

In the Name of God

CASE NO. B/1 (Claim 4)

FULL TRIBUNAL

DECISION NO. DEC 85-B/1-FT

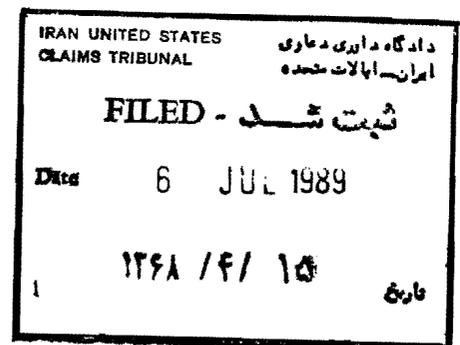
The Islamic Republic of Iran,

Claimant,

and

The United States of America,

Respondent.



SEPARATE OPINION OF ARBITRATORS
ASSADOLLAH NOORI, SEYED KHALIL KHALILIAN
AND PARVIZ ANSARI MOIN

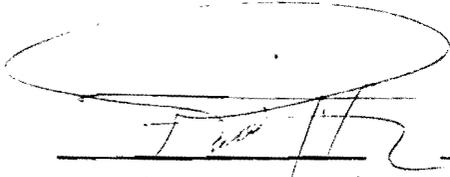
1. In Decision No. DEC-85-B/1-FT, the Tribunal rejected the "Motion of the Islamic Republic of Iran for an Order to Prevent the sale of Items which are Subject of [Partial] Award No. 382-B/1-FT..."
2. The Full Tribunal rejected the motion for an interim measure on the argument that the sale of the properties will not inflict "irreparable harm" on the applicant (DEC., para. 10). The Full Tribunal's reasons for reaching such a

decision are clear. The Full Tribunal was and is cognizant of the fact, firstly, that pursuant to Partial Award No. 382-B/1-FT, the Tribunal has found the United States liable for the compensation of damages incurred by Iran, at the full value of the properties constituting the subject matter of Exhibits III and V "as of 26 March 1981 (6 Farvardin 1360)," and considers that developments and events after that date have no effect or impact on the valuation (Partial Award, paras. 71-77). Secondly, Iran's motion was conditioned upon the United States Government's disagreement with Iran's valuation. Therefore, by selling the properties, the United States will assume the burden of proving a valuation different from that of Iran, which is established on the basis of the microfilms filed. Moreover, by requesting that Iran's motion be dismissed, the United States has, in effect, accepted the consequences which the disposal of the aforementioned articles and equipment might entail; for in cases where the Claimant or Tribunal deems it necessary to inspect and examine the articles and equipment, the United States will be unable to present them for inspection and examination. As the Full Tribunal has also noted, the United States' acceptance of such risks and consequences shall not inflict "irreparable harm" on Iran.

3. Despite the Full Tribunal's reasons and observations described hereinabove, it is our belief that since the final stage for the exchange of memorials on the valuation of the properties which are the subject matter of Exhibits III and V is on the verge of completion, and since little time is left before the final award is issued, it would have been appropriate if the Tribunal had, to ensure that justice is administered as properly, accurately, and correctly as possible, prevented the United States from

selling or allocating the properties to its military units during the few months remaining before the final award is issued.

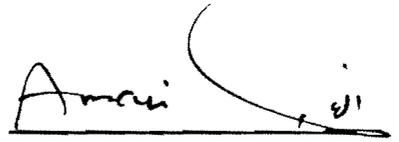
The Hague,
15 Tir 1368/6 July 1989



Assadollah Noori



S. Khalil Khalilian



Parviz Ansari Moin