

SEPARABILITY

Act Mar. 10, 1950, ch. 54, title VI, §614, as added by Pub. L. 94-542, Oct. 18, 1976, 90 Stat. 2512, provided that: "If any provisions of this Act [enacting this subchapter] or the application thereof to any person or circumstances shall be held invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected."

AUTHORITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION

Section 119 of H.R. 2076, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 6, 1995, and as enacted into law by Pub. L. 104-91, title I, §101(a), Jan. 6, 1996, 110 Stat. 11, as amended by Pub. L. 104-99, title II, §211, Jan. 26, 1996, 110 Stat. 37, provided that:

"(a) AUTHORITY OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION.—The Foreign Claims Settlement Commission of the United States (the 'Commission') is authorized to receive and determine the validity and amount of claims by nationals of the United States against the Federal Republic of Germany covered by Article 2(2) of the Agreement Between the Government of the Federal Republic of Germany and the Government of the United States of America Concerning Final Benefits to Certain United States Nationals Who Were Victims of National Socialist Measures of Persecution, entered into force September 19, 1995 (the 'Agreement'). In deciding such claims, the Commission shall be guided by the criteria applied by the Department of State in determining the validity and amount of the claims covered by and settled under Article 2(1) of the Agreement.

"(b) APPLICATION OF OTHER LAWS.—Except to the extent inconsistent with the provisions of this section, the provisions of title I of the International Claims Settlement Act of 1949 (22 U.S.C. 1621 et seq. [sic]), except for section 7(b) (22 U.S.C. 1626(b)), shall apply with respect to claims under this section. Any reference in such provisions to 'this title' ['this subchapter'] shall be deemed to refer to those provisions and to this section.

"(c) CERTIFICATION AND PAYMENT.—

"(1) Not later than two years after the entry into force of the Agreement, the Commission shall certify to the Secretary of State, in writing, its determinations as to the validity and amount of the claims authorized for decision under subsection (a).

"(2) In the case of claims found to be compensable under subsection (a), the Commission shall certify the awards entered in the claims to the Secretary of the Treasury in accordance with section 5 of title I of the International Claims Settlement Act of 1949 (22 U.S.C. 1624). Such awards shall be paid in accordance with subsections (a) and (c)–(f) of section 7 of such title (22 U.S.C. 1626) out of a special fund established in accordance with section 8 of such title (22 U.S.C. 1627), following conclusion of the negotiations provided for in Article 2(2) of the Agreement.

"(d) CONFIDENTIALITY OF RECORDS.—Records pertaining to the claims received by the Commission pursuant to subsection (a) shall not be publicly disclosed and shall not be required to be disclosed pursuant to section 552 of title 5, United States Code.

"(e) SEPARABILITY.—If any provision of this section or the application thereof to any person or circumstances is held invalid, the remainder of this section or the application of such provision to other persons or circumstances shall not be affected."

§ 1644a. Definitions

As used in this subchapter—

(1) The term "national of the United States" means—

(a) a natural person who is a citizen of the United States;

(b) a corporation or other legal entity which is organized under the laws of the United

States or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity. The term does not include aliens.

(2) The term "Commission" means the Foreign Claims Settlement Commission of the United States.

(3) The term "property" means any property, right, or interest, including any leasehold interest, and debts owed by enterprises which have been nationalized, expropriated, or taken by the German Democratic Republic for which no restoration or no adequate compensation has been made to the former owners of such property.

(4) The term "German Democratic Republic" includes the government of any political subdivision, agency, or instrumentality thereof or under its control.

(5) The term "Claims Fund" is the special fund established in the Treasury of the United States composed of such sums as may be paid to the United States by the German Democratic Republic pursuant to the terms of any agreement settling such claims that may be entered into by the Governments of the United States and the German Democratic Republic.

(Mar. 10, 1950, ch. 54, title VI, §601, as added Pub. L. 94-542, Oct. 18, 1976, 90 Stat. 2509.)

TRANSFER OF FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES AS SEPARATE AGENCY WITHIN DEPARTMENT OF JUSTICE

For provisions transferring Foreign Claims Settlement Commission of the United States as a separate agency within the Department of Justice, see section 1622a et seq. of this title.

§ 1644b. Receipt and determination of claims; notice by publication in Federal Register

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. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than twelve months after such publication) within sixty days after October 18, 1976, or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this subchapter, whichever date is later.

(Mar. 10, 1950, ch. 54, title VI, §602, as added Pub. L. 94-542, Oct. 18, 1976, 90 Stat. 2510.)

§ 1644c. Ownership of claims by nationals

A claim shall not be favorably considered under section 1644b of this title unless the prop-

erty 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.

(Mar. 10, 1950, ch. 54, title VI, § 603, as added Pub. L. 94-542, Oct. 18, 1976, 90 Stat. 2510.)

§ 1644d. Claims based on ownership interest in or debt or other obligation owing by corporations or other legal entities

(a) Nationals of the United States; charge on property

A claim under section 1644b of this title based upon an ownership interest in any corporation, association, or other entity which is a national of the United States, shall not be considered. A claim under section 1644b of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico shall be considered only when such debt or other obligation is a charge on property which has been nationalized, expropriated, or taken by the German Democratic Republic.

(b) Direct ownership

A claim under section 1644b of this title based upon a direct ownership interest in a corporation, association, or other entity for loss, shall be considered subject to the provisions of this subchapter, if such corporation, association or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant.

(c) Indirect ownership

A claim under section 1644b 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 subchapter, 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.

(d) Computation of award

The amount of any claim covered by subsections (b) or (c) of this section shall be calculated on the basis of the total loss suffered by such corporation, association, or other entity, and shall bear the same proportion to such loss as the ownership interest of the claimant at the time of loss bears to the entire ownership interest thereof.

(Mar. 10, 1950, ch. 54, title VI, § 604, as added Pub. L. 94-542, Oct. 18, 1976, 90 Stat. 2510.)

§ 1644e. Offsets

In determining the amount of any claim, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses, including any amount claimant received under section 4132(a) of title

50, for losses which occurred as a direct consequence of special measures directed against such property in any area covered under this subchapter.

(Mar. 10, 1950, ch. 54, title VI, § 605, as added Pub. L. 94-542, Oct. 18, 1976, 90 Stat. 2511.)

§ 1644f. Consolidated awards

With respect to any claim under section 1644b of this title which, at the time of the award, is vested in persons other than the person by whom the original loss was sustained, the Commission shall issue a consolidated award in favor of all claimants then entitled thereto, which award shall indicate the respective interests of such claimants therein, and all such claimants shall participate, in proportion to their indicated interests, in any payments that may be made under this subchapter in all respects as if the award had been in favor of a single person.

(Mar. 10, 1950, ch. 54, title VI, § 606, as added Pub. L. 94-542, Oct. 18, 1976, 90 Stat. 2511.)

§ 1644g. Claims Fund; establishment; deductions

(a) The Secretary of the Treasury is hereby authorized to establish in the Treasury of the United States a fund to be designated the Claims Fund as defined under section 1644a(5) of this title for the payment of unsatisfied claims of nationals of the United States against the German Democratic Republic as authorized in this subchapter.

(b) The Secretary of the Treasury shall deduct from any amounts covered into the Claims Fund, an amount equal to 5 per centum thereof as reimbursement to the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this subchapter. The amounts so deducted shall be covered into the Treasury to the credit of miscellaneous receipts.

(Mar. 10, 1950, ch. 54, title VI, § 607, as added Pub. L. 94-542, Oct. 18, 1976, 90 Stat. 2511.)

§ 1644h. Certification of amounts; priority of payments

(a) The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to section 1644b of this title.

(b) Upon certification of such award, the Secretary of the Treasury is authorized and directed, out of the sums covered into the Claims Fund, to make payments on account of such awards as follows, and in the following order of priority:

(1) payment in full of the principal amount of each award of \$1,000 or less;

(2) payment in the amount of \$1,000 on account of the principal amount of each award of more than \$1,000 in principal amount;

(3) thereafter, payments from time to time, in ratable proportions, on account of the unpaid balance of the principal amounts of all awards according to the proportions which the unpaid balance of such awards bear to the total amount in the fund available for distribution at the time such payments are made;

(4) after payment has been made in full of the principal amounts of all awards, pro rata