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## **1. VALUATION**

- Title V of the International Claims Settlement Act provides that in making determinations with respect to the validity and amounts of claims and value of properties, rights and interests taken, the Commission shall use the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.
  - [CU-0759](#)
- 1A - Determination of, in the Absence of Evidence
  - In a situation where a claim for real property was established but claimants did not submit any evidence relating to valuation, the Commission conducted independent studies and investigations of property values in Yugoslavia, including the area under consideration, in order to determine the value of the nationalized property.
    - Claim Nos. [Y2-0262](#), [Y2-0654](#)
  - Even though claimant failed to introduce any evidence of value or financial condition of a nationalized corporation, the Commission, nevertheless, was able to value his stockholder's claim based on evidence of record concerning the market price of the stock on or about the date of loss.
    - Claim No. [CU-3611](#)
- 1B – Methods of
  - Commission held that an expert appraiser's valuation of nationalized machinery and equipment was the method "most appropriate to the property and equitable to the claimant," as required by Section 503(a) of the Act.
    - Claim No. [CU-2035](#)
  - In determining the value of nationalized real property, the Commission used the amount that the Internal Revenue Service allowed as a loss on claimant's income tax return, even though claimant asserted that the property was worth more.
    - Claim No. [CU-0183](#)
  - Commission based its valuation of merchandise purchased but not delivered on the total purchase price paid by claimants.
    - Claim No. [CU-1136](#)

- In keeping with the "appropriate and equitable" test of Section 503(a) of the Act, the Commission rejected claimants' proposed valuation based on balance sheet values adjusted for replacement costs of certain assets and to recover the damages suffered by its registered trademarks, instead opted for a balance sheet formulation consistent with the traditional accounting practice of showing the assets at original cost and omitting any valuation of trademarks; there being great difficulty in assigning a reasonably accurate value to them.
  - Claim No. [CU-0846](#)
- Where documentary evidence in the form of appraisals, corporate correspondence, and third party estimates, as well as expert testimony at the oral hearing warranted a determination as to value based upon factors other than book value, the Commission used the more appropriate values.
  - Claim No. [CU-0538](#)
- Where claimant objected to an award based on book values and additional evidence consisting of an expert appraisal, affidavits, maps and property plats was introduced, the Commission adjusted its award to take into account the new evidence.
  - Claim No. [CU-0485](#)
- Commission computed value of insurance business by discounting projected future profit streams back to the date of loss, using a discount rate of 12%.
  - Claim No. [CU-0596](#)
- 1C - Of Corporations
  - Where corporation had been in operation for only a short period of time prior to nationalization but was very profitable, the Commission, in arriving at the corporation's net worth in order to value a stockholder's claim, included organization expenses as assets of the corporation since they enhanced the value of the corporation's operations.
    - Claim No. [CU-1231](#)
  - Where corporation had been in operation only a few months prior to nationalization and there was no evidence in the record that there were any earnings during its existence, the Commission held there was no valid basis for considering organization expenses as assets of the corporation for valuation purposes.
    - Claim No. [CU-0632](#)
- 1D - Deductions In Determining
  - Commission deducted depreciation from the value of nationalized equipment in arriving at claimant's award. Commission's depreciation computation used an estimated useful life derived from, among other sources, Bulletin 14F" of the Internal Revenue Service, and data in the Appraisal and Valuation Manual of the American Society of Appraisers.
    - Claim No. [CU-0288](#)
  - Where a claim is based on a stock interest in a nationalized corporation and the stock has been pledged as collateral for a loan, any award must reflect a deduction for the outstanding balance of the obligation secured by the stock.
    - Claim No. [CU-2169](#)
  - Claimant's wholly owned subsidiary operated a Cuban branch that was nationalized by the Cuban Government. Later, the subsidiary was dissolved with claimant succeeding to all of the subsidiary's assets subject to its liabilities. Together with the fact that the Cuban branch was not a legal entity organized under the laws of Cuba, the Commission decided against deducting outstanding branch liabilities, in the form of salaries payable to Cuban employees, in determining the amount of loss sustained upon the branch's nationalization.
    - Claim No. [CU-2303](#)

- Liabilities of corporate claimants qualifying as U.S. nationals are not to be deducted in computing the amount of their claims.
  - Claim No. [CU-0662](#)
- Commission refused to increase claimant's award by an amount necessary to cover the estimated cost of freight, insurance, and Cuban customs duties, needed to import new machines to Cuba to replace the nationalized ones, since claimant was not entitled to insist on the continuation of its business operation in Cuba.
  - Claim No. [CU-2155](#)
- Where claimant's real property was taken and partial compensation granted in the form of other property, the amount of the award was reduced by value of the property received by claimant in exchange.
  - Claim No. [Y2-0450](#)
- Amount of loss will be reduced by the taxes due and owing the Republic of Cuba.
  - Claim No. [CU-0330](#)
- The Commission has held that a claimant is entitled to compensation for losses in Hungary in an amount equal to the difference between the value of the real property taken less the value of compensation granted to the claimant in local currency. In this case such compensation exceeded value of the property which was taken, and therefore claim is denied.
  - Claim No. [HUNG2-0102](#)
- 1D(1) - *Set Off*
  - Commission offset claimant's loss by the amount of taxes claimant's nationalized subsidiary owed the Cuban Government on the date of nationalization of its Cuban branch.
    - Claim No. [CU-2303](#)
  - Where Hungarian government had partially compensated claimant for the loss of her property, the Commission set off the dollar equivalent of the compensation against the value of the property.
    - Claim No. [HUNG2-0815](#)
- 1E - Of Retail Enterprise
  - The Commission held that the appropriate valuation of a retail enterprise was its net worth as ascertained from its balance sheet.
    - Claim No. [CU-3096](#)
- 1F - Of Branch Office
  - The Commission found that the most appropriate and equitable valuation of a Cuban branch office was the insurance valuation; at the same time, rejecting claimant's proposed valuation based upon: (1) the economic condition of the drug industry in Cuba; (2) the values of certain acquired drug companies, as established by other drug companies, or by the stock market; and (3) the performance and financial condition of claimant's branch.
    - Claim Nos. [CU-0317](#), [CU-0318](#)
  - The Commission has held consistently that with respect to a Cuban branch, as opposed to a Cuban corporation, a corporate claimant's loss should not be reduced by any of the branch's liabilities, except for taxes owing the Government of Cuba or other appropriate debts on the theory of set-off, the reasons being that the parent is or may still be liable for the debts of its Cuban branch.
    - Claim No. [CU-3597](#)

- Commission determined that most appropriate method of valuation of branch office was fair market value, determined on basis of fair market value of whole enterprise based on comparison of net income, with deduction of applicable U.S. and Cuban taxes.
  - Claim No. [CU-2268](#)
- Commission held that the value of a Cuban branch belonging to a foreign subsidiary of an American claimant should be determined by considering the branch's liabilities as well as its assets.
  - Claim No. [CU-8162](#)
- 1G - Cost of Replacement
  - The term "replacement cost" means replacement in kind not replacement with new property.
    - Claim No. [CU-0219](#)
- 1H - Going Concern Value
  - Commission held that since going concern valuation is based on earnings capacity, the excess of liquid assets, such as cash and accounts receivable, over current liabilities constituted additional factors to be considered in determining the overall value of a corporation.
    - Claim No. [CU-0940](#)
  - To arrive at going concern value, the Commission computed the average annual net earnings of the Cuban enterprise at the discount rate of 10%.
    - Claim No. [CU-3798](#)

## 2. REAL PROPERTY

- Title V's definition of property interest does not include a broker's commission or "trip and surveying expenses" incident to the purchase of real property.
  - Claim No. [CU-3688](#)
- A servient parcel of land which provided ingress and egress to the dominant parcel at the time of their respective nationalizations had no value in itself. Its value is included in the value of the real property which it served. Therefore, no compensation can be granted for it even if taken within the statutory period.
  - Claim Nos. [HUNG2-0763](#), [HUNG2-0764](#), [HUNG2-0765](#), & [HUNG2-0766](#)
- 2A - Evidence of Ownership
  - The cost of erecting a fence around real property and the surveying expense incident thereto constitutes property interests within the meaning of Title V.
    - Claim No. [CU-3162](#)
  - Claimant established ownership of real property through evidence consisting of statements from sources in Cuba, a report of two property appraisals, a report of property insurance coverage, copies of correspondence between claimant's husband and an attorney in Cuba, a bill and a receipt for construction, photocopies of cancelled checks, six photographs, and claimant's own statement.
    - Claim No. [CU-1399](#)
  - Commission held that a bill of sale containing a detailed description of property was sufficient proof of ownership.
    - Claim No. [CU-0189](#)
  - Commission held that the submission of an IRS statement which allowed a loss deduction for the nationalized property, was sufficient proof of ownership.
    - Claim No. [CU-3138](#)

- Claimant's evidence which consisted of an extract from the Official Gazette, which published notification of nationalization, was irrelevant to the issue of establishing ownership of the nationalized property.
  - Claim No. [CU-3165](#)
- Under the community property laws of Cuba, all properties acquired by a husband and wife during coverture, except properties acquired by inheritance or gift, are jointly owned by both spouses and thus provide a sufficient basis for establishing claimant's right to 50% of an award for nationalized property.
  - Claim No. [CU-3334](#)
- Claimant established ownership by means of a certificate of title to real property issued by the District Court of Bitola, and registered in Book II of the Book of Ownership Certificates.
  - Claim No. [Y2-0090](#)
- Under Cuban law, a sale becomes binding on purchaser and seller if there has been a meeting of the minds on the subject matter and the price, even though neither was delivered. Therefore, recordation of the transaction is not necessary for transfer of ownership or rights, but it is required if the transaction is to be binding on third parties.
  - Claim No. [CU-2221](#)
- Claimant established ownership of real property by means of reports from abroad, corroborating claimant's assertions, copies of claimant's father's and mother's wills duly recorded with Cuban authorities, and affidavits from claimant and other individuals having personal knowledge of the facts.
  - Claim No. [CU-1051](#)
- Claimant established ownership of real property by means of a copy of a deed, a copy of an official declaration before Cuban authorities concerning the construction of a two-story residence on the real property in question, a photograph of the property, and copies of tax returns evidencing that tax deductions were claimed for the loss of the property.
  - Claim No. [CU-2267](#)
- Even though claimant fails to submit evidence of ownership and value of real property, the Commission may make determination concerning ownership on the basis of evidence gathered from independent sources available to the Commission.
  - Claim No. [CU-2557](#)
- Claimant established ownership of real property by means of an extract from land records, copy of agreement of purchase and sale, and four pictures of the property in question.
  - Claim No. [Y2-0522](#)
- Evidence showing that claimant provided the funds for purchase of property and for the construction of improvements thereon held not determinative of ownership.
  - Claim No. [Y2-0535](#)
- Loss of property through adverse possession is not an action of the Government of Hungary which would constitute a nationalization or other taking.
  - Claim No. [HUNG2-0322](#)
- 2B - Valuation
  - Purchase offer is an adequate proof of value of nationalized real property.
    - Claim No. [CU-0932](#)
  - Yugoslav Claims Agreement requires that the value of property be reduced by the amount of any mortgage on it.
    - Claim No. [Y2-0522](#)
  - Real property value established by documentation of purchase price and cost of improvements.

- Claim No. [CU-0189](#)
- Claimant's unsupported assertion that her nationalized property had an assessed tax value of \$30,000 was considered adequate proof of valuation.
  - Claim No. [CU-2411](#)
- Commission's valuation of claimant's real property was based on claimant's description of the property, recitations in the deed, contract of sale, and other information available to the Commission as to the value of similar property.
  - Claim No. [CU-5115](#)
- Since the record was devoid of any evidence on valuation, Commission held that the value of the nationalized property was equal to that sum of money bequeathed to claimants, as devisees of the property by the will of their predecessor- in-interest, should the property be sold prior to testator's death.
  - Claim No. [CU-3499](#)
- The price offered by disinterested third party for real property located in Cuba considered sufficient evidence of value of property taken.
  - Claim No. [CU-2814](#)
- Under Yugoslav law, claimant retained a very restricted right to use of his property. Since this remaining use is of negligible value, the amount of the award will not be reduced by the value of this use.
  - Claim No. [Y2-1769](#)
- *2B(1) - In Pre-War Currency*
  - Commission converted its award, initially valued in Yugoslavian dinars, to U.S. dollars using the pre-World War II exchange rate, for the post-war rate, reflected a drastic depreciation in the value of the dinar brought about by the effects of nationalization and rapid postwar inflation, would have greatly distorted the value to claimant, if used.
    - Claim No. [Y2-0522](#)
- *2B(2) – Mortgage: Deductions For*
  - When the evidence establishes that realty is encumbered by an unpaid mortgage, the mortgage must be deducted from the value of the realty to arrive at claimant's overall equity in the realty.
    - Claim No. [CU-0700](#)
- *2B(3) - Transfer Tax Added to Basis*
  - Any valuation of real property based on purchase should include the transfer tax, since it was a necessary expense in the purchase.
    - Claim No. [Y2-0536](#)
- *2B(4) - Fair Market Value*
  - Claims based upon the loss of improved real property should be valued at the fair market value on the date of taking, expressed in dinars. This value may be based on appraisals of experts, on-site investigation by Commission, special studies and reports, or the value set in a sales contract at a time reasonably related to the loss.
    - Claim No, [Y2-0536](#)
  - Commission's computation of fair market value of the property at the time of taking took into account the location of the property, its depreciation, the price set out in a contract for sale, depreciation of the improvements, and appreciation in value of the land.
    - Claim No. [Y2-0035](#)
- *2B(5) - Valuation: Non-Nationalized Property, Deductions for*
  - Under the Yugoslavian Claims Agreement of 1964, properties or parts thereof which have been exempted from nationalization or other taking by the

Yugoslavian government, in accordance with Yugoslavian laws, are not covered by the Agreement. Thus, where the Yugoslavian government exempted an apartment- in claimant's building from nationalization, a deduction must be made for the apartment's value.

- Claim No. [Y2-0108](#)
- *2B(6) - Valuation: Consideration paid as Value*
  - The value of real property held to be the amount of consideration paid.
    - Claim No. [CU-3688](#)
- 2C-Taking
  - Even though no individual memorandum was issued by the Hungarian government noticing the granting of claimant's land to a state collective farm, for the purposes of establishing the date of taking, the Commission held that an allowable substitute would be a memorandum granting a pool of land parcels, including claimant's, to a farm.
    - Claim No. [HUNG2-1087](#)
  - Hungarian Decree 31/1971 limited ownership of unimproved building parcels to one residential and one recreational land parcel, with parcels in excess of such limit, if not alienated by their owner prior to December 31, 1972, to be shifted to the disposal of the local council. Claimant having failed to alienate such a parcel, the Commission determined that its transfer constituted a taking by the Hungarian Government.
    - Claim No. [HUNG2-0440](#)
  - While the declaration and protection by the government of property as a historical monument imposes certain restrictions on the owner of the property, such as his rights to raze or alter the improvements, his rights to alienate or sell the property remains unaffected, and thus such action by the Hungarian government cannot be considered a taking.
    - Claim No. [HUNG2-0782](#)
  - When claimant's urban property-falls within the purview of the Cuban Urban Reform Law, the Commission presumes that the property was taken by the Cuban government, in the absence of evidence to the contrary.
    - Claim No. [CU-1051](#)
  - Claimant's evidence which consists of a decree of the Expropriation Commission of Bitola, a certification from the manager of the Bureau of Cadasler of Bitola, a decree of appointment of tutorship for an absent person by the Popular Committee of Bitola were sufficient to establish nationalization within the statutory period.
    - Claim No. [Y2-0090](#)
  - Property was purportedly taken in 1952. However, parts of the property were not correctly recorded until 1966. Commission held that as to these parts the taking occurred in 1966.
    - Claim No. [HUNG2-0268](#)
  - Where property was taken in 1951, returned, and taken again in 1961, held that date of taking was 1961.
    - Claim No. [HUNG2-0041](#)
  - Property subject of this claim was recorded by the Government of Hungary in 1954 under a Decree on Abandoned Property, which included stipulation that an owner had 30 years to petition the return of his property. This period of time was reduced to 3 years in 1958, when three years had already expired on taken property. Claimants were not given timely notice of the proceedings. Commission finds that claimants' right to petition for restitution was terminated, and that such actions constituted a taking of the property on the date of the decree of 1958.

- Claim No. [RUM2-0140](#)
  - While the Commission notes that the acquisition of title by a private party to property by adverse possession does not give rise to a claim under international law, the Commission concludes that the circumstances in the instant case establish that the taking by the Hungarian Peoples Army of legal title to the claimant's property, in reliance upon the laws of adverse possession, where claimant and his predecessor in interest were excluded from the property during the period of adverse possession, is an indirect means of expropriation and that compensation therefore is authorized under subsection 303(5) of the Act, supra.
    - Claim No. [HUNG2-0867](#)

### **3. INTEREST: IN GENERAL**

- When owner of nationalized property assigns its ownership, assignee is granted award, with interest from date of taking, on compensable claim for the property.
  - Claim No. [CU-2576](#)
- 3A - Compounded
  - Claimant objected to Proposed Decision, charging that he was entitled to compound interest on his claim because no accrued interest had been paid to him. Commission rejected claimant's contention, noting that the law does not favor compound interest and in the absence of a contract therefor, or of a statute authorizing it, compound interest is not allowed on a debt.
    - Claim No. [Y2-0501](#)
- 3B-Rate of
  - Rate of interest is determined by all circumstances before the Commission, including applicable principles of international law, justice and equity. The Commission has fixed the rate of interest at 6% per annum.
    - Claim No. [CU-0249](#)
  - Time period for calculation of interest on awards was from date claimant acquired claim to date provisions are made for settlement.
    - Claim No. [CU-6192](#)

### **4. BONDS**

- Bonds of a nationalized foreign corporation represent the debt of a nationalized enterprise within the meaning of Section 502(3) of the Act.
  - Claim No. [CU-2118](#)
- Cuban government bonds clearly constitute property within the meaning of the term as defined in Section 502(3) of the Act.
  - Claim No. [CU-3191](#)
- Commission does not have jurisdiction under the 2nd Hungarian Claims Program to determine claims for losses suffered as a result of failure of Hungarian government to pay its bond obligations expressed in U.S. currency, pursuant to Section 303(5) of Title III of the International Claims Settlement Act.
  - Claim No. [HUNG2-0021](#)
- The loss suffered on the sale of bonds of a nationalized corporation is not compensable under the Act.
  - Claim No. [CU-3313](#)

- 4A - Taking
  - *4A(1) - Default, Effect, of*
    - Commission held that the failure of the Cuban government to make an obligated payment, even without express repudiation of the bonds, constituted a taking of property.
      - Claim No. [CU-1745](#)
    - The failure of a government to pay the principal of bonds or interest thereon in time does not constitute a taking of property.
      - Claim No. [Y2-0054](#)
    - In lump sum agreements between governments for compensation of claims resulting from nationalization or other taking of property, claims of bondholders are deemed not to be included unless the agreement expressly so provides. No provision for Yugoslavian government bond claims appears in the Yugoslav Claims Agreement of 1964.
      - Claim No. [Y2-0054](#)
    - No compensable claim arises from the Bulgarian government's default on its bonds, contractual obligations expressed in U.S. currency, because a failure to pay does not constitute a nationalization, compulsory liquidation, or other taking of property within subsection (4) of Section 303 of the Act.
      - Claim No. [BUL2-0016](#)
    - The Commission has no jurisdiction under section 303 of the Act for losses due to the failure of Rumanian Government to pay its bond obligation, a contractual right expressed in U.S. currency.
      - Claim No. [RUM2-0036](#)
  - *4A(2) - Registration of*
    - The post war requirement for the registration of bonds imposed by the Espousal of Claims Yugoslav authorities did not constitute a nationalization or other taking of the bonds subject of the present claim.
      - Claim No. [Y2-0143](#)
- 4B - Evidence of Ownership
  - Commission held that a photo reproduction of portions of five bonds indicating the amount, serial numbers, interest rates and issuing authority was insufficient to establish proof of ownership by claimant.
    - Claim No. [CU-0760](#)
  - Submission of original bonds which are the basis of claim is sufficient to establish proof of ownership.
    - Claim No. [CU-0042](#)
- 4C- Valuation
  - In general, the amount of loss on bonds is equal to the unpaid principal plus the accrued interest.
    - Claim No. [CU-1002](#)
  - Section 507(b) of the Act limits a bondholder's loss to the consideration paid by his predecessor in interest where the predecessor's purchase occurred after the Cuban government's default on the bond issue.
    - Claim No. [CU-4854](#)

- 4D - Debt upon Nationalized Property
  - Claims based upon bonds secured by realty owned by a nationalized company is a debt which was charged upon nationalized property as defined in Section 502(3) of the Act and thus compensable.
    - Claim No. [CU-1752](#)
- 4E - Governmental Bonds
  - The general rule is that a default by a government in payment of its obligation is not a taking. The legislative history to Title V clearly indicated, however, that Congress intended a default in payment by the Cuban government to constitute a taking.
    - Claim No. [CU-3191](#)
- 4F - Debentures
  - Since debentures are not charges on property, unlike mortgage bonds, Commission denied a claim based on a loss of debentures.
    - Claim No. [CU-2927](#)
  - Claim based upon debentures is extinguished at that time when the debentures are voluntarily exchanged for cumulative preferred stock, thereafter being treated as preferred stock.
    - Claim No. [CU-0297](#)

## **5. ESPOUSAL OF CLAIMS**

- International law and traditional U.S. policy do not recognize as espousable, claims against foreign governments for defaulted government bonds.
  - Claim No. [Y2-0054](#)

## **6. NATIONALITY, REQUIREMENT OF**

- Section 504(a) of the Act, Ownership of Claims, required that the property on which the claim was based be owned, directly or indirectly, by a national of the U.S.; thus, where claimant corporation was organized under Cuban laws, Commission denied its claims.
  - Claim No. [CU-0726](#)
- 6A - As of Date Claim Arose
  - According to the principles of international law, which must be applied by the Commission, the aggrieved person must be a national of the espousing state at the time the claim or loss occurred or arose. Where the claim arose in 1946 and claimant became a naturalized U.S. citizen in 1955, the Commission lacks jurisdiction to grant compensation.
    - Claim No. [Y2-0071](#)
  - Commission does not have jurisdiction of stock ownership claims not owned by U.S. nationals at time of taking, even if claimant subsequently became a U.S. national.
    - Claim No. [CU-3601](#)
  - Commission lacks the authority to deviate from the express terms of the Agreement and allow compensation to all claimants whether or not claimants were U.S. nationals on the date the claim arose.
    - Claim No. [Y2-0523](#)
  - Commission refused to overturn Proposed Decision that denied claim because claimant was not a national at time of taking, claimant's objection centered on the fact that she and

her husband, due to their work for the International Red Cross, were delayed in entering U.S. and acquiring U.S. citizenship by the naturalization process.

- Claim No. [HUNG2-0784](#)

- 6B - Predecessor in Interest

- Since claimant's predecessor in interest was not a U.S. citizen on the date of loss, Commission denied claim as not being one of a U.S. national as defined by Articles I and II of the Yugoslav Claims Agreement of 1964.
  - Claim No. [Y2-0998](#)

- 6C - Continuous National Character of Claim

- The claim of an individual may be considered by the Commission only if it is based on property continuously owned by a U.S. national from date of taking to date of filing of claim.
  - Claim No. [CU-0780](#)
- The test of U.S. nationality must be applied to the beneficial owner of a claim and not to the nominal or mere legal title holder; therefore, a bank acting as administrator of the estate of a decedent is not the real or beneficial owner and the nationality of the heirs to the estate should be established.
  - Claim No. [CU-0587](#)
- A claim by a Yugoslavian national who was an heir of a U.S. national that died prior to date of claims agreement, is not a claim which was owned by a U.S. national up to the date of the agreement, as required, for the reason that the claim lost its U.S. nationality upon the death of the decedent and thereafter was impressed with Yugoslavian nationality.
  - Claim No. [Y2-1790](#)
- Even though a claim cannot be considered if presented by the United States of America or its officers, the Attorney General, or Alien Property Custodian, the outstanding shares of claimant's stock were held by the Attorney General, on the date of loss, thus the continuous national character of the claim was not disturbed.
  - Claim No. [CU-1953](#)
- Continuity of U.S. ownership is not disrupted by sale of claim by one U.S. national to another U.S. national.
  - Claim No. [CU-0293](#)
- Claimants, Delaware and NY Corporations, were wholly owned subsidiaries of a U.S. corporation, controlled by U.S. citizens at the time the claim arose. Subsequent to the date of loss, the parent corporation was sold to a Canadian corporation, which is largely, publicly owned by Canadians. Therefore, the property upon which these claims are based was not owned continuously from the dates of loss to the date of filing by a corporation which qualifies as a national of the U.S. in that 50% or more of its outstanding capital stock was not owned directly or indirectly by natural persons who are citizens of the U.S. as is required under the provisions of Section 502 (1) (B) of Title V of the Act.
  - Claim Nos. [CU-0241](#), [CU-0400](#)
- Claimant's uncles, Hungarian nationals, renounced their respective inherited interests in certain property in favor of claimant in 1957. The "renunciation" constituted an assignment to claimant effective as of the date of the renunciation and not as of the date of death of the deceased owner (May 8, 1945). Thus the continuous U.S. national character of the claim is broken and that portion of the claim is denied.
  - Claim No. [Y2-0839](#)

- 6D - Beneficial Interest
  - The beneficiaries of a trust are the real parties in interest and thus it is their nationality which must be established before the Commission.
    - Claim No. [CU-2005](#)
  - The national character of a claim is determined by the nationality of the individuals holding a beneficial interest therein rather than by the nationality of the nominal or record holder of the claim.
    - Claim No. [Y2-1790](#)
- 6E - Presumption of Continued U.S. Ownership
  - Where claimant became owner of securities subsequent to date of nationalization of issuing corporation and was unable to produce evidence showing that a U.S. national owned the claim on the date of loss, Commission raised a presumption of continuous U.S. ownership based on evidence of record in other claims before the Commission which disclosed that the securities of the kind in question were almost entirely owned and traded by persons or firms having addresses in the U.S.
    - Claim No. [CU-2571](#)
- 6F -Claimant Not National During Statutory Period
  - Section 502(1) of the Act, which defines "national of the U.S." to mean "(A) a natural person who is a citizen of the U.S." does not include a claimant with permanent resident alien status.
    - Claim No. [CU-7602](#)
  - Since claimant was not a U.S. national on the date the claim arose nor during the statutory period, 1956 to 1963, general principles of international law as well as Article 1(2) of the Bulgarian Claims Agreement of 1963 mandate dismissal of the claim.
    - Claim No. [BUL2-0011](#)
- 6G -Claimant Not National at Time of Filing
  - Where claimant determined to be an Icelandic citizen, Commission denied claim since it was not owned by a U.S. national on the date of filing.
    - Claim No. [CU-0728](#)
- 6H – Conservator
- Where claim is filed by conservator of an estate, the nationality of the decedent is controlling, not that of the beneficiaries or the conservator.
  - Claim No. [CU-8242](#)
- 6I - Successor in Interest
  - Claimant corporation by merging with its subsidiary, which had acquired the claims of two nationalized corporations, succeeded to its former subsidiary's interest in the claims.
    - Claim No. [CU-2354](#)
  - Co-executors succeeded to interest of claimant who died subsequent to filing claim and thus the Commission substituted them for the deceased as party claimants.
    - Claim No. [CU-7990](#)

## **7. NATURALIZATION**

- A person does not become a U.S. citizen by way of naturalization until the procedure of naturalization is fully complied with and the order divesting the person of his former nationality and making him a citizen is signed by the judge of the court having jurisdiction.
  - Claim No. [Y2-0071](#)
- 7A - Declaration of Intention to Become
  - One does not become a U.S. national by declaration of intent to become a naturalized citizen.
    - Claim No. [Y2-0146](#)
- 7B -Application for Citizenship, Effect of
  - One does not become a U.S. national by filing an application for naturalization.
  - Claim No. [Y2-0534](#)

## **8. OWE PERMANENT ALLEGIANCE: Defined**

- Persons who owe permanent allegiance to the U.S. are those who are born in certain outlying insular possessions of the U.S. or born elsewhere of parents already possessing that status and does not include an alien who resides in the U.S., who is an employee of the U.S. government and has sworn allegiance thereto, neither does it include a person who, in the course of applying for his U.S. citizenship, filed a declaration of intention and petition of naturalization.
  - Claim No. [Y2-0071](#)

## **9. TAKING**

- On the basis of the entire record and in the absence of evidence to the contrary, claimant's property falling within the purview of the Agrarian Reform Law may be considered taken since the law provided for the expropriation of rural properties and their distribution among peasants and agricultural workers.
  - Claim No. [CU-3403](#)
- Where personalty is left unattended in the wake of a civilian uprising, the Hungarian Revolution of 1956, and disappears through no act of the Hungarian Government, no compensable claim for the loss of such personalty exists.
  - Claim No. [HUNG2-0703](#)
- Commission found that a taking of claimant's house had occurred although no specific legislation appeared to have been invoked when: 1) house was entered by members of Cuban armed forces; 2) contents of house were removed; 3) property had been occupied and used by persons unknown to claimant since that time.
  - Claim No. [CU-0135](#)
- Hungarian imposition of a virtually complete bar to all money claims which originated prior to August 1, 1946, which had not been lifted at time of determination of claim, is considered a taking.
  - Claim No. [HUNG2-0707](#)
- The post war requirement for the registration of bonds imposed by the Yugoslav authorities did not constitute a nationalization or other taking of the bonds subject of the present claim.
  - Claim No. [Y2-0143](#)
- Even though no official notice was posted announcing the nationalization of debtor-corporation, Commission nevertheless reached such a conclusion where evidence indicated that newly published Cuban Law 1076 authorized the nationalization of private commercial businesses and

claimant received letter from debtor-corporation relating to him that the corporation had been nationalized.

- Claim No. [CU-0457](#)
- The Commission held that the Cuban Government's issuance of a decree to effect seizure of claimants' stock certificates covering a non-Cuban corporation had no extraterritorial effect, therefore claimants' interest in the stock was not taken.
  - Claim Nos. [CU-3655](#), [CU-8457](#), [CU-8458](#)
- Claimant's voluntary payment of severance fees to employees of nationalized company was indirectly caused by the actions of the Cuban government and did not qualify as a taking of property as defined in subsection 503(a) of the Act.
  - Claim No. [CU-2354](#)
- Commission determined that when the representatives of claimant, at the time of their arrest by forces of the Chinese Communist regime, abandoned equipment at claimant's branch office, this abandonment constituted a taking by the Chinese Communist regime.
  - Claim No. [CN-0060](#)
- Claimant's contention that his confiscated property was held in constructive trust by the Yugoslav authorities and constructively taken within the statutory period was rejected by the Commission.
  - Claim No. [Y2-1681](#)
- Claim for property which was destroyed by its employees in order to avoid its confiscation by the Chinese Communist regime is denied because such property was not the subject of nationalization or other taking.
  - Claim No. [CN-0439](#)
- Commission deems that for the purpose of this claim for properties owned by several universities in China, the taking of the subject properties occurred when the teaching staff was forced to leave the campuses and all control over the institutions and their teaching policies rested in the hands of the Chinese Communist regime.
  - Claim No. [CN-0401](#)
- Commission determined that the payment, under duress, by claimant of a special liquidation tax imposed by the Chinese Communist regime resulted in a violation of international law by that regime and gave rise to a compensable claim.
  - Claim No. [CN-0440](#)
- No taking of interest on insurance policy occurs within the meaning of The Claims Agreement where the government of Yugoslavia assumes the obligation of nationalized insurance company.
  - Claim No. [Y2-0218](#)
- Damage to claimant's property caused by explosion of dynamite used by Yugoslav Government in the construction of a railroad held not to be taking.
  - Claim No. [Y2-1667](#)
- Under Hungarian law, claimant's right to receive a pension lapsed because his last day of employment preceded his age of retirement by five years. This lapse does not constitute a taking within the meaning of the Act.
  - Claim No. [HUNG2-0610](#)
- The nationalization of 1/2 of a co-tenancy does not conclusively establish the fact of nationalization of the other half.
  - Claim No. [HUNG2-0997](#)
- 9A - Intervention
  - Action by Cuban government precluding transfer of funds to creditors abroad and payment to creditor within Cuba, and which included numerous unreasonable and costly demands upon customers in Cuba, constituted intervention by Cuba in the contractual

rights of claimant, which resulted in taking of American owned property under section 503(a) of the Act.

- Claim No. [CU-0113](#)
- Cuban Law 568 which operates to preclude not only funds transferred to creditors abroad but also payments to creditors in Cuba, constitutes "intervention" for the purposes of section 503(a) of the Act.
  - Claim No. [CU-0928](#)
- 9B - Interference in Use and Enjoyment
  - Under Bulgarian law, real property, from the very date when it became owned by a foreigner was subject to direct governmental control and management, depriving the foreign owner of its use and enjoyment and eventually resulting in its complete loss. The formal transfer of title to the government merely confirmed a loss already sustained, and the taking is determined to have occurred on the date the foreigner purchased the property.
    - Claim No. [BUL2-0022](#)
  - Commission determined that the date on which workers of the People's Republic of China occupied claimant's property constituted the date of taking of the property by the Chinese Communist regime.
    - Claim No. [CN-0040](#)
  - Where property is not taken by decree, law, or order, the Commission will examine specific acts which resulted in the loss of property to determine the date of taking. Here the taking occurred when claimants were forced to leave Cuba.
    - Claim No. [CU-1136](#)
  - Decree which forbade the renting of urban properties, such as claimant's apartment house, constituted a taking. The date of taking is the effective date of the decree.
    - Claim No. [CU-2401](#)
  - Claim is for paintings and furniture declared "protected articles of museum quality" by the Hungarian Government and therefore not permitted out of Hungary. No evidence was provided that the claimant lost ownership of the items. Commission determines that putting limitations on the articles did not deprive them from claimant's use and enjoyment within Hungary, and thus does not constitute a taking by the Government of Hungary.
    - Claim No. [HUNG2-0184](#)
- 9C - Cancellation of mortgages
  - Cuban decree cancelling all mortgages constituted a taking within the meaning of Title V of International Claims Settlement Act of 1949, as amended.
    - Claim No. [CU-0116](#)
- 9D - As a Result of Violation of Domestic Law
  - Claimant was convicted for violation of Cuban law. As a result of this conviction, government confiscated claimant's properties in Cuba. It was not established that claimant's conviction was in contravention of due process or was a denial of justice. Therefore, the loss resulting from claimant's conviction was not compensable under Title V.
    - Claim No. [CU-2593](#)
- 9E - Bank Accounts
  - In the absence of evidence of previous taking, the Commission found that claimant's bank account was taken by the Government of Cuba by the Cuban law which nationalized by confiscation all goods and chattels, rights, shares, stocks, bonds and other securities of

persons who left Cuba, and also including such bank accounts as had not been established and confiscated by previous laws.

- Claim No. [CU-0195](#)
- The action of the Cuban government declaring the Cuban Peso null and void, and thus precluding claimant from converting her pesos into dollars, held to be a taking under the Act.
  - Claim No. [CU-2814](#)

## **10. BURDEN OF PROOF**

- Claimant is required to submit evidence sufficient to establish the jurisdictional elements of the claim.
  - Claim No. [Y2-0019](#)
- Commission denied one part of this claim because claimant failed to satisfy the burden of proof by introducing evidence sufficient to establish a loss in an amount supported by the record.
  - Claim No. [CU-1092](#)
- The Commission, recognizing the difficulty in obtaining primary evidence in support of a claim because of loss or destruction of such evidence, or because of the political conditions existing in Communist China, determined that secondary evidence would be accepted and considered where claimant established a sufficient basis for the unavailability of primary evidence.
  - Claim No. [CN-0030](#)
- Claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of claims. Claim denied since no evidence was adduced to corroborate taking of personal property.
  - Claim Nos. [Y2-0021](#), [Y2-0897](#), [Y2-0898](#)
- Records which were not made contemporaneously with a sales transaction are not of sufficient probative value to establish a loss.
  - Claim No. [CU-0622](#)
- 10A - Failure to Establish Taking During Statutory Period
  - Claim denied for failure to meet burden of proof, where claimant failed to submit evidence to establish that property was taken during statutory period.
    - Claim No. [BUL2-0023](#)
  - Claim denied because of failure to establish that bonds were secured by property taken by the Government of Cuba, or that the bonds were taken in any other way.
    - Claim No. [CU-3436](#)
  - The Commission found no evidence of record that claimant's personal property had been taken by the Government of Cuba where the property had been placed in the custody of a private depository as distinguished from a deposit in a bank existing under and subject to the laws of the Government of Cuba.
    - Claim No. [CU-1472](#)
  - Commission found that property subject of this claim was taken in 1950, a date prior to August 9, 1955, the first date of the 2nd Hungarian Claims Program, not, as contended by claimants after March 31, 1955, the last recorded date of a surviving Widow's usufruct interest against the property when property rights would vest. Claim therefore denied as being outside the statutory period.
    - Claim No. [HUNG2-0967](#)

- 10B - Failure to Establish Ownership
  - Claim denied for failure to meet the burden of proof of ownership of property which was taken by the Cuban Government.
    - Claim No. [CU-4827](#)
  - Claim denied where no evidence was provided to established ownership interest by inheritance.
    - Claim No. [CU-3556](#)
- 10C - Failure to Establish Personal Property Ownership
  - The portion of this claim for personal property is denied for claimant's failure to provide sufficient proof of ownership.
    - Claim No. [RUM2-0013](#)
  - Where personal property was not used by claimant for several years prior to taking by the Government of Bulgaria, claim for personal property is not compensable absent evidence indicating presence of the personal property on the premises on the date of taking.
    - Claim No. [BUL2-0010](#)
- 10D - Failure to Establish Date Of Acquisition and Consideration Paid
  - The burden of proof has not been met when claimant fails to establish date of acquisition and consideration paid for ownership of rights and interest in property which was nationalized, expropriated or otherwise taken, and claim is therefore denied.
    - Claim No. [CU-7778](#)
  - Section 507(B) of the Act provides that amount due on any claim of an assignee who acquires claim by purchase shall not exceed amount of actual consideration paid. Here, claimant failed to establish consideration paid. Claim was, therefore, denied.
    - Claim No. [CU-1782](#)
- 10E - Failure to Establish Nationality
  - In order for a claim to be compensable, claimant corporation, that merged with several predecessor corporations whose interests were taken by the Cuban Government, must show that its predecessors were owned by a national or nationals of the U.S. from date of loss to date claim was filed.
    - Claim No. [CU-3590](#)
- 10F - Failure to Establish Taking by Government Not a Participant in Program
  - A compensable claim will not lie where claimant's property was taken by Rumania and therefore not covered by the Yugoslav Claims Agreement of 1964.
    - Claim No. [Y2-1603](#)
  - Since the real property which is the subject of this claim was located in the U.S.S.R., it is impossible to attribute the loss to actions of the Government of Hungary.
    - Claim No. [HUNG2-0207](#)
- 10G - Failure to Establish Value
  - Claims based on interests in property nationalized, expropriated or otherwise taken by the Government of Cuba denied because of claimant's failure to submit evidence upon which the Commission could place any value on the interests.
    - Claim No, [CU-3216](#)

## **11. DATE CLAIM AROSE**

- Decree which forbade the renting of urban properties, such as claimant's apartment house, constituted a taking. The date of taking is the effective date of the decree.
  - Claim No. [CU-2401](#)
- Date of publication of the Cuban Reform Law in the Cuban Official Gazette is the date of taking of claimant's real property.
  - Claim No. [CU-0183](#)
- Under Yugoslavian law, title to land passes from vendor to vendee upon delivery of the deed. A confiscation decree made after that date and directed against the property of the vendor does not affect vendee's title, though vendee's deed is unrecorded.
  - Claim No. [Y2-0180](#)
- The date that the claim arose as to unrecorded devised property is the date that devisee received final adverse determination as to his title by the highest Yugoslavian tribunal of competent jurisdiction.
  - Claim No. [Y2-0180](#)
- The date on which claim arose because of nationalization is the date the decision to nationalize the realty became operative and not the effective date of the decree.
  - Claim No. [Y2-0536](#)
- Commission determined that claim arose on the date the decision was rendered nationalizing the specific property involved and not the date of the enactment of the general law authorizing nationalization of such property.
  - Claim No. [Y2-0199](#)
- Date of issuance of confiscation decree is not the date of taking.
  - Claim No. [Y2-0532](#)
- Under Bulgarian law, real property, from the very date when it became owned by a foreigner was subject to direct and indirect governmental control and management, depriving the foreign owner of its use and enjoyment and eventually resulting in its complete loss. The formal transfer of title to the government merely confirmed a loss already sustained, and the taking is determined to have occurred on the date the foreigner purchased the property.
  - Claim No. [BUL2-0022](#)
- In the absence of laws or decrees of the Chinese Government establishing the taking of personal property, the Commission determined, based on secondary evidence, that the taking of subject property occurred on the date the owner was forced to evacuate his residence and abandon the property.
  - Claim No. [CN-0030](#)
- Where claimant, though unable to furnish an exact date of taking of subject property, states that he was forced by Communist pressure to flee China and leave his property behind, the Commission finds that the date of taking was October 1, 1949, the date the People's Republic of China was proclaimed, and thus the date claimant effectively lost control, use and enjoyment of his property from actions taken by, or under authority of the Chinese Communist regime.
  - Claim No. [CN-0213](#)
- Where an appeal from a decree taking property is provided for in the decree itself and the appeal is timely filed, thereby staving off the actual transfer, the date of taking is the date the appeal was decided against the owner of the property.
  - Claim No. [HUNG2-0704](#)
- In the absence of evidence indicating the exact date of taking of subject property, Commission determined that the taking occurred on the date the property was placed under military control by the Chinese Communist authorities.
  - Claim No. [CN-0354](#)

- A presumptive date of taking may be rebutted by evidence as that submitted in this claim, which shows that claimant had possession of or management over the property after the presumptive date of taking.
  - Claim No. [Y2-0427](#)
- Property which is the subject of this claim was taken in 1952. However parts of the property were not correctly recorded until 1966. As to these parts, the Commission held the date of taking to be 1966.
  - Claim No. [HUNG2-0268](#)
- Where property was taken in 1951, returned, and taken again in 1961, the Commission held that the date of taking was 1961.
  - Claim No. [HUNG2-0041](#)
- 11A - Restitution Proceedings, Effect of
  - Date of taking is not stayed by proceedings for restitution of expropriated property.
    - Claim No. [Y2-0634](#)
- 11B - Intervention
  - Date of taking is date of intervention by Cuban government.
    - Claim No. [CU-0772](#)
  - When the taking is through intervention, loss of interest in promissory note occurred on the date the unpaid balance of the note became due.
    - Claim No. [CU-0472](#)
  - Where taking of property was through intervention, claim arose on date on which last payment was made to a Cuban forwarding bank for merchandise, shipped under sight draft, by the subsidiary to the Cuban customer.
    - Claim No. [CU-0113](#)
  - In the absence of evidence to the contrary, the Commission finds that losses suffered by claimant for merchandise shipped occurred on the day after payments were made to or acknowledged by the local banks, or thirty days from the date of shipment.
    - Claim Nos. [CU-1922-1924](#), [CU-8745](#)
- 11C - Determining in Absence of evidence
  - Where property is not taken by decrees, laws or orders, the Commission will examine specific acts which resulted in the loss of property to determine the date of taking. Here the taking occurred when claimants were forced to close their sales office and to leave Cuba.
    - Claim No. [CU-1136](#)
  - The date of nationalization is not altered by the fact that the former owner was not notified of the taking.
    - Claim No. [HUNG2-0528](#)

## **12. LESSOR/LESSEE, RIGHTS OF**

- Claimant lessor retains an interest in leased property nationalized by the Cuban government and may file a claim for the loss of that interest.
  - Claim No. [CU-0288](#)

### **13. STOCKHOLDERS**

- Claim based upon stock interest in a nationalized company denied where aggregate liabilities exceed aggregate assets of company. Since stock interest in an insolvent company has no value claimant could not suffer a loss compensable under Title V.
  - Claim No. [CU-2741](#)
- Ownership of stock interest in a foreign corporation on the date of nationalization vests in the owner two items of property, namely an interest in the net worth of corporation and an interest in any claim for the nationalization of the company.
  - Claim No. [CU-1613](#)
- Ownership of stock interest in a foreign corporation on the date of nationalization vests in the owner two items of property, namely, an interest in the net worth of the corporation and an interest in any claim for the nationalization of the company. The sale of the shares in the nationalized corporation may affect transfer of either or both interests, depending upon the intention of the parties to the transaction. The burden of proving the nature of the transaction rests with the claimant.
  - Claim No. [CU-7163](#)
- Claimant is entitled to file this claim based upon his ownership interest in a nationalized corporation which was organized under the laws of Cuba and thus did not qualify as a U.S. national.
  - Claim No. [CU-0180](#)
- Preferred stock of a nationalized corporation is property as that term is used in Title V.
  - Claim No. [CU-4821](#)
- Claims based upon stock ownership are not compensable where the stock has no value on the date of loss.
  - Claim No. [CU-8178](#)
- Claim based upon stock interest in a Cuban subsidiary denied where the balance sheet clearly showed that the subsidiary was hopelessly insolvent on the date of loss.
  - Claim No. [CU-3596](#)
- 13A - Date Claim Arose
  - Date of loss for claim based upon stock ownership is date corporation was nationalized.
    - Claim No. [CU-1888](#)
  - Whether the stock certificates were in the possession of the claimant or in the custody of a bank or elsewhere is not material to the date of nationalization because an enterprise is not nationalized as a result of confiscation of individual stock certificates, but by an action of the government which affects all stocks at the same time and in the same manner.
    - Claim No. [CU-0880](#)
- 13B - Claim based upon stock ownership
  - To qualify as an indirect ownership claim, the entity which is taken must be 25% owned by U.S. nationals. Claimant failed to establish 25% U.S. ownership.
    - Claim No. [CU-0655](#)
  - Where claimant has sold his interest in stock prior to date of filing of claim, in the absence of any specific reservation, he has transferred all rights to make claims upon that stock interest.
    - Claim No. [CU-0939](#)
  - An American stockholder is entitled to file a claim for the value of his ownership interest in a corporation which is organized under the laws of Cuba and does not qualify as a corporate "national of the U.S." as defined under Section 502(1)(B) of the Act.

- Claim No. [CU-2094](#)
  - Claim based upon the ownership of interest in a corporation which qualifies as a U.S. national is permitted when the U.S. corporation is defunct and cannot file a claim for the loss of assets nationalized by the Cuban government.
    - Claim No. [CU-3436](#)
  - Commission denied claim based upon ownership of stock in corporations, which were not U.S. nationals, because natural persons, who were U.S. nationals, did not own at least 25% of the outstanding capital stock or beneficial interest in the corporation, as required by Section 311(b) of the Act.
    - Claim No. [HUNG-2-0532](#)
  - *13B(1) - Stock ownership: Loss on the sale of stock*
    - The loss sustained on the sale of stock of a nationalized corporation does not give rise to compensable property interest under Title V.
      - Claim No. [CU-1043](#)
    - Claim may not be made for decrease in value of stock shares caused by nationalization of corporation, or for losses arising on the sale of such shares.
      - Claim No. [CU-0939](#)
- 13C - Evidence of Ownership
  - Submission of certificate representing shares is sufficient proof of ownership of shares.
    - Claim No. [CU-2441](#)
  - Submission of photographic reproduction of portions of stock certificates showing issuing corporation, certificate numbers, and the number of shares, but not indicating name of stockholder, the date of issue, or any transfer of ownership held insufficient to establish claimant's ownership interest in the stock.
    - Claim No. [CU-0750](#)
  - Statement by claimant's current and past brokers that claimant owned 100 shares of stock in nationalized company held sufficient proof of ownership.
    - Claim No. [CU-3215](#)
  - Claimant's unsupported statement averring ownership of stock interest held insufficient to establish claimant's ownership of stock in nationalized corporation.
    - Claim No. [CU-2864](#)
- 13D - Valuation
  - While evidence of amount invested by claimant in a corporation has some probative worth, it is insufficient in and of itself to establish the value of a stock interest in a corporation on the date of its nationalization.
    - Claim No. [CU-0243](#)
  - The valuation methods employed by the Commission in determining the value of a nationalized corporation are fair market value, book value, going concern value or cost of replacement.
    - Claim No. [CU-0224](#)
  - Where other evidence is not available, book value is an appropriate basis of valuation of corporation to determine value of shares of stock.
    - Claim No. [CU-8268](#)
  - Value of stockholder's interest in corporation determined in this claim by unaudited balance sheet with supporting schedules, affidavit of former corporate president, appraisals, valuation of assets in year of nationalization, and insurance value for all assets.
    - Claim No. [CU-1888](#)

- Affidavits from a former business associate of the claimant and from the former vice-president of the Cuban corporation were insufficient evidence of the value of the Cuban corporation or of claimant's stock interest therein on the date of loss. Consequently, the claim was denied.
  - Claim No. [CU-2267](#)
- In determining net book value per share of stock, the Commission utilized the appraisals for land, cane stools, farm building and manufacturing properties as the appropriate evidence of value of corporate assets. The amount of claimant's loss determined to be equal to a multiple of the net book value per share.
  - Claim No. [CU-0849](#)
- The preferred stock portion of the capital account plus contractual liabilities are deducted to arrive at the net book value of stock. Alternatively, net worth may be computed by adding common stock capital, surplus account, and reserve accounts.
  - Claim No. [CU-3440](#)
- *13 D(1) - Preferred Stock*
  - Valuation of preferred stock is computed by adding to the par value the total arrearage or accumulated dividends.
    - Claim No. [CU-8241](#)
  - Where corporation assets exceed total obligations on debts, bonds, stock, accrual certificates, and unpaid preferred stock dividends, the loss suffered by owner of preferred stock in nationalized company is determined by rights spelled out in certificate of incorporation.
    - Claim No. [CU-1552](#)
- *13D(2) - Consideration paid as value*
  - Title V limits awards on claims purchased after the date of taking to the actual consideration paid.
    - Claim No. [CU-7780](#)

#### **14. NATIONALS OF THE U.S.**

- The Act defines the term "national of the U.S." as ... "(B) a corporation or other legal entity which is organized under the laws of the U.S., or of any state, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the U.S. own, directly or indirectly, 50% or more of the outstanding capital stock or other beneficial interest of such corporation or entity." Claimant is a closed corporation, though organized in the state of Delaware, its capital stock is wholly owned by F.L. Smidth & Co. A/S of Denmark. Therefore, the claim is not owned by a corporation which qualifies as a national of the U.S.
  - Claim No. [CU-0104](#)
- The Act defines the term national of the U.S. to mean "(A) a natural person who is a citizen of the U.S." The term does not include aliens.
  - Claim No. [CU-0728](#)
- 14A - Permanent Resident Aliens
  - Permanent resident alien status does not qualify one as a national of the U.S.
    - Claim No. [BUL2-0041](#)
  - The Commission held that an alien acquires U.S. nationality only upon issuance of a valid certificate of naturalization, issued by a court of competent jurisdiction, and that the term "persons who owe permanent allegiance to the U.S." is limited to persons born in outlying possessions of the U.S. or born elsewhere of parents who possess that status.

Claimant who possesses a "green card" may be a U.S. resident but does not become a U.S. national therefrom.

- Claim No. [HUNG2-0795](#)
- An alien does not become a U.S. national by merely establishing permanent residence in the U.S.
  - Claim No. [Y2-1311](#)
- 14B - Beneficiaries of U.S. Nationals
- 14C - Corporations
  - To qualify as a national of the U.S., 50% or more of a corporation's outstanding stock or other beneficial interest must be owned by natural persons who are U.S. nationals. Claimant's stock is owned by a committee of which the largest single owner, a bank, owns 70% of claimant's stock. The bank certified that over 75% of its outstanding stock is owned by U.S. nationals. Therefore, claimant qualifies as a national of the U.S.
    - Claim No. [CU-0330](#)
  - Claimants, Delaware and New York corporations, were wholly owned subsidiaries of a U.S. corporation, controlled by U.S. citizens at the time of loss. Subsequent to the date of loss, the parent corporation was sold to a Canadian corporation, which was largely publicly owned by Canadians. Therefore, the property upon which these claims are based was not owned continuously from the dates of loss to the date of filing by a Corporation which qualified as a national of the U.S. in that 50% or more of its outstanding capital stock was not owned directly or indirectly by natural persons who were citizens of the U.S. as required by Title V of the act.
    - Claim Nos. [CU-0241](#), [CU-0400](#)
  - Claimant was a New York corporation, owned 50% by a U.S. parent and 50% by a British parent. Only 35% of the outstanding capital stock of the U.S. parent is owned by U.S. nationals. If the 35% were natural persons, only 17.5% of the claimant is American owned. Thus, claim denied since claimant did not qualify as a U.S. national.
    - Claim No. [CU-0008](#)
  - Corporation organized under the laws of New Jersey but owned by a foreign corporation is not a national of the U.S. under Title V.
    - Claim No. [CU-0105](#)
  - Affidavit by corporate officer that 50% of claimant's stock is held by natural persons who are U.S. nationals is sufficient proof of nationality of corporation.
    - Claim No. [CU-0770](#)
  - Where a corporation does not qualify as a national of the U.S., and thus cannot file a claim, a stockholder who is a U.S. national may file a claim based upon ownership interest in the nationalized company.
    - Claim No. [CU-0182](#)
  - The claim of a legal entity, such as a corporation, is owned by the entity like any other of its assets and not by its stockholders. As a result, under Title V, when a claim has arisen in favor of a corporation, the corporate veil may be pierced and its American stockholders may claim their proportionate direct stock interest only if: (1) the claim arose in favor of a non-United States national corporation and (2) that corporation continued to own the claim until the date of filing.
    - Claim Nos. [CU-3671](#), [CU-3672](#)
  - *14C(1) - Indirect Ownership*
    - Commission allowed a claim by an American corporation that had a wholly owned Panamanian subsidiary which owned 50% of the outstanding stock in each of two nationalized Cuban corporations since the former was the only entity

capable of satisfying the jurisdictional prerequisite that the claimant be a U.S. national.

- Claim No. [CU-2169](#)
- 14D - Partnership
  - Copy of the Articles of Partnership indicating state under which association was organized and proof that partners are U.S. nationals sufficient to establish that partnership was a U.S. national.
    - Claim No. [CU-1168](#)
  - Claims for loss sustained by limited partnership organized under laws of foreign country is compensable where partnership was owned by U.S. nationals.
    - Claim No. [CU-1481](#)
- 14E - Loss of Nationality
  - U.S. national, who loses his U.S. citizenship, must regain his citizenship before he can file a valid claim before the Commission.
    - Claim No. [CU-2427](#)
- 14F - Trusts
  - The beneficial interest, as that term is used in the Act, rests in the beneficiaries not in the trustee. Thus, whether or not the nationality requirements have been met turns on the nationality of the beneficiaries. Claimants, the trust beneficiaries, are not U.S. nationals; therefore, claim denied.
    - Claim Nos. [CU-5024-5028](#)
  - *14F(1) - Voting Trust*
    - The nationality of a voting trust is determined in the same way as that of a corporation. A voting trust which is a U.S. national is one which is organized under the laws of the U.S., or any state, the District of Columbia or the Commonwealth of Puerto Rico, whose ownership is vested to the extent of 50% or more in natural persons who are citizens of the U.S.
      - Claim No. [CU-0333](#)
- 14G - Sole Proprietorship
  - Where claimant company is operated as a sole proprietorship, the Commission looks to the nationality of the owner to determine whether or not the statutory requirement regarding nationality is met.
    - Claim No. [CU-0767](#)
- 14H - Non-profit Organizations
  - Non-profit association, which issues no shares of stock, held to be national of U.S. if 50% or more of the beneficial interest is owned by U.S. nationals.
    - Claim No. [CU-0371](#)

## **15. PRACTICE AND PROCEDURE**

- Even though claimant as trustee for holders of bonds in enterprise nationalized by the Government of Cuba is not a proper claimant under the Act, its filing of a claim may be used to protect rights of the beneficiaries of the trust who file after the filing deadline but 2 months before the termination of the Cuba Claims program.
  - Claim No. [CU-2629](#)

- Claimant's failure to respond to Commission's request for proof of citizenship warrants finding that claim is not a claim of a national of the United States.
  - Claim No. [Y2-0992](#)
- Claimant's timely filing of a claim will protect the rights of holders of the bonds it holds in trust to the extent that any bondholders who have filed or who may do so before March 1, 1970, will have their claim considered as timely filed.
  - Claim No. [CU-1594](#)
- 15A - Reopening Decision
  - Submission of new claim after entry of final decision denying previous, original claim is treated as petition to reopen claim.
    - Claim No. [CU-0038](#)
  - Proposed decision disallowing claim for failure to establish ownership amended where timely objection filed and probative evidence submitted in sufficient time to permit consideration thereof before program closed.
    - Claim No. [CU-3952](#)
  - Petition to reopen will be granted upon basis of newly discovered evidence which was not previously discoverable through exercise of due diligence.
    - Claim Nos. [Y2-0262](#), [Y2-0654](#)
  - The Commission may reopen matters on its own motion.
    - Claim No. [CU-0213](#)
- 15B - Amended Proposed Decision
  - Where additional evidence is received on a claim after a decision has become final, the Commission may set aside the final decision and amend the proposed decision in light of new evidence.
    - Claim No. [CU-0124](#)
- 15C - Substitution of Parties
  - National of U.S. who is sole owner of capital stock of a foreign corporation may be substituted as claimant.
    - Claim No. [CU-0045](#)
  - In the absence of evidence identifying the deceased's administrator, executor, heirs, next of kin or descendants, decedent's estate will be substituted as successor to deceased claimant.
    - Claim No. [CU-0761](#)
  - Claim is not affected where subsequent to filing, claimant merged with another corporation and is known as Venus Esterbrook Corporation.
    - Claim No. [CU-0565](#)
  - When a claimant dies, a substitution of parties will be granted upon the submission of letters testamentary.
    - Claim No. [Y2-0246](#)
  - Upon the dissolution of a corporation, those who succeed to the assets of the corporation are the real parties in interest and must be substituted as the proper party claimants before the Commission.
    - Claim No. [CU-0118](#)
  - Commission may amend final decision by substituting claimant's executor for claimant where latter died after the rendering of final decision.
    - Claim No. [CU-5773](#)
  - Held that the claimant, executors of the Estate of Louis B. King, having submitted a certified copy of an order of the U.S. District Court for the District of Columbia,

authorizing the Executors to distribute to themselves, individually, the property which is the subject of this claim or the cause of action arising from the loss of this property, were entitled to be substituted as the real parties in interest in this claim.

- Claim No. [CU-1010](#)

- 15D - Extension of time

- Pursuant to claimant's contention that insufficient time had been allowed to submit evidence, the Commission granted claimant an additional sixty days within which to do so.
  - Claim No. [Y2-0523](#)

- 15E - Setting Aside Award

- Where newly discovered evidence shows that claimant's divorced wife is not entitled to an award, the Commission set aside previous award made to wife.
  - Claim No. [CU-2339](#)
- Award set aside because of new evidence which revealed that company to which claimant shipped goods was a U.S. national. Since in that case, a claim can be considered only if based on security interest in property nationalized or otherwise taken, and since claimant made no such assertion, Commission is without authority to consider the claim.
  - Claim No. [CU-0249](#)
- The Commission may set aside an award, *sua sponte*, where it determines that it erred in the Proposed Decision.
  - Claim No. [CU-1542](#)
- Proposed Decision granting award to spouses in common is amended, granting all to husband, as successor in interest to his now deceased wife's interest.
  - Claim No. [CU-6101](#)

- 15F - Dismissal

- Dismissal of claim warranted where claimant refuses to comply with Commission's request for proof of nationality.
  - Claim No. [CU-0737](#)

- 15G - Final Decision

- After oral hearing the Commission issues a Final Decision stating the Commission's findings.
  - Claim Nos. [CU-0317](#), [CU-0318](#)
- Where objections to Proposed Decision are made, but no evidence submitted, record will be reconsidered; absent basis for change, the Proposed Decision will be affirmed.
  - Claim No. [BUL2-0004](#)

- 15H-Filing

- The Commission will accept for consideration on their merits, claims filed after the deadline so long as the consideration thereof does not impede the determination of those claims which were timely filed.
  - Claim No. [CU-8285](#)
- Claimant's timely filing of a claim will protect the rights of holders of the bonds here involved, to the extent that any bondholders who have filed or who may file claims for a loss of the same property will have their claims considered by the Commission as timely filed, provided they file no later than March 1, 1970.
  - Claim No. [CU-1594](#)

- Any initial written indication of an intention to file a claim received within 30 days prior to the expiration of the filing period shall be considered as a timely filing of a claim if an official claim form is received within 30 days after the expiration of the filing period.
  - Claim No. [CU-8451](#)
- *15H(1) – Late Filing*
  - Claimant did not receive actual notice of the existence of the Cuban Program nor of the filing period which ended May 1, 1967, because he was a merchant marine and following his occupation. Claim was submitted June 25, 1968. Since the purpose of the statute is to provide U.S. nationals a vehicle to have validity and amounts of claims against Cuba decided, Commission accepted the claim for consideration provided that the consideration of the claim does not impede the determination of timely filed claims.
    - Claim No. [CU-8255](#)
  - Where claim was submitted after the expiration of the filing period and without a prior written intention to file, the Commission is constrained by statutory limitations to deny claims.
    - Claim No. [HUNG2-1233](#)
- 15I - Joinder of Parties
  - Party may join in claim upon establishing his ownership interest in the property upon which claim is based.
    - Claim No. [CU-0779](#)
  - Under the community property law of Cuba one spouse is given a 1/2 interest in the property of the other spouse. Claimant's spouse, therefore, was joined as claimant on Commission's motion.
    - Claim No. [CU-3138](#)
  - Where a claimant becomes eligible to file a claim under section 306 (d) of the Act, because he did not receive notice of 1st Hungarian Program due to administrative error, individuals with interest in the property in question can be joined as parties in claim, even though they do not come under section 306(d), since Commission would have granted a petition to join in the claim had it been filed under previous program.
    - Claim Nos. [HUNG2-0458](#), [HUNG2-0459](#) & [HUNG2-0460](#)
  - Claimant having reach the age of majority, was joined in a claim filed on his behalf while he was a minor.
    - Claim Nos. [CU-0971](#), [CU-0816](#)
- 15J - Petition to Represent Stockholders
  - Even though, initially, a claim by a Cuban Corporation for failure to satisfy nationality requirements was denied. The Commission subsequently granted the corporation's petition to act as an agent for its stockholders who were U.S. nationals.
    - Claim No. [CU-0224](#)
  - Where claimant, a Cuban corporation, has lost all its records and thus has no information beneficial to its stockholders, its petition to represent its U.S. stockholders will be denied.
    - Claim No. [CU-3492](#)
- 15K - Amendments
  - Where claimants objected to amount granted as award for loss of real property and supported objection with new evidence relating to value of land lost, Commission amended Proposed Decision by increasing the amount of award.
    - Claim No. [CU-0530](#)

- Commission's regulations provide that after date of filing no claims shall be amended to reflect assignment thereof by claimant to any other person or entity, except as otherwise provided by statute.
    - Claim No. [CU-2790](#)
  - When claimant of a compensable claim dies subsequent to final decision, but before conclusion of claims program, Commission may amend final decision and substitute executor of estate as claimant.
    - Claim No. [CU-5773](#)
  - A Proposed Decision denying a claim for failure of proof may be amended upon the submission of new evidence.
    - Claim No. [CU-3403](#)
- 15L - Withdrawal
  - Commission may order withdrawal of claim upon claimant's request.
    - Claim No. [CU-2723](#)
  - 15M - Notice
    - Claimant did not receive actual notice of the existence of the Cuban Claims Program nor of the filing period which ended May 1, 1967, because he was a merchant marine and was following his occupation. Claim was submitted June 25, 1968. Since the purpose of the statute is to provide U.S. nationals a vehicle to have validity and amounts of claims against Cuba decided, Commission accepted the claim for consideration on its merits, provided that the consideration of the claim does not impede the determination of timely filed claims.
      - Claim No. [CU-8255](#)
    - When one copy of Proposed Decision is mailed to claimant's last known address, one copy is available for public inspection at the office of the Commission, and notice of the Proposed Decision is posted on Commission's bulletin board from day of issuance until 30 days thereafter, service and notice requirements of Proposed Decision to claimant shall be considered met.
      - Claim No. [CU-2992](#)
    - Where a claimant becomes eligible to file a claim under Section 306 (d) of the Act, because he did not receive notice of 1st Hungarian Program due to administrative error, individuals with interests in the property in question can be joined as parties in claim even though they do not come under provisions of section 306(d) since Commission would have granted a petition to join in their claim in previous program.
      - Claim Nos. [HUNG2-0458](#), [HUNG2-0459](#), [HUNG2-0460](#)
    - Service of the Proposed Decision in accordance with §§501 and 531 of the Comm. Regs. requires mailing one copy to the claimant's last known address, making one copy available for public inspection at the Office of the Commission, and posting the Proposed Decision on the Commission's bulletin board on the day of the Decision's issuance for 20 days thereafter.
      - Claim No. [CU-7271](#)
    - A claim may be filed under § 306 (d) of the Act only if "administrative error" by the Commission in pending notice to claimant is proven. Claimant's assertion that notice failed to reach her because of several changes in residence does not constitute administrative error.
      - Claim No. [HUNG2-0664](#)

## 16. AWARD

- Award set aside because of new evidence which revealed that company to which claimant shipped goods was a U.S. national. Since in that case claim can be considered only if based on security interest in property nationalized or otherwise taken, and since claimant made no such assertion, Commission is without authority to consider the claim, which is thus denied.
  - Claim No. [CU-0249](#)
- A compensable claim is established once claimant has met the burden of proving ownership of the property taken, nationalization or other taking, U.S. citizenship from time of taking to date of the Agreement, and that the taking occurred during the period covered by the Agreement.
  - Claim No. [Y2-0155](#)
- 16A - Consolidation of Awards
  - The Commission held that with respect to any claim which, at the time of award, is vested in persons other than the person by whom the loss was sustained, it will issue a consolidated award in favor of all claimants then entitled thereto and indicate the respective interests of each claimant.
    - Claim No. [HUNG2-1014](#)
- 16B - Amounts Received for Same Loss
  - Amounts received from other sources, as compensation for the loss, which is subject of claim, must be deducted from the amount of award.
    - Claim No. [CU-2420](#)
  - Contingent compensation, including amounts placed in a blocked account are not deducted from the amount of the award.
    - Claim No. [Y2-0259](#)
  - In 1965 claimant received compensation from the German Equalization of Burdens law for this same property interest on which this claim is based. The amount received must be deducted in equal amount from any award by the Commission.
    - Claim Nos. [Y2-0436](#), [Y2-0537](#)
- 16C - Inheritance Taxes
  - Under Yugoslavian law, direct descendants and spouses, as in the present claim, are not required to pay taxes, therefore, no tax is deductible from the award.
    - Claim No. [Y2-0080](#)
- 16D – Effect of Previous Award
  - The Commission is precluded from granting an award in a claim for property which was the subject of award in previous program.
    - Claim -No. [BUL2-0056](#)
- 16E - Commission not Bound by Amount Claimed
  - Commission is not bound by amounts asserted by claimant to be the extent of his loss. Based upon all the evidence, Commission found claimant's loss to be greater than asserted and made award accordingly.
    - Claim No. [CU-2082](#)

## **17. TENDER OF COMPENSATION**

- 17A - Refusal, Effect of
  - Refusal of tender of compensation for nationalization less than full value of property taken does not operate to discharge claim. Claim for full value of property is allowable.
    - Claim No. [Y2-0099](#)

## **18. ASSIGNMENT**

- To establish a compensable claim, ownership by U.S. national on date of filing must be established. In the instant claim, the claimant assigned his rights to a third party prior to filing. Thus, while claimant may have been the creditor at the time of loss, he was not the owner at the time of filing. Claim is therefore denied.
  - Claim No. [CU-2145](#)
- After owner of nationalized property assigns his rights, assignee will be granted award, including interest from date of taking.
  - Claim No. [CU-2576](#)
- That portion of a claim asserted for assignments of claims from a foreign corporation and/or its stockholders, who were non-nationals of the U.S. on the date of loss, is not allowable, pursuant to the express provisions of §504 of the Act.
  - Claim Nos. [CU-1922](#), [CU-1923](#), [CU-1924](#), [CU-8745](#)
- Assignment of rights arising from nationalization of property does not give rise to a compensable claim where the assignor, the owner of the claim, was not a national at the time claim arose.
  - Claim Nos. [Y2-0034](#), [Y2-0125](#), & [Y2-0563](#)
- 18A - Valuation
  - The amount for which an assignor may claim is limited to the value of the consideration paid.
    - Claim No. [CU-2886](#)
- 18B - Effect of, on ownership interest
  - An effective assignment of a claim divests the assignor of all interest in the claim, unless reservations are stipulated. Here claimant assigned his rights to the claim without reservation. Thus, although claimant was the real party in interest at the time of loss, he was no longer the owner of the claim at the date of filing.
    - Claim No. [CU-1337](#)
  - Commission's regulations provide that after date of filing no claims shall be amended to reflect assignment thereof by claimant to any other person or entity, except as otherwise provided by statute.
    - Claim No. [CU-2790](#)
  - Claimant assertedly acquired her interest in claim under a statement executed by her father after his claim had been filed and validated. Held daughter's claim denied since claim may not be amended after filing to reflect assignment to another person.
    - Claim No. [CU-0091](#)
  - Claimant, upon his purchase of securities, succeeded to the loss sustained by the assignor of the claimed securities.
    - Claim No. [CU-1805](#)
  - Claimant, as an assignee by purchase, acquired the claim for loss sustained by the assignors (sellers) of the stock but under limitations provided in Section 507 of the Act. The loss was limited to the consideration paid therefor.

- Claim No. [CU-7290](#)
- Co-owners of property, who were not nationals of the U.S., "relinquished and renounced" their inherited interests to claimant, a U.S. national, in 1971. Such actions had no retroactive effect and were in the nature of an assignment taking effect in 1971. Therefore, their interest in the property was not owned by nationals of the U.S. at the time of taking, in 1959. Claim is thus not compensable under the program.
  - Claim No. [RUM2-0258](#)

## **19. JURISDICTION**

- Under the International Claims Settlement Act of 1949, the Commission is given jurisdiction over claims of nationals of the U.S. against the Government of Cuba, arising since January 1, 1959, for the losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against property rights wholly or partially, directly or indirectly owned by U.S. nationals.
  - Claim No. [CU-0104](#)
- Claims under Title V denied when not based upon loss arising from the nationalization, expropriation, intervention, or other taking of, or special measures directed against property of nationals of the U.S.
  - Claim No. [CU-0638](#)
- Claim based upon property owned by both nationals and non-nationals will be considered only to the extent of the interest of the U.S. national.
  - Claim No. [CU-1074](#)
- Commission does not have jurisdiction over claims on stock not owned by U.S. nationals at the time of taking, even if claimant subsequently became a U.S. national.
  - Claim No. [CU-3601](#)
- Claimants, Delaware and N.Y. Corporations, were wholly owned subsidiaries of a U.S. corporation, controlled by U.S. citizens at the time the claim arose. Subsequent to the date of loss, the parent corporation was sold to a Canadian corporation, which is largely publicly owned by Canadians. Therefore, the property upon which these claims are based was not owned continuously from the date of loss to the date of filing by a corporation which qualifies as a national of the U.S. in that 50% or more of its outstanding capital stock was not owned directly or indirectly by natural persons who are citizens of the U.S. as is required under the provisions of Section 204(1)(B) of Title V of the Act.
  - Claim Nos. [CU-0241](#), [CU-0400](#)
- The elements necessary to prove a compensable claim under the Agreement are: (1) the property must have been owned by a national or nationals of the U.S. on the date of taking and the date of the Agreement, and (2) the taking must have been by the Yugoslavian Government between July 9, 1948, and January 20, 1965.
  - Claim No. [Y2-0019](#)
- In 1952, the U.S. Government paid fines and penalties to the Hungarian Government in order to obtain the release of the personnel of a plane forced down by the Hungarians. Because of the Hungarian Government's failure to return the plane, Congress enacted 22 U.S.C. §1641i (a) (E) which directed the Secretary of the Treasury to deduct from the Hungarian Claims Fund \$125,000, which sum represented a claim by the U.S. Government against Hungary. Claimant, subsequently, filed this claim for reimbursement for his share of the taxes paid to the Hungarian Government. Based upon its interpretation of 22 U.S.C. 1641i (a) (7) (k), the Commission determined that it had no authority to consider any claims related to the incident and thus denied the claim.
  - Claim No. [HUNG2-0028](#)

- 19A - Requirements For
  - *Nationality*: The property on which the claim is based must have been owned by a U.S. national on the date of loss.
  - *Continuous National Character of Claim*: Claim must be owned by a U.S. national from the date of loss until date claim filed.
  - *Statutory Period for Taking*: The loss must have occurred during the period specified by statute or Agreement.
  - *Loss*: The loss must be an economic loss capable of determination with reasonable certainty.
  - For a further breakdown of these requirements refer to code sections; [6 \(Nationality requirement of\)](#); [6C \(Continuous national character of claim\)](#); [10A \(Failure to establish taking in the statutory period\)](#); [11 \(Date claim arose\)](#); and [14 \(Nationals of the U.S.\)](#).
  
- 19B – Lack of
  - *19B(1) - Accrued Interest*
    - Accrued interest not paid under prior agreement not covered by Yugoslav Agreement of 1964.
      - Claim No. [Y2-0772](#)
  - *19B(2) - Claim based on Interest in U.S. Corporation*
    - While Section 502(a) of the Act provides, inter alia that a claim for a stock interest in a corporation which is a U.S. national shall not be considered, a stockholder of a defunct corporation can file claim based upon ownership interest in that defunct corporation.
      - Claim No. [CU-2334](#)
    - Claimants claim is based upon ownership of 100 shares of stock in Consolidated Cuban Petroleum, a Delaware corporation which changed its name to Consolidated Development Corporation. Over 50% of the Consolidated Development Corporation is owned by U.S. citizens, therefore it qualifies as a U.S. national. Section 505(a) of the Act precluded the Commission from considering claims based upon stock interest in corporations qualifying as a U.S. national.
      - Claim No. [CU-0014](#)
  - *19B(3) - Claims Based Upon Debts of U.S. Corporation*
    - Section 505(a) of the Act excludes from consideration by the Commission debts of corporations which qualify as U.S. nationals, unless such debts were a charge on property nationalized or taken by the Government of Cuba. No exceptions were made for unsecured debts owed to banks or other financial institutions.
      - Claim Nos. [CU-2619, CU-2573](#)
    - A claim based upon goods delivered in Cuba by U.S. corporation must be denied since the claimed debt was not a charge upon property taken.
      - Claim No. [CU-0249](#)
    - Commission held that statutory prohibition against granting awards based upon debts owed by corporations qualifying as U.S. nationals does not apply to defunct corporations where the demise of the corporation was brought about by the expropriation of its assets by the Cuban Government.
      - Claim No. [CU-2615](#)
  - *19B(4) - Claims of U.S. Government*
    - Although U.S. Government has qualified as claimant under previous programs, legislative history of Title V clearly indicated that claims of U.S. Government

against Cuba were not to be considered under Title V. Held U.S. Government not a proper claimant under Title V.

- Claim Nos. [CU-2522](#), [CU-2618](#)
- *19B(5) - Expiration of Statute of Limitations*
  - Section 503 of Title V gives the Commission jurisdiction to adjudicate losses arising from January 1, 1959. The Commission could not adjudicate claims barred by the statute of limitations before that date.
    - Claim No. [CU-1585](#)
- *19B(6) - Untimely Filed Claims*
  - Claimant did not receive actual notice of the existence of the Cuban Claims Program nor of the filing period which ended May 1, 1967, because he was a merchant marine and following his occupation. Claim was submitted June 25, 1968. Since the purpose of the statute is to provide U.S. nationals a vehicle to have validity and amounts of claims against Cuba decided, Commission accepted the claim for consideration on its merits, provided that the consideration of the claim does not impede the determination of timely filed claims.
    - Claim No. [CU-8255](#)
- *19B(7) - Property Outside of Area Covered by Claims Agreement*
  - Commission concludes that claims made for loss or damage which occurred within the territorial limits of Italy are not within the purview of Section 304(b), Title III, of the International Claims Settlement Act of 1949.
    - Claim No. [IT2-0030](#)
  - Under the Second Italian Claims Program, Commission has jurisdiction to determine claims of U.S. nationals against the Italian Government for which no provision was made in the treaty of peace of September 15, 1947. Since the treaty had provisions for losses occurring within the territorial limits of Italy, the instant claim for losses in that country is denied.
    - Claim No. [IT2-0118](#)
  - Commission does not have jurisdiction over claims based on expropriated property located outside of the territorial boundaries set in the claims agreement.
    - Claim No. CU-1603
- 19C - War Claims
  - Commission has jurisdiction under the Second Italian Claims Program to adjudicate claims for damage or destruction of property caused by Italian military action during World War II, where such claims were not covered by the treaty of peace with Italy of September 15, 1947.
    - Claim No. [IT2-0006](#)
  - Claim based on damage to property in Albania which was attributable to the German military. Commission determined that it has no jurisdiction under the provisions of the Second Italian Claims Program to adjudicate claims based on losses sustained in consequence of German military action.
    - Claim No. [IT2-0060](#)
  - Losses based upon military action in Rumania during World War II are clearly outside of the scope of §303(4) of the Act; therefore, claims for such losses must be denied.
    - Claim No. [RUM2-0241](#)

## **20. PROCEEDS**

- Claims for lost proceeds derived from the sale of crops denied since the crops were produced in the period after nationalization and any proceeds derived therefrom belonged to the Government of Hungary.
  - Claim No. [HUNG2-0797](#)

## **21. OWNERSHIP INTEREST**

- Where equipment was accepted by a Cuban company on consignment and was in the possession of that company when it was nationalized, claimant, the consignor, retains title to the equipment and may file a claim as owner rather than as creditor.
  - Claim No. [CU-0430](#)
- A freight forwarder does not acquire an interest in the property shipped. Therefore, its claim for merchandise shipped and nationalized by Cuba must be denied.
  - Claim No. [CU-0257](#)
- Submission of IRS statement, which allowed a loss deduction for property nationalized held sufficient proof of ownership.
  - Claim No. [CU-3138](#)
- In a claim based on joint ownership of property by a husband and wife, it will not be presumed that the wife had an interest in the husband's clothing. Her claim for an interest in his clothing will only be granted upon clear evidence of her ownership interest. Claimant failed to submit evidence of ownership; therefore, the claim was denied.
  - Claim No. [CU-3334](#)
- Claimants possessed the power of attorney to record in their names title to property given to them by their mother. However, they failed to exercise their power prior to the nationalization of the property. Commission held that claimants did not have an interest for which an award could be granted.
  - Claim Nos. [Y2-1733](#), [Y2-1734](#), [Y2-1735](#)
- 21A - Inheritance
  - Allegations that an improper search was made to establish claimant's ownership of inherited property is irrelevant to the question of her ownership, especially since the documents provided by claimant established that title to the property rested in a third party.
    - Claim No. [CU-2990](#)
  - Absent evidence to the contrary, it is assumed that property owned in a community property jurisdiction is community property. Assertion that property was inherited and therefore separate property must be clearly established by the record. Here, proof of inheritance was lacking; therefore award was granted for only a 50% interest in the property.
    - Claim No. [CU-1492](#)
- 21B - Community Property
  - Pursuant to the community property law of Cuba, all properties acquired by a husband during coverture, except properties acquired by inheritance or gift, are jointly owned by both spouses.
    - Claim No. [CU-3138](#)
  - An award cannot be granted for that portion of community property which was not owned by a U.S. national on the date of taking.
    - Claim No. [CU-1456](#)

- Wife's claim for property brought into the marriage by her husband was denied for under Cuban community property law, this property remained separate property in which she acquired no interest.
  - Claim No. [CU-0670](#)
- Under the community property law of Cuba, upon the dissolution of the marriage, the community property comes to an end; but both spouses may agree that title remain in one of the spouses. Claimant-wife renounced her interest in favor of her husband; therefore, her claim was denied.
  - Claim No. [CU-2339](#)
- 21C - Stock
  - *21C(1) - Nature of Interest*
    - Ownership of stock interest in a foreign corporation on the date of nationalization vests in the owner two items of property, namely an interest in the net worth of the corporation and an interest in any claim for the nationalization of the company.
      - Claim No. [CU-1613](#)
    - A claim for the difference between the purchase price and the selling price of stock denied for upon the sale of stock, and in the absence of any specific reservation, the seller transfers all rights incident to ownership.
      - Claim No. [CU-7553](#)
    - Claimant's ownership of one share of stock in a Cuban country club-corporation constituted a membership interest or right of membership which alone, i.e. without an interest in the club's physical assets, constituted property within the meaning of sec. 502(3) of Title V.
      - Claim No. [CU-0978](#)
    - Ownership of stock interest in a foreign corporation on the date of nationalization vests in the owner two items of property, namely, an interest in the net worth of the corporation and an interest in any claim for the nationalization of the company. The sale of stock may affect a transfer of either or both interests, depending upon the intentions of the parties. The burden of proving the nature of the transaction rests with the claimant.
      - Claim No. [CU-7163](#)
- 21D - Transfer of Interest
  - Unless otherwise shown, a sale of stock transfers all rights and interest incident to ownership.
    - Claim No. [CU-1613](#)
  - A sale of property, generally, transfers all rights incident to ownership. Here, claimant sold his business, but reserved all receivables, thus retaining an interest in property the taking of which would give rise to a compensable claim.
    - Claim No. [CU-1684](#)
- 21E - Partnership
  - Where claimant's evidence fails to establish, unequivocally, his interest in a partnership, his claim for loss of partnership assets must be denied.
    - Claim No. [CU-3097](#)

## **22. RENTAL INCOME**

- Claimant is entitled to an award for rental income collected prior to the nationalization of the property, but which was lost through the intervention of the Government of Cuba.
  - Claim Nos. [CU-1528](#), [CU-1529](#)
- Claim for rents allegedly due and owing before and after the nationalization of the property was denied. The Commission's evidence showed that rents collected before the taking barely covered operating expenses and all rents collected after the taking belonged to the Government of Rumania.
  - Claim No. [RUM2-0062](#)
- Claim for the loss of rental income from the date of taking to the date of filing denied since subsequent to the date of taking the property belonged to the Government of Cuba and all rents collected belonged to Cuba.
  - Claim No. [CU-2774](#)
- Commission determined that rents in Hungary after World War II were so low they barely covered taxes and maintenance expenses. Claimant's claim for rents lost during the period after the war and before nationalization was, therefore, denied.
  - Claim No. [HUNG2-0541](#)
- Claims for the loss of rent held not compensable under the Second Hungarian Program since any obligation of the Hungarian government to pay rent would be contractual and not covered by the statutory language.
  - Claim No. [HUNG2-0510](#)

## **23. CREDITORS' CLAIMS**

- To be compensable, the debt upon which a claim is based must be valid during the time period covered by the statute. Here, any claim that claimant had was terminated by the running of the statute of limitations prior to the period covered by the Act.
  - Claim No. [CU-1585](#)
- Where intervention by the Cuban Government of assets of a U.S. corporation resulted in claimant's being unable to collect debts owed, claimant suffered a loss compensable under Title V of the Act.
  - Claim No. [CU-0032](#)
- Section 505(a) of the Act makes no exceptions for unsecured debts owed to banks or other financial institutions, but simply excludes from consideration by the Commission debts of corporations which qualify as United States nationals, unless such debts were a charge on property nationalized or taken by the Government of Cuba.
  - Claim No. [CU-2498](#)
- Claim for unpaid salary denied on the basis that claimant failed to demonstrate that any salary was due him.
  - Claim No. [CU-2442](#)
- The Commission has consistently held that a pledgee's interest in pledged stock is limited to the amount of the unpaid indebtedness. Claim for the value of the stock denied.
  - Claim No. [CU-2183](#)
- Commission held that claimant suffered a loss within the meaning of Title V of the Act, where claimant suffered a judgment based upon a debt of an entity nationalized by the Chinese government and was forced to pay that judgment.
  - Claim No. [CN-0027](#)
- Commission held that debts owed by private individuals for purely private transactions were not the subject of nationalization by the government of Cuba and therefore were not compensable under Title V.

- Claim No. [CU-2357](#)
- 23A - Evidence of Taking
  - Records of claimant's subsidiary showing shipments made to Cuban customers, information concerning the payment of some drafts by customers, and correspondence acknowledging certain debts to the subsidiary, were held sufficient to establish debt upon which claim was based, provided that claimant certifies that it has not received payment.
    - Claim No. [CU-0113](#)
  - Letter to claimant by Cuban debtor acknowledging receipt of invoice and payment of sight draft to forwarding bank sufficient to establish the amount of the claim, provided the claimant certifies that he had not received payment.
    - Claim No. [CU-0019](#)
  - Claimant's evidence which included an affidavit, a check, which was allegedly drawn by the debtor but which does not indicate the reason for payment, and an unrepresented check drawn by the alleged debtor, was held insufficient to establish debt owed to claimant.
    - Claim No. [CU-3641](#)
  - Claimant's evidence which consisted of a letter to the State Department giving the names of witnesses to an alleged transaction and a letter from the Republic of Cuba denying knowledge of the alleged transaction from which the debt supposedly arose were held to be insufficient proof that a debt was owed to claimant by the Cuban government.
    - Claim No. [CU-0101](#)
  - A letter from the treasurer of a nationalized corporation acknowledging debt owed claimant and claimant's affidavit denying payment held sufficient to establish a debt owed by nationalized corporation, and thus claim was compensable under Title V.
    - Claim No. [CU-1586](#)
  - Claimant's evidence consisting of a copy of a loan agreement made against the receipt of funds, and certified copy of the Statement of Accounts reflecting payments on the loan held sufficient proof of debt which was basis of claim.
    - Claim No. [CU-3596](#)
- 23B - Debts Defined as Property under the Act
  - A debt, based upon a liquidated damages clause in a contract, owed to claimant's wholly owned subsidiary was held to constitute property as defined in section 502(3) of Title V.
    - Claim No. [CU-0759](#)
  - Debts owed by a nationalized enterprise constituted property as the term was used in section 502(3) of Title V.
    - Claim No. [CU-0249](#)
- 23C - Promissory Notes
  - The failure of the Government of Cuba to make obligated payments on a promissory note on the date due, even without express repudiation of the debt, constituted a taking of the creditor's property as of the date of maturity of the debt.
    - Claim No. [CU-2392](#)
  - In a claim based upon a promissory note, the amount of the loss is equal to the amount of the unpaid balance of the note.
    - Claim No. [CU-2486](#)
- 23D - Accrual Certificates
  - An award may be granted for accrual certificates only when the value of the real property, equipment and other assets of the nationalized corporation exceed its total

obligation on debts, bonds, preferred stock, accrual certificates, and accrued and unpaid preferred stock dividends.

- Claim No. [CU-4986](#)

- 23E - Insurance Policy

- Losses sustained by claimant under an underwriting agreement with a group of insurance companies known as the Latin American Pool that was intervened by the Cuban government was compensable under Title V because of the intervention.
  - Claim No. [CU-1523](#)
- Where claimant, the insured, refused tender of the cash surrender value, claimant must show an actual taking of the proceeds of the policy by the Cuban government. It is not sufficient under these circumstances to show that the proceeds which were payable in Cuba would be subject to confiscation.
  - Claim No. [CU-2174](#)
- No taking of an interest in an insurance policy occurs where the nationalizing government assumes the obligation of the nationalized insurance company.
  - Claim No. [Y2-0218](#)
- Claim against the Government of Hungary based upon life insurance policies issued by Italian and Austrian companies, having the majority of their assets outside of Hungary, was denied since any nationalization of assets located within Hungary did not affect claimant's rights to collect on the policies.
  - Claim No. [HUNG2-1348](#)

- 23F - Judgments

- Ordinarily, the courts of the United States would not entertain an action against a foreign government for the courts of one country will not sit in judgment on the acts of another country done within its own territory. However, under the Hickenlooper amendment to the Foreign Assistance Act of 1964, 22 U.S.C. 2370(e)(2), Supplement 1967, no court in the United States, while giving effect to principles of international law, shall decline to make a determination on the merits of a claim of title or other right to property based upon a confiscation or other taking after January 1, 1959.
  - Claim No. [CU-0991](#)
- Judgment obtained against a company prior to nationalization and not satisfied at the time of taking constitutes a debt of a nationalized enterprise within the meaning of the Act.
  - Claim No. [CU-0991](#)

- 23G - Bank Checks

- A check drawn on a Cuban branch of a U.S. bank, which is operated as a distinct entity, is a debt of that branch and constitutes a debt for which an award may be granted.
  - Claim No. [CU-0197](#)

- 23H - Mortgage Interest

- The amount expended by the Yugoslavian authorities for repairs was placed on the property as a compulsory mortgage and claimant was forced at the time he accepted the gift of the property to pay the mortgage or face foreclosure. However, the payment of the mortgage was made for the satisfaction of an indebtedness which was legally justified. The Commission held that the placement of the mortgage on the property was not nationalization or other taking of property within the meaning of the Yugoslav Claims Agreement of 1964.
  - Claim No. [Y2-1652](#)

## **24. REAL PARTY IN INTEREST**

- Since cash deposited with an indenture trustee as security for a bond issue does not represent a claim "against the Government of Cuba" under section 503 of the Act, the Commission refused to take jurisdiction in a case where the trustee requested the Commission to adjudicate the disposition of the cash to the holders of the bonds on default.
  - Claim No. [CU-2629](#)
- The executors of an estate may be substituted as the real parties in interest in a claim when, pursuant to court order, they distribute to themselves, individually, the property which is the subject of the claim or the cause of action arising from the loss of the property.
  - Claim No. [CU-1010](#)
- An individual stockholder is prohibited from including in his claim those of other stockholders who had filed their own claims because absent authorization, he would not be the proper party to file for the loss.
  - Claim No. [CU-2184](#)
- 24A - Merger, Effect of
  - After merger of U.S. subsidiary into its U.S. parent, the parent is the legal successor and is vested with claim which arose in favor of the former subsidiary.
    - Claim No. [CU-0538](#)
- 24B - Trustee
  - Indenture trustee, as claimant, not allowed to recover for individual bondholders upon default by issuing corporation. The bondholders have suffered the loss so only they have standing to file a claim.
    - Claim No. [CU-2805](#)
  - Where the trustee is an active trustee, the trustee is the proper party claimant, and the one whose nationality determines whether or not the statutory citizenship requirements have been met.
    - Claim No. [CU-1605](#)
  - Claimant, trustee, is not the real party in interest when all it holds is bare title. The beneficiary of the trust is the real party in interest.
    - Claim Nos. [CU-2686](#), [CU-2689](#)
  - Commission held that Cuban directors of a foundation who failed to exercise their power to transfer title to American beneficiaries were not trustees holding title for the benefit of American nationals.
    - Claim No. [CU-0974](#)
  - The beneficial interest, as that term is used in the Act, rests in the beneficiary not the trustee. Thus, whether or not the nationality requirements have been met turns on the nationality of the beneficiary. Here, beneficiaries were not U.S. nationals; therefore, the claim was denied.
    - Claim Nos. [CU-5024](#), [CU-5025](#), [CU-5026](#), [CU-5027](#), [CU-5028](#)
  - 24B(1) - Beneficiaries
    - Even though, claimant did not own the bonds for which he is claiming at the close of the period specified for filing claims under Title V of the Act, the filing restriction did not apply because a general claim for the loss had in fact been made for all bondholders by the Trustee during the statutory period and subsequent American holders became, in effect, the third party beneficiaries of that tolling of the statute.
      - Claim No. [CU-8432](#)

- Trust beneficiaries are the real parties in interest and if they have filed claims individually, the claim of the trustee must be denied.
    - Claim No. [CU-3101](#)
- 24C - Assignee
  - Claimant assigned his rights in this claim to a third party prior to filing. Thus, while claimant may have been the creditor at the time of loss, he was not the owner of the claim at the time of filing; therefore, claim was denied.
    - Claim No. [CU-2145](#)
- 24D - Executors
  - Submission of letters testamentary held sufficient proof of claimant's appointment as executor of the decedent's estate, and, thus, that he was the proper party claimant to be substituted in this claim.
    - Claim No. [CU-0875](#)
- 24E - Subsidiaries
  - A subsidiary that has suffered a loss and qualifies as a U.S. national may file a claim in its own name.
    - Claim No. [CU-1186](#)
- 24F - Conservator
  - Claimant, the conservator of an estate, is the real party in interest and may file a claim in its own name on behalf of the estate.
    - Claim No. [CU-8242](#)
- 24G - Corporation
  - A corporation which has suffered an injury and satisfies the nationality requirement may be a proper party claimant before the Commission.
    - Claim No. [CU-2192](#)
  - *24G(1) - Dissolution*
    - Upon the dissolution of a corporation, those who succeed to the assets of the corporation are the real parties in interest and must be substituted as the proper party claimant before the Commission.
      - Claim No. [CU-0118](#)
- 24H - Subrogor/Subrogee
- 24I - Bondholders
  - Claim submitted by a trustee on behalf of identifiable bondholders, who themselves have filed claims, must be denied for the bondholders and not the trustee are the real parties in interest.
    - Claim No. [CU-1594](#)
- 24J - Legatee
  - Claimant who was the legatee and distributee of the assets of her late husband is the real party in interest in a claim based upon the loss suffered by her husband.
    - Claim No. [CU-4894](#)

## **25. PERSONAL PROPERTY**

- 25A - Evidence of Taking
  - Claimant's evidence including letter to him from the American Embassy in Havana, stating that his dwelling was sealed pursuant to Cuban law on Urban Reform and letters from custodian of claimant's property, indicating household furnishings were subsequently taken was sufficient to establish taking of claimant's personal property.
    - Claim No. [CU-0225](#)
  - Affidavit of manager of claimant's subsidiary, in which he set forth the facts of expropriation held sufficient to establish taking and ownership of property taken.
    - Claim No. [CU-2167](#)
  - Claim filed for the loss of furniture which claimant allegedly was forced to sell because the Hungarian government took one half of her apartment space. Commission held that the loss of furniture was only indirectly caused by the action of the Hungarian government and was not a taking.
    - Claim No. [HUNG2-0097](#)
  - Where claimant's evidence established that her property had been placed in a private depository as distinguished from a deposit in a bank existing under and subject to the laws of the Government of Cuba, Commission held that the loss was not due to a taking by the Government of Cuba.
    - Claim No. [CU-1472](#)
  - Where property was not used by claimant for several years prior to taking by Bulgaria, in the absence of evidence indicating presence of household furnishing on premises on date of loss, claim for personal property must be denied.
    - Claim No. [BUL2-0010](#)
  - Claimant asserted that the exhibition of articles involved in this claim in the Transportation Museum in 1966 indicated that this personalty was taken by the Government of Hungary in that year. Commission held that while the exhibition may have established ownership by the Hungarian government, it was insufficient evidence to establish that the articles were taken from claimant.
    - Claim No. [HUNG2-0862](#)
  - Evidence in support of the loss of personal property should include a detailed list of the various items indicating the approximate dates of acquisition and approximate cost, together with supporting affidavits from individuals having personal knowledge of the facts surrounding the loss.
    - Claim No. [CU-0879](#)
- 25B - Valuation
  - Fair and reasonable values ascribed by claimant to items lost held sufficient proof of value.
    - Claim No. [CU-0966](#)
  - On the basis of the entire record and in the absence of evidence to the contrary, items of personal property should be depreciated to reflect values as of the date of loss.
    - Claim No. [CU-3016](#)
  - In the absence of evidence to the contrary, the Commission held that the value of personal property at a company's branch office including items of furniture, fixtures and related equipment should be valued at the amount for which the items were insured.
    - Claim No. [CU-1478](#)
  - No depreciation should be deducted from the cost of furnishings where they were confiscated prior to ever being used.
    - Claim No. [CU-0985](#)

- Where claimant is unable to furnish descriptions of the various items of property in question and only recalls a value mentioned by deceased husband, any amount allowed as the aggregate value of the items lost would be entirely speculative and without foundation. Therefore, the claim denied.
  - Claim No. [CU-5834](#)
- In computing the value of personal property, each item is to be depreciated 5% for each year from date of acquisition to the date of taking.
  - Claim No. [CU-0091](#)
- 25C - Ownership
  - Commission accepted as sufficient evidence of ownership of personal property affidavits from claimant and two of claimant's friends attesting claimant's ownership.
    - Claim No. [CU-2854](#)
  - Submission of five affidavits which corroborated claimant's assertion of taking and of ownership held sufficient proof of ownership and of taking.
    - Claim No. [CU-0722](#)
  - Commission found as sufficient evidence of ownership of a car a New York state registration certificate and a Cuban import permit and registration, each listed claimant as the owner.
    - Claim No. [CU-1904](#)
  - Submission of packing list prepared prior to shipment of property to Cuba held sufficient evidence of ownership.
    - Claim No. [CU-0138](#)
  - List of personal effects made from notes prepared by claimant when he left Cuba held sufficient proof of ownership of items on the list.
    - Claim No. [CU-0923](#)
  - A list prepared by claimant of personalty allegedly owned by a predecessor in interest in 1948 was held to be insufficient to establish claimant's ownership of the property on the list.
    - Claim No. [HUNG2-0713](#)
  - Claimants' evidence which consisted of: (1) two, third party affidavits from individuals with personal knowledge of claimants and their property in Cuba, (2) a copy of a letter from claimant to Department of State, and (3) claimants' own detailed inventory held sufficient proof of ownership of personalty.
    - Claim No. [CU-1086](#)

## **26. SETTLEMENT, EFFECT OF**

- In absence of stipulation with prejudice, or general release, or covenant not to sue, a settlement of an attachment suit does not bar a claim on the underlying obligation, and therefore does not bar a claim before the Commission.
  - Claim No. [CU-0381](#)

## **27. BANK ACCOUNT/CURRENCY**

- Since the deposits of banks nationalized by the Yugoslav government were transferred to the National Bank of Yugoslavia and held there under the same terms as the original deposits, the Commission held that no taking had occurred. Claim denied.
  - Claim No. [Y2-1775](#)

- Although claimant may have suffered a loss due to the devaluation of the Yugoslav currency, the loss is not compensable under the Yugoslav Claims Agreement of 1964.
  - Claim No. [Y2-1775](#)
- Claimants were outside the jurisdiction of the Cuban government and unable to convert the peso currency into U.S. dollars at the time of the issuance of Cuban Law 963 which declared all currency at the time of promulgation not within Cuban territory to be null and void. The Commission held that the implementation of this law constituted a taking under Title V of the Act.
  - Claim No. [CU-3408](#)
- Losses sustained on the exchange of currency are not compensable under Title V of the Act.\
  - Claim No. [CU-3582](#)
- The Commission held that, in the absence of evidence to the contrary, Cuban Law 989, which nationalized all goods and chattels, rights, shares, stocks, bonds, and other securities of persons who left Cuba operated also to take claimant's bank account.
  - Claim No. [CU-0195](#)
- 27A - Devaluation
  - Claim was filed for a bank account which lost all value due to the severe devaluation and collapse of the Hungarian currency. Commission held that since collapse of the currency was caused by economic conditions during and after World War II, and not by any actions of the Hungarian government, no taking had occurred within the meaning of the statute. Claim denied.
    - Claim No. [HUNG2-0254](#)
  - Claim for the loss in value of pesos held by claimant held not a loss due to the actions of the Cuban government, and therefore not compensable under Title V.
    - Claim No. [CU-3408](#)
  - Commission held that no taking had occurred where the Rumania government dissolved all banks but appointed liquidators to sell banks' assets and to distribute proceeds to depositors.
    - Claim No. [RUM2-0114](#)
- 27B - Ownership
  - Claimant's evidence consisting of a balance sheet from its depository bank and claimant's cash sheets were sufficient proof of ownership and value of lost bank accounts.
    - Claim No. [CU-0228](#)
  - Copy of statement from bank concerning claimant's account held sufficient evidence to establish ownership of bank account.
    - Claim No. [CU-0649](#)
  - Banknotes of the former Austro-Hungarian Empire overstamped to indicate that they were the obligation of Austria and ceased to be the obligation of Hungary. Therefore, the Hungarian government could not be held responsible for the loss on the notes held by claimant.
    - Claim No. [HUNG2-1218](#)
  - Commission held that the blocking of a bank account was an act of sovereign authority which did not give rise to a compensable claim under Section 303 of Title III of the Act.
    - Claim No. [HUNG2-0332](#)

- 27C - Valuation
  - Letter to Cuban authority seeking transfer of stated amount of funds and reply from the authority, which did not dispute existence of account, held sufficient to establish balance on deposit at the time of taking.
    - Claim No. [CU-0649](#)

## **28. FRUSTRATION OF CONTRACT RIGHTS**

- A contract which remains unexecuted because of the nationalization of the promisor and the taking of the property which was the subject matter of the contract held to be a sufficient property interest to support a claim under Title V of the Act.
  - Claim No. [CU-1481](#)

## **29. BUSINESS PROPERTIES**

- 29A - Valuation
  - Where appropriate, the Commission will accept expert appraisals, affidavits, maps and property plats as evidence of value rather than book value.
    - Claim No. [CU-0485](#)
  - Commission held that the submission of affidavit in which claimant listed, from memory, items comprising the balance sheet for his business was sufficient to establish basis from which loss could be determined.
    - Claim No. [CU-0722](#)
  - Commission held that the deferred and organization expenses are previously incurred expenses and should not be considered as assets.
    - Claim No. [CU-1898](#)
  - Claimant's corporation was found to be a very profitable investment with large potential for earnings prior to taking. Therefore, the Commission held that it would be inequitable to determine claimant's loss on basis of corporation's book value. Most appropriate basis of valuation was considered to be capitalization of annual earnings of the corporation at 10%.
    - Claim No. [CU-0407](#)
  - Commission held that absent evidence of the date of initial intervention of claimant's business and of the value of it at that time, any finding concerning value would be only speculative and unsupportable. Claim denied.
    - Claim No. [CU-2600](#)
  - Commission held that the most appropriate method of evaluating a film product at the time of loss is to consider not only those factors relating to cost of manufacture and shipment but also, those factors relating to depreciation incident to shipment, exhibition, and storage in Cuba, as well as, public demand for the product.
    - Claim Nos. [CU-2543](#), [CU-3544](#)
  - The Commission held that the value of a Cuban branch of a U.S. corporation should not be reduced by the branch's liabilities, except for taxes owed to the Cuban government.
    - Claim Nos. [CU-0317](#), [CU-0318](#)
  - Commission held that the most appropriate and equitable valuation of claimant's Cuban branch was the amount of its insurance coverage.
    - Claim Nos. [CU-0317](#), [CU-0318](#)

- 29A(1) - *Valuation: Fixed Assets*
- 29A(2) - *Valuation: Deductions of liabilities*
  - Accounts receivable due to the nationalized subsidiary from its U.S. parent must be deducted in calculating the value of the nationalized subsidiary.
    - Claim No. [CU-2035](#)
  - Prepaid expenses which have been used as of the date of loss must be deducted in calculating value of a nationalized corporation.
    - Claim No. [CU-2035](#)
- 29A(3) - *Valuation: Surplus Accounts*
  - The value of reserve accounts is added to stockholders' equity to arrive at the net worth of a company.
    - Claim No. [CU-1467](#)
- 29A(4) - *Valuation: New Enterprise*
  - The amount of loss resulting from the nationalization of an enterprise which never commenced operations is equal to the value of the capital contributed.
    - Claim No. [CU-0502](#)
- 29B - Ownership
  - Submission of copy of sales contract under which claimant acquired his interest held sufficient proof of ownership.
    - Claim No. [CU-0722](#)

### **30. CLAIMS OF THE U.S. GOVERNMENT**

- Although U.S. Government has qualified as claimant under previous programs, legislative history of Title V clearly indicated that claims of U.S. Government against Cuba were not to be considered under Title V. Held U.S. Government was not a proper claimant under Title V.
  - Claim NOS. [CU-2522](#), [CU-2618](#)

### **31. CHOICE OF LAW**

- Law of the situs of mortgaged property determines validity of the mortgage. Here, mortgage was invalid under Cuban law; therefore, claim was denied.
  - Claim No. [CU-1585](#)
- Procedure necessary to transfer title to property is determined by the law of the situs. Under Cuban law a sale may be binding if there has been a meeting of the minds on subject and price. Claimant need not prove delivery of the deed and recordation to prove his title.
  - Claim No. [CU-1326](#)

### **32. LOSS OF PAYMENT FOR MERCHANDISE SHIPPED**

- 32A - Evidence
  - Evidence consisting of correspondence to the collection bank requesting collection on sight drafts and correspondence stating that the amounts had been collected by the collecting bank was sufficient to establish shipment and payment for merchandise.
    - Claim No. [CU-0527](#)
  - Submission of receipts for payment of sight drafts and a duplicate copy of the draft held sufficient to establish shipment and payment for merchandise.
    - Claim No. [CU-1061](#)

- A claim for loss of payment for goods shipped will not be denied because claimant cannot prove exact date of payment by vendee to forwarding bank.
  - Claim No. [CU-0437](#)
- Letters from customer acknowledging debt for merchandise delivered by claimant and reciting receipt sent in connection with payment check held sufficient evidence of loss.
  - Claim No. [CU-0303](#)
- An excerpt from a computer card showing an amount due for merchandise sold is insufficient to establish claim for loss of payment for merchandise shipped.
  - Claim No. [CU-0260](#)
- Where invoice on shipped merchandise is not available to prove shipment, references of the goods on accounts receivable ledgers are sufficient to establish loss.
  - Claim No. [CU-1452](#)
- 32B - Application of Payment
  - Absent countervailing reasons, payments received for merchandise shipped must be applied to the earliest amounts shown on the invoices, and thus the amount due on the date of loss was decreased.
    - Claim No. [CU-0126](#)
- 32C - Deductions in Determining the Amount of Loss
  - Claimant authorized that its agent be paid commission by the Cuban collecting bank before remittance of collected funds. Claimant's loss must be reduced by the amount authorized to be paid as commission.
    - Claim No. [CU-1315](#)
  - Where claimant received credits on goods shipped, and the dates on which payment was received is not clear, Commission applied the credits to amounts due or paid on or before date of taking, and this amount must be deducted from the amount of the asserted loss.
    - Claim No. [CU-1299](#)
  - In claim for loss of payments due to intervention, amount of commission released by the collecting bank to shipper's agent must be deducted from the amount of the asserted loss.
    - Claim No. [CU-0664](#)

### **33. EXPENSES INCURRED TO PROTECT PROPERTY RIGHTS**

- A claim for administrative and legal expenses was denied for the expenses held not to be includible in the value of the property taken.
  - Claim No. [CU-8773](#)
- Travel expenses incurred by claimant over a period of time in dealing with the Government of Cuba and its labor unions held not to represent properties taken by the Cuban government.
  - Claim No. [CU-0653](#)
- 33A - To Recover Expropriated Property
- 33B - Defined as Property
  - After consideration of the statutory language and the legislative history of Title V, the Commission found that legal fees and other retrieval expenses were not intended by Congress to constitute property under Title V of the Act.
    - Claim No. [CU-2420](#)

33C - Attorney's Fees

- After consideration of the statutory language and the legislative history of Title V, the Commission found that legal fees and other retrieval expenses were not intended by the Congress to constitute property under Title V.
  - Decision No. [CU-2420](#)
- Legal expenses incurred in the attempted collection of an unpaid debt are not within the scope of Title V.
  - Claim No. [CU-0338](#)

### **34. ACCOUNTS RECEIVABLE**

- 34A - Evidence
  - Copies of claimant's ledger sheet and invoices held to be sufficient evidence of amounts due on account on the date of taking.
    - Claim No. [CU-0338](#)

### **35. ELECTRICAL UTILITIES**

- 35A - Taking
- 35B - Valuation of
  - The Commission, pursuant to statute, takes into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement. Here the most appropriate and equitable value is that of the interim balance sheet prepared closest to the date of nationalization.
    - Claim No. [CU-0330](#)
  - *35B(1) - Depreciation*
    - Because the laws of Cuba prohibited depreciation of property held by utilities, the Commission finds no valid basis for reduction of the value of property taken on account of depreciation.
      - Claim No. [CU-0330](#)

### **36. INHERITANCE**

- Under the community property law of Cuba claimant's mother had a 1/2 interest in the property. Accordingly, the disposable interest owned by claimant's father, deceased, amounted to a 1/2 interest. When he devised 1/2 to his wife and 1/2 to his children he disposed of his interest as follows: 1/4 interest to his wife and 1/4 interest to his children. As the ten children must share equally the net result was the children each owned a 1/40 interest and their mother owned 3/4.
  - Claim Nos. [CU-2280](#), [CU-2281](#), [CU-2282](#)
- Inherited property was not subject to the community property laws of Cuba, so that claimant Mary Rose Campbell, deceased's wife, acquired no interest therein.
  - Claim No. [CU-2267](#)

## 37. MINING AND OIL CONCESSIONS

- 37A - Valuation
  - The claim for the loss of both the lease value and residual value of a mine is a corporate asset and would be affected by the following: 1) the type, quantity and quality of the proven ore reserves in the San Miguel Mine; 2) the time it would take to develop the property and to mine the ore, phrased another way, the number of days of projected operation during the lease term and the amount of ore processed during each of these days; 3) the prices at which the ore would be sold during the actual operation of the lease, which period, allowing for starting-up operations, would be shorter than the lease term; 4) the amount of mineable commercial ore, if any, left at the end of the lease term.
    - Claim No. [CU-0384](#)
  - Costs of exploration and improvement of leased territory are appropriate measures of the value of property at time of taking.
    - Claim No. [CU-2540](#)
  - Those claimants with losses incident to drilling expenditures are entitled to 25% of such expenses since the drilling activity was exploratory in nature and expenditures, were in the nature of capitalized expenses or assets of the exploring enterprises in question. (see 29A Business properties; Evaluation of)
    - Claim Nos. [CU-2338](#), [CU-3017](#)
  - The Commission notes that while minerals in the ground may be valuable intrinsically, the cost of extracting and refining the minerals may render it economically prohibitive to operate the mines in which the minerals exist; thus, for practical purposes, the mining concessions would have no real value.
    - Claim No. [CU-2625](#)
  - Under circumstances where claimant's mine has some value for speculative investments, but neither the claimant nor the Commission are in a position to place any value on the reserves assertedly located within the mine, the Commission limits the valuation of the mining concession to the value of the physical property located on and within the mining grounds and to the amount of the expenditures which claimant had disbursed in his attempt to establish a better bargaining basis for the sale or lease of the concession to future operators.
    - Claim No. [CU-3546](#)
- 37B - Evidence of ownership
  - On the basis of evidence including stock certificates and original deeds the Commission found that claimant owned a 50% interest in El Koury-Cobty Mining Corporation, S.A.
    - Claim No. [CU-0384](#)
  - To determine ownership rights in mining concessions, the Commission suggested that claimant submit appropriate evidence pertaining to the mining activities of the subject corporation immediately prior to the asserted nationalization or other taking of the property by the Government of Cuba, including evidence pertaining to the extent and type of ore taken from the mining concessions, shipment of ore, profits or losses, evidence as to leasing arrangements, and annual reports, balance sheet or any financial data to establish the value of the interests.
    - Claim No. [CU-2847](#)
- 37C - Taking (See also 9 Taking)
  - Enactment of Law No. 635 by the Cuban government which cancelled all rights with respect to the exploration and exploitation of concessions in land including oil

concessions amounted to a taking of right to receive royalties from oil concessions.  
Claim No. [CU-0311](#)

### **38. TRUSTEE**

- The Commission found that although the directors of the Foundation may have been empowered to remove title to property from the Foundation, they did not do so prior to the taking of the school by the Cuban government, and they cannot be found to have been holding title to property as trustees for any American beneficiaries.
  - Claim No. [CU-0974](#)
- The beneficial interest, as that term is used in the Act, vests in the *cestui que* trust not the trustee. Thus, whether or not the nationality requirements have been met turns on the nationality of the beneficiaries. Claimants (the trust beneficiaries) are not U.S. citizens; therefore claim denied. (See also 14F)
  - Claim Nos. [CU-5024-5028](#)
- Trust beneficiaries are the real parties in interest and if they have filed claims individually, the claim of the trustee must be denied. (See also 24B(1))
  - ClaimNo.[CU-3101](#)

### **39. STATUTE OF LIMITATIONS**

- Law of the situs of mortgaged property determines validity of the mortgage. Mortgage held invalid because of the running of the statute of limitations under local Cuban law.
  - Claim No. [CU-1585](#)
- 39A - Effect on jurisdiction
  - Claim based on bonds whose date of maturity was 1944. Under Cuban law no action may be brought for payment of interest coupons of a bond after five years from date when obligation became due. Therefore Commission concluded that claimant had no enforceable claim on coupons in 1959.
    - Claim No. [CU-0638](#)

### **40. DE MINIMIS NON CURAT LEX**

- Pursuant to Bulgarian Decree No. 405 on Monetary Reform, May 11, 1952, the lev (the Bulgarian currency) depreciated to an exchange rate of 100 old leva for one new lev. The dollar equivalent of claimant's 5000 "old" leva, now 50 "new" lev, was not in excess of five dollars, an amount too small to process for payment
  - Claim No. [BUL2-0006](#)

### **41. PARTNERSHIP**

- Even though the record did not show that claimant's partnership interest in a company was officially nationalized, intervened or otherwise taken, the Commission held that the firm was subject to Law 989 which confiscated property of persons, such as claimant, who left Cuba.
  - Claim No. [CU-2401](#)
- In evaluating the respective shares of partners in a partnership which operated a gambling concession, the Commission ascertained those proportionate sums paid by the partners and credited to each. The funds invested by the partnership were effectively taken by the Cuban

government when elements of its Army took over the Hotel Capri where the gambling concession operated.

- Claim No. [CU-1382](#)

## **42. BUSINESS INVENTORY**

- 42A - Valuation
  - The Commission accepted as the value of lost inventory the value as shown in the company's balance sheet, which value reflected depreciation on the straight line method.
    - Claim No. [CU-0287](#)
- 42B - Ownership
  - Inventory list recorded on the stationary of the lease and countersigned for authenticity, along with other evidence on the record, sufficient to establish ownership of leased good in the possession of nationalized company.
    - Claim No. [CU-3275](#)

## **43. VOTING TRUST**

- Participating interest in voting trust held to be property within the meaning of the Act.
  - Claim No. [CU-2960](#)
- 43A - Nationals of U.S.
  - Where a claim is asserted for interest in a Voting Trust, not itself eligible as a claimant under Section 502(1)(B) of the Act, such claim may be considered as one based upon the interest of a stockholder in a Cuban enterprise, within the meaning of Section 505(b) of the Act.
    - Claim No. [CU-0412](#)
- 43B - Evidence of Ownership
  - Claimant's submission of certificate of voting trust evidencing the extent of his participation in the voting trust held sufficient proof of his ownership interest.
    - Claim No. [CU-0412](#)
  - To reach a determination of the value of claimant's interest, or the value of a unit of participation in the Voting Trust, book value of the subject business enterprise is the most appropriate basis of valuation.
    - Claim No. [CU-0412](#)
  - Items such as salaries of Directors, Office Rent and Travel Disbursements should be expensed rather than capitalized and do not properly constitute assets of the Trust.
    - Claim No. [CU-0412](#)
  - The amount paid for units of participation in a Cuban Venezuelan oil voting trust is the value of the property when the claim arose, or at the time of loss rather than its value at the time of purchase.
    - Claim No. [CU-0412](#)
- 43C- Valuation
  - *43C(1) - Valuation: Deductions*
    - Since the voting trust was a "Cuban corporation," the Commission is required to determine the net worth of the enterprise and not merely the assets of the voting

trust. Accordingly, the amount listed as liabilities and taxes must be deducted from the asserted value of the assets claimed.

- Claim No. [CU-0412](#)

#### **44. GOOD WILL**

- Affidavit of claimant's officer and listing in application to the New York Club Exchange held insufficient to establish value of good will.
  - Claim No. [CU-3440](#)
- Claim for good will denied where it did not appear on the statements furnished by the claimants in the listing of the assets nor do the circumstances suggest any was created out of claimant's modest business practices which could be evaluated in dollars and cents.
  - Claim No. [CU-3410](#)
- The Commission finds no valid basis for concluding that a trading company's asserted good will had any value on the date of loss absent convincing evidence, particularly evidence establishing a profitable operation over a period of years.
  - Claim No. [CU-1023](#)
- Claim for good will denied since the Commission was not convinced that the history of the company would lead a willing purchaser to pay an additional amount for good will over and above the net worth of the company.
  - Claim No. [CU-2526](#)
- Based upon the record evidencing increased advertising expenses and increased sales, the Commission held that a company's brand name for its cigarette had value as an intangible asset unique within the tobacco industry in Cuba.
  - Claim No. [CU-0240](#)
- Loss of goodwill is not an item which may be the basis of compensation in the Second Italian Claims Program, which concerns only war damages.
  - Claim No. [IT2-0024](#)

#### **45. DIRECT OWNERSHIP**

- Submission of the original stock certificates and an internal balance sheet of the subsidiary which shows total shares outstanding held sufficient to establish claimant as parent and owner of nationalized subsidiary.
  - Claim No. [CU-0385](#)

#### **46. SUBSIDIARIES**

- Claimant may assert a claim for both value of property of subsidiary nationalized and for the debt owed it by the subsidiary nationalized.
  - Claim No. [CU-0133](#)
- 46A - Proof of Ownership
  - Submission of the original stock certificates and an internal balance sheet of the subsidiary which shows total shares outstanding held sufficient to establish claimant as parent and owner of nationalized subsidiary.
    - Claim No. [CU-0385](#)

#### **47. CONTRACT REPUDIATION**

- Even without express repudiation of the debt, the failure of the Government of Cuba to make obligated payments on a promissory note on the date due constituted a taking within the meaning of the Act, of the creditor's property as of the date of maturity.
  - Claim No. [CU-2392](#)

#### **48. LIFE ESTATE**

- 48A - Valuation
  - The Commission has adopted as a basis for the valuation of life estates and remainder interests, the Makehamized mortality table, appearing as Table 38 of U.S. Life Tables and Actuarial Tables 1939-41, and a 3 1/2% interest rate, compounded annually, as prescribed by U.S. Treasury Department regulations of June 24, 1958, for the collection of gift and estate taxes.
    - Claim No. [CU-0968](#)
  - The value of a remainder interest is equal to the total value of the property less the value of the existing life estate.
    - Claim No. [CU-0186](#)

#### **49. REMAINDER INTEREST**

- 49A - Valuation
  - Pursuant to the Makehamized mortality table, a life estate in property of a person 39 years of age is valued at 63.898% of the estate. Since the encumbered property has a value of \$36,801.14, the value of the life estate is \$23,515.19, and the value of the remainder interest is \$13,285.95 or 36.102%.
    - Claim No. [CU-3436](#)

#### **50. RETIREMENT INCOME (PENSION)**

- The right of pensioner to receive monthly annuity is a liability of the employer, which was assumed by the Cuban government upon nationalization of the employer. Therefore, the refusal of the Government of Cuba to pay retirement benefits constituted a taking within the meaning of Title V.
  - Claim No. [CU-1213](#)
- Under Hungarian law, claimant's right to a pension lapsed because his last day of employment preceeded his retirement age by five years. This lapse did not constitute a taking under the statute.
  - Claim No. [HUNG2-0610](#)
- Claimant's ownership interest in a mutual pension fund held to be compensable since the fund was in the nature of a corporation and the members of the fund similar to stockholders who would be entitled to their proportionate share.
  - Claim No. [Y2-1669](#)
- According to the terms of the pension agreement on which this claim is based, claimant's interest would become consummate only upon the death of her husband. Since her husband is now alive, she owns no property interest to sustain this claim.
  - Claim No. [CU-1681](#)

- 50A - Valuation
  - While claimant is entitled to an award for disability pension suspended by Cuban law, a claim for an amount greater than claimant was being paid prior to the suspension will be denied, absent evidence showing that the Cuban government's computation of claimant's disability benefits were in error.
    - Claim No. [CU-3921](#)
- 50B - Taking
  - Cuba's enactment of exchange control law which prohibited transfer of retirement benefits to claimant held to constitute a taking within the meaning of Title V.
    - Claim No. [CU-1006](#)
  - The reduction of claimant's pension under Cuban law did not constitute a taking under international law, because this measure was not discriminatory and was more in the nature of an adjustment such as is frequently adopted when, due to economic conditions, salaries, wages, and pensions must be reduced to relieve fiscal strain.
    - Claim No. [CU-0252](#)
  - The failure of the government of Hungary to pay its pension obligations held to be a breach of a contractual right and did not constitute a taking under Title III of the Act.
    - Claim No. [HUNG2-0648](#)
- 50C - Valuation
  - The Commission has adopted as a basis for the valuation of annuities the Makehamized mortality table, appearing as Table 38 of the U.S. Life Tables and Actuarial Tables 1939-41, and a 3 1/2% interest rate, compounded annually, as prescribed by U.S. Treasury Department Regulation of June 24, 1958, for the collection of gift and estate taxes.
    - Claim No. [CU-0309](#)

## **51. CONSTRUCTIVE TRUST**

- Claimant's contention that his confiscated property was held in constructive trust by the Yugoslav authorities and constructively taken within the statutory period was rejected by the Commission.
  - Claim No. [Y2-1681](#)

## **52. SURETYSHIP**

- Claimant acquired a claim by subrogation because of his payment of debts of nationalized Cuban enterprise. He has, thus, succeeded to a loss which was compensable under Title V.
  - Claim No. [CU-0502](#)
- 52A - Subrogation
  - *52A(1) – Amount of loss*
    - The amount of the loss of a subrogee is equal to the actual amount paid under the contract.
      - Claim No. [CU-0502](#)

## **53. NON-ECONOMIC INTEREST**

- Commission held that claimant's alleged right to apply for the return of nationalized property did not have a monetary value and thus could not support a claim.

- Claim Nos. [HUNG2-0720](#), [HUNG2-0750](#)

#### **54. SETOFF**

- Commission held that the amount of taxes owed by claimant's branch office to Cuba must be deducted from the amount of loss claimed for the nationalization of the assets of the branch office.
  - Claim No. [CU-2303](#)
- The question of set-off between claimants for private interests is not one for adjudication under Title V.
  - Claim Nos. [CU-3655](#), [CU-8457](#), [CU-8458](#)

#### **55. DISABILITY AND DEATH CLAIMS**

- Failure of Government of Cuba to make payments under agreement settling death claim held to be loss of a debt within the meaning of Title V.
  - Claim No. [CU-8255](#)
- Submission of statement of claimant's psychiatrist that the confiscation of claimant's property contributed to her nervous breakdown held insufficient proof that the Government of Cuba caused claimant's disability.
  - Claim No. [CU-0091](#)
- Commission held that in a disability claim under section 503(b) of the Act, it must be established that the claimant suffered a disability and that the disability was the proximate result of actions of the Government of Cuba in violation of international law.
  - Claim No. [CU-0082](#)
- The execution of two American nationals for the same crime in which two Cuban nationals were given 30 years imprisonment was held by the Commission to be a clearly discriminatory act by the Cuban government directed at aliens. Under international law, the failure to accord just and humane treatment to an alien taken into custody by authority of a state gives rise to an injury. Claim for the death of the two Americans was compensable under Title V.
  - Claim No. [CU-2803](#)
- On the basis of the entire record, which revealed the lack of opportunity for defense counsel to prepare for trial and appeal, the prejudicial actions of the prosecutor, the appeals court's changing of the crime charged, the Commission held that the Government of Cuba denied claimant's husband the standard of justice required by international law. It was held, therefore, that claimant suffered a loss compensable under Title V.
  - Claim No. [CU-0697](#)
- Loss due to suffering and humiliation or false imprisonment was held not compensable under Hungarian Claims Agreement of 1973.
  - Claim No. [HUNG2-0598](#)
- The Commission has jurisdiction only over claims based on violations of international law. Thus claim based upon loss sustained on account of death of claimant's son during air bombardment by Italians during World War II denied since the bombardment was found to be a legitimate act of war.
  - Claim No. [IT2-0041](#)
- Commission determined that the amount of an award for a personal injury, not involving a total or partial loss of a member of the body, should be dependent upon the period of disability at the rate of \$200.00 for each month during which the disability is found to be total, and a proportion thereof for periods of less than a month.
  - Claim No. [IT2-0335](#)

- The Yugoslav Claims Agreement of 1964 does not provide for the compensation of claims based upon personal injuries or death; thus this claim for loss of life of claimant's parents and brothers during World War II must be denied.
  - Claim No. [Y2-0056](#)

#### **56. PREPAID EXPENSES**

- Commission held that deferred and organizational expenses are previously incurred expenses and cannot be considered as assets.
  - Claim No. [CU-1898](#)

#### **57. INTELLECTUAL PRODUCTS**

- The Commission held that the implementation of Law 568 constituted an intervention by the Government of Cuba in the contractual rights of claimant to receive royalties.
  - Claim No. [CU-0414](#)
- Claim for the loss of profits on three experimental rice samples that claimant developed while under contract with a Cuban enterprise denied on the ground that any loss suffered would have arisen out of a breach of contract and not out of property rights in the samples.
  - Claim No. [CU-0915](#)

#### **58. ACT OF STATE DOCTRINE**

- Under the Act of State Doctrine the courts of the U.S. will not sit in judgment on the acts of the government of another state done within its own territory.
  - Claim No. [CU-0993](#)

#### **59. GUARANTY**

- Claims based upon guaranties made by claimant-guarantor for loans denied since claimant had not suffered any loss to date and the amount of any future loss would be indeterminable.
  - Claim No. [CU-2038](#)

#### **60. INDIRECT LOSSES**

- Claimant's title to its film transfers to the Cuban government along with the usual attributes of ownership, as of the date of taking. Therefore, claim for loss of film rental fees, profits, or infringement denied.
  - Claim Nos. [CU-2543](#), [CU-2544](#)
- A claim for the loss of potential profits is not a claim resulting from the nationalization, expropriation, intervention, or other taking of property within the meaning of Title V.
  - Claim No. [CU-3309](#)
- 60A - Lost Profits
  - Claimant's assertion of lost profits arising out of the termination of a cost plus construction contract denied since construction was halted shortly after commenced; thus any determination of loss would be speculative.
    - Claim Nos. [CU-0871](#), [CU-0657](#)
  - Claimant's assertions of losses for earnings it would have accumulated as a result of investing excess cash derived after payment of all charges and obligations appurtenant to

its operations, held to be entirely speculative since no valid basis for estimating what capital would have become available for reinvestment was given.

- Claim Nos. [CU-2619](#), [CU-2573](#)

## **61. ROYALTIES**

- Claims based upon future royalties from mining concession are not compensable under the Act, except where claimant can establish a continuous profitable exploitation in the years immediately prior to the taking of the concession.
  - Claim No. [CU-3614](#)

## **62. MEMBERSHIP INTEREST**

- Where claimants owned a membership interest in a country club without owning an interest in the club's physical assets, the Commission held that the right of membership alone constituted property within the meaning of Title V.
  - Claim No. [CU-0311](#)
- 62A - Valuation
  - The Commission found that the value of claimants' membership interest in a country club should be measured by their investment or cost of membership.
    - Claim No. [CU-0311](#)