after October 8, 1986, under this chapter or any other Act, the Commission, in determining the value of claims of the Government of the United States or of nationals of the United States (as defined in this chapter or such other Act) against any foreign government for losses arising from the nationalization or other taking of property, shall comply with the principles set forth in subsection (a)(2) of this section.

(Mar. 10, 1950, c. 54, Title I, s 4, 64 Stat. 13; Aug. 9, 1955, c. 645, ss 1, 2, 69 Stat. 562; July 24, 1968, Pub. L. 90-421, s 1(1), 82 Stat. 420; Oct. 8, 1986, Pub.L. 99-451, s 1, 100 Stat. 1138; Oct. 21, 1998, Pub.L. 105-277, Div. G, Title XXII, s 2211, 112 Stat. 2681-812.)