

Espousal and Settlement of Claims ⁽¹⁾

BY the mid-1960s, most Eastern European states had sufficient interest in improving their political, economic and other relations with Canada to enable the Canadian authorities to begin the process of settling long-outstanding claims of Canadian citizens. Thus it became feasible to launch claims programs with Bulgaria, Hungary, Poland, Romania and Czechoslovakia. By their nature, claims programs are lengthy operations. They involve first the soliciting of the claims or prospective claims from the public at large, their processing by lawyers knowledgeable in the standards set by international law and practice for such claims, and correspondence with the claimants seeking further details on such points as evidence of ownership, loss and valuation. Only when this process is complete, or reasonably nearly complete, can the claims be submitted to the other government, which, in turn, must be given a reasonable period to check its records and establish its own views on ownership, loss and valuation.

In due course, usually six months to a year after submission of the claims, negotiations begin between the authorities of the two countries. In the case of Canada, the delegation is usually headed by the Canadian ambassador accredited to the state concerned, the head of the Claims Section of the Legal Division, Department of External Affairs, and the appropriate desk officer. The other delegation is usually headed by a senior official from the ministry of finance or from the equivalent of the Office of the Prime Minister of Canada, and includes experts in the nationalization measures of the state concerned.

Causes of Delay

It usually takes several years to conclude the negotiations. Among the many reasons for this delay is the reluctance of officials on the other side to provide documentary evidence of a type that would be required by Canadian courts. In addition, of course, the Second World War and postwar upheavals have created very real difficulties in the location of old records. Other considerations include the understandable resistance of the debtors to any reduction in their limited foreign-exchange reserves and a reluctance to compensate those who left their former homes while those who stayed behind go uncompensated.

Nevertheless, settlements are being achieved — Bulgaria in 1966, Hungary in 1970 and possibly Poland and Romania within the next 12 months. To take an active example, claims negotiations with Poland were opened in Warsaw in October 1968. The venue changed to Ottawa in June 1969, and then back to Warsaw in April 1970. Between these sessions, information provided at the previous rounds was evaluated, and a gradual narrowing of differences took place.

(1) This article is the fourth of a series appearing monthly in *External Affairs*, dealing with the work of the Legal Division of the Department of External Affairs.