

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

IN THE MATTER OF THE CLAIM OF

ARTHUR MICHAELIS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-1055

Decision No. G-2201

PROPOSED DECISION

This claim in an unstated dollar amount against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended by Public Law 94-542 (90 Stat. 2509), is based upon the loss of 500 RM of I.G. Farben-industrie A.G. shares and 200 RM of Hackethal Draht A.G. shares.

The record indicates that claimant became a United States citizen on January 7, 1947.

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

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

Section 603 of Title VI of the Act, limits the Commission's jurisdiction as follows:

"A claim shall not be favorably considered under section 602 of this title unless the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss, and if favorably considered, the claim shall be considered only if it has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission."

The evidence in this claim indicates that claimant, ARTHUR MICHAELIS, owned before World War II certain shares in German corporations known as I.G. Farbenindustrie A.G. and Hackethal Draht A.G. Pursuant to Nazi persecutory economic regulation, these shares were deposited in a bank account in Berlin in 1938, and it is unknown what became of the actual share certificates. Under the precedents of the Commission, however, claimant may have retained a beneficial ownership interest in the shares, and therefore in the corporations, until those corporations were nationalized or expropriated by the German Democratic Republic.

The Commission notes that the four allied powers moved very quickly after World War II against the assets of the I.G. Farbenindustrie A.G. and finds that all of the assets of that corporation which were located at the end of World War II in the Soviet Sectors of Germany and Berlin would have been taken before claimant became a United States citizen on January 7, 1947. Therefore, that portion of the claim which is for the loss of shares in the I.G. Farbenindustrie A.G. must be and hereby is denied.

The Commission has been informed through the report of an independent investigation conducted by the Commission's field office that the Hackethal Draht A.G. was located in Hanover which is now in the Federal Republic of Germany, or West Germany. The report indicates, however, that Hackethal Draht A.G. had three wholly owned subsidiary limited liability companies located in Chemnitz, Dresden, and Leipzig, all three of which are in the German Democratic Republic.

Section 604(c) of the statute provides:

"A claim under section 602 of this title for losses based upon an indirect ownership interest in a corporation, association, or other entity, shall be considered, subject to the other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof, at the time of such loss, was vested in nationals of the United States.

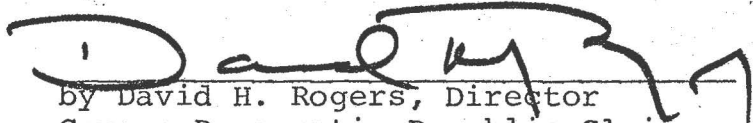
The Commission finds that any ownership interest of claimant in the three East German subsidiaries would be an indirect ownership interest, and under section 604(c) the Commission may consider a claim for the loss of such indirect ownership interest only if at least 25%, or 3,000,000 RM shares of Hackethal Draht A.G. were owned by United States nationals on the date of loss, if any. The Commission finds that the percentage ownership requirements of section 604(c) are not met in this claim, and that, therefore, the claim for the loss of Hackethal Draht A.G. shares must be and hereby is denied.

The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

MAY 14 1980

For Presentation to the Commission


by David H. Rogers, Director
German Democratic Republic Claims
Division

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on JUL 23 1980


Executive Director

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, a Final Decision based upon the Proposed Decision will be issued upon approval by the Commission any time after the expiration of the 30 day period following such service or receipt of notice. (FCSC Reg., 45 C.F.R. 531.5 (e) and (g), as amended.)