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CLAIMS TRIBUNAL

دیوان داوری دعوی ایران - ایالات متحدہ

ORIGINAL DOCUMENTS IN SAFE

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Case No. 184

Date of filing: 28 Jan 88

** AWARD - Type of Award _____
- Date of Award _____
_____ pages in English _____ pages in Farsi

** DECISION - Date of Decision _____
_____ pages in English _____ pages in Farsi

** CONCURRING OPINION of _____
- Date _____
_____ pages in English _____ pages in Farsi

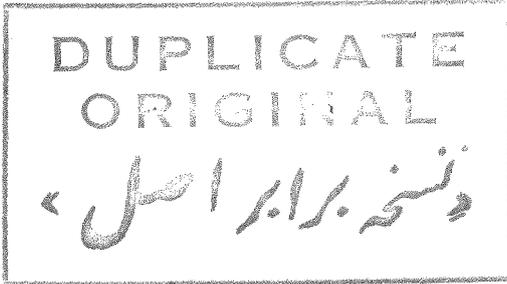
** SEPARATE OPINION of Mr Bockstiegel
- Date 27 Jan 88
3 pages in English 3 pages in Farsi

** DISSENTING OPINION of _____
- Date _____
_____ pages in English _____ pages in Farsi

** OTHER; Nature of document: _____

- Date _____
_____ pages in English _____ pages in Farsi

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CASE NO. 184

CHAMBER ONE

AWARD NO. 320-184-1

GRANGER ASSOCIATES,
Claimant,

and

THE ISLAMIC REPUBLIC OF IRAN,
THE RADIO AND TELEVISION ORGANIZATION
OF THE ISLAMIC REPUBLIC OF IRAN,
THE TELECOMMUNICATION COMPANY OF IRAN,
THE CIVIL AVIATION ORGANIZATION OF IRAN,
Respondents.

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داوری دعوی ایران - ایالات متحدہ	
ثبت شد - FILED		
Date	28 JAN 1988 ۱۳۶۶ / ۱۱ / A	تاریخ
No.	184	شماره

SEPARATE OPINION OF MR. BÖCKSTIEGEL (CHAIRMAN CHAMBER ONE)

Dissenting Opinions, and whether, when and how to admit them, are an old issue in international arbitration. They have recently been the subject of an ICC working group under the able chairmanship of Martin Hunter and again, the most basic conclusion was that there is no perfect solution.

At this Tribunal, over the years, many separate opinions have been filed by arbitrators with regard to decisions of the Chambers or the Full Tribunal. Insofar as they dissented from decisions that I had signed alone or in a majority with others, these separate opinions were often drafted and filed after the decisions so that there was no possibility to respond, in the reasoning of the decision itself, to new points raised in the separate opinion. Nevertheless, I have

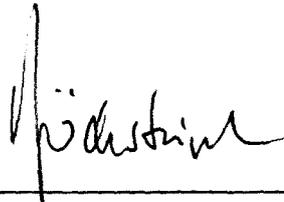
never filed an additional opinion in response, because I felt that it was more important to concentrate my efforts and time on those many other cases still pending before this Tribunal. Thus, while not in agreement with them, I have let the authors of separate opinions have the last word, and I plan to continue this practice in the future.

If I made an exception from that practice in my Separate Opinion filed on 24 November 1987 in this Case, I did so - as indicated therein - in the interest of vindicating the integrity of the Tribunal and its staff. For the same reason, I feel unable to allow Mr. Ameli's additional opinion filed on 15 December 1987 to go unanswered. Just as there are "bad losers" in sport, in arbitration there are those who find it difficult to understand and accept that others may have different views for which they may even find a majority. It seems that Mr. Ameli has experienced such difficulties on previous occasions, when he refused to sign the recent Award No. 314 in the Starrett Case under the chairmanship of my predecessor Mr. Lagergren, and that he has similar difficulties here. To this extent, the style and contents of his two Separate Opinions in this Case speak for themselves. I shall therefore confine myself to the observation that common separate opinions of a chairman with party-appointed arbitrators are neither excluded by the Tribunal Rules nor without precedent, as can be seen from the Separate Opinion I filed together with the Iranian arbitrators to Decision No. 37 in Case No. A17.

As to Mr. Ameli's allegations concerning the process of deliberations, since according to Article 31, Note 2, of the Tribunal Rules deliberations "shall be and remain secret", it must suffice to point out that, of course, I had no contact whatsoever with either Party during the deliberations in this Case, and that Mr. Ameli's allegations regarding the conduct of deliberations are, in all essential respects, factually incorrect.

I might add that, having made this exception, I will revert to my normal practice and do not plan to respond to any further such documents that may be filed in this Case.

Dated, The Hague
27 January 1988

A handwritten signature in cursive script, appearing to read 'Bockstiegel', written in black ink. The signature is positioned above a horizontal line.

Karl-Heinz Bockstiegel
Chairman
Chamber One