

Public Law 99-451
99th Congress

An Act

Oct. 8, 1986
[H.R. 5506]

To amend the International Claims Settlement Act of 1949 to provide that the value of claims be based on the fair market value of the property taken.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DETERMINATION OF VALUE OF CLAIMS.

Securities.

(a) **FAIR MARKET VALUE.**—Section 4(a) of the International Claims Settlement Act of 1949 (22 U.S.C. 1623(a)) is amended by amending the second sentence to read as follows: "In the decision of claims under this title, the Commission shall apply the following in the following order:

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

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

"(i) market value of outstanding equity securities;

"(ii) replacement value;

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

"(iv) book value.

In the case of any claim for losses in a service industry, the appropriate basis of valuation shall be presumed to be that referred to in clause (iii). For purposes of the preceding sentence, the term 'service' means economic activity the output of which is other than tangible goods."

(b) **APPLICABILITY.**—Section 4 of the International Claims Settlement Act of 1949 is amended by adding at the end the following:

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

Supra.

SEC. 2. EFFECTIVE DATE.

22 USC 1623
note.

The amendments made by this Act shall apply to any claim pending on the date of the enactment of this Act and to any other claim determined after such date.

Approved October 8, 1986.

As amended by the Senate and House of Representatives of the United States of America in Congress assembled, that (a) section 1611(a) of the German Restatement Law Act of 1982 is amended by striking out "September 13, 1986" and inserting in lieu thereof "October 13, 1986"; (b) section 1611(b) of such Act is amended by striking out "September 13, 1986" and inserting in lieu thereof "October 13, 1986"; and (c) the amendments made by sections 1611(a) and (b) of the German Restatement Law Act of 1982, as in effect on the day before the date of the enactment of this Act, to any other provision of law shall be deemed to have taken effect before such date of enactment and any such provision of law shall be in effect as if no such amendments had taken effect before such date of enactment.

Approved October 8, 1986.

LEGISLATIVE HISTORY—H.R. 5506:

- HOUSE REPORTS: No. 99-837 (Comm. on Foreign Affairs).
- CONGRESSIONAL RECORD, Vol. 132 (1986):
 - Sept. 22, considered and passed House.
 - Sept. 24, considered and passed Senate.