

A3-104

ORIGINAL DOCUMENTS IN SAFECase No. A3Date of filing: 22 Nov '91

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

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

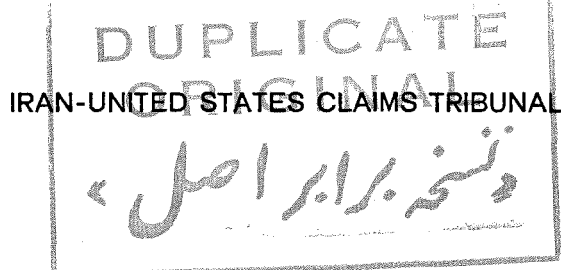
** CONCURRING OPINION of _____
- Date _____
_____ pages in English _____ pages in Farsi

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

** DISSENTING OPINION of George A. Delmonico
DEC 1 1991
- Date 22 Nov '91
2 pages in English _____ pages in Farsi

** OTHER; Nature of document: _____

- Date _____
_____ pages in English _____ pages in Farsi



دیوان دآوری دعاوی ایران - ایالات متحدہ

CASES NOS. A3 and A8
FULL TRIBUNAL
DECISION NO. DEC 100-A3/A8-FT

MINISTRY OF NATIONAL DEFENCE
OF THE ISLAMIC REPUBLIC OF IRAN,
Claimant,

and

THE UNITED STATES OF AMERICA and
BELL HELICOPTER TEXTRON CO.,
Respondents.

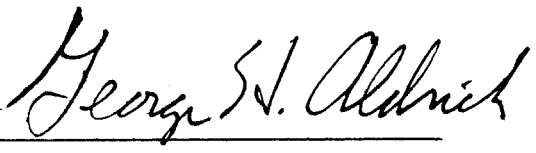
IRAN-UNITED STATES CLAIMS TRIBUNAL	دیوان دآوری دعاوی ایران - ایالات متحدہ
FILED	ثبت شد
DATE	22 NOV 1991
	تاریخ ۱۳۷۰/۹/۱

Dissenting Opinion
of
George H. Aldrich

I would have preferred to terminate the proceedings in these cases against Bell Helicopter Textron Co. ("Bell") by means of a Partial Award that would have awarded Bell its modest costs of arbitration. Private parties have no place in "A Cases", which involve disputes between the Government of Iran and the United States concerning the interpretation and performance of the Algiers Declarations. Paragraph 17 of the General Declaration limits our jurisdiction in such cases to disputes between the Parties to that Declaration -- i.e., the two Governments. Consequently, when a private party, like Bell, is unjustifiably dragged into such a dispute by one of the Governments, it should not be responsible for its costs simply because the Tribunal -- quite properly -- has declined to award to one Government the costs incurred by the other Government in disputes between them. Moreover, at least since the Full Tribunal's decision in Case A2 on 13 January 1982, it must have been apparent to Iran that the Tribunal had no jurisdiction over claims against Bell. Bell has incurred costs since then solely because, for nine and one-half years, Iran failed to withdraw its claim against Bell in this Case and, on the contrary, continued to press it.

While I have consistently supported the practice of Chamber Two of not awarding costs of arbitration, I have never said that costs should not be awarded in egregious circumstances, and Chamber Two has, in fact, come very close to awarding costs in several cases. In the present Case, where the costs were incurred as a result of the prolonged assertion of a claim by a Government that must have known there was no jurisdiction over that claim, I find the circumstances sufficiently egregious to justify an award of costs to Bell.

Dated, The Hague
22 November 1991



George H. Aldrich