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ORIGINAL DOCUMENTS IN SAFE

Case No. 431

Date of filing: 16/6/92

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

** DECISION - Date of Decision 16 June 1992
_____ 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 _____
- Date _____
_____ pages in English _____ pages in Farsi

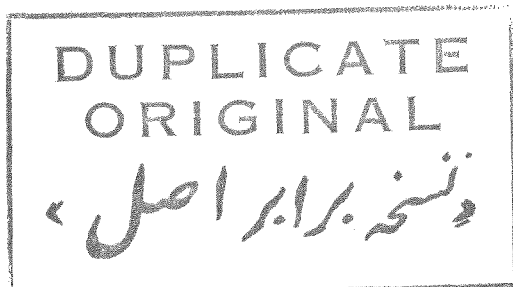
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- Date _____
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CASE NO. 431

CHAMBER TWO

DECISION NO. DEC 104-431-2



IRAN-UNITED STATES CLAIMS TRIBUNAL	دیوان داوری دعای ایران - ایالات متحدہ
FILED	ثبت شد
DATE	16 JUN 1992
	۱۳۷۱ / ۲ / ۲۶ تاریخ

COLLINS SYSTEMS INTERNATIONAL, INC.,
Claimant,

and

THE NAVY OF THE ISLAMIC REPUBLIC OF IRAN,
Respondent.

DECISION

1. On 20 January 1992, the Tribunal filed Award No. 526-431-2 (the "Award"). The Award decided several claims and counter-claims arising out of a series of contracts between the Parties for the establishment of a communications system in Iran known as the "Pearl Program." On 18 February 1992, the Agent of the Government of the Islamic Republic of Iran, on behalf of the Navy of the Islamic Republic of Iran (the "Navy"), filed a letter requesting the Tribunal to render an additional Award in this Case (the "request").

2. In the request, the Agent states that

... the Respondent considers it against justice that on the one hand it be condemned and, on the other, no award be made for the refund of the advance payments effected by the Respondent to the Claimant, or at least for the deduction of the judgment-debt from those advance payments.

The Agent concludes by stating that

[T]he first and foremost relief sought by the [Navy] in its submissions was the compelling of the Claimant to perform its contractual obligations for the completion of the project, while the Tribunal has remained silent on this issue. Accordingly it is requested that a supplementary award be rendered in this respect.

3. The Agent submitted the request in reliance on Article 37, paragraph 1, of the Tribunal Rules, which provides as follows:

Within thirty days after the receipt of the award, either party, with notice to the other party, may request the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award.

4. Award No. 526-431-2 was served on the Agent on 21 January 1992. The request was therefore filed within thirty days after the receipt of the Award, as provided in Article 37, paragraph 1, of the Tribunal Rules. Accordingly, the Tribunal finds that the request was made in a timely manner.

5. In the request, the Agent argues, in substance, that the Tribunal was wrong in ruling, at Paragraph 86 of the Award, that the Navy's counterclaim for the return of unapplied advanced payments is outside the Tribunal's jurisdiction and that such unapplied advance payments cannot be used to reduce the amount awarded the Claimant in this Case. The Agent also asserts that the Tribunal omitted from the Award any decision with respect to the Navy's counterclaim for specific performance of the Pearl Program. The Tribunal disagrees.

6. With respect to the counterclaim for advance payments, Tribunal precedent is clear: insofar as the request constitutes an attempt to reargue certain aspects of the Case, to disagree with the conclusions of the Tribunal in its Award, or to request the Tribunal either to review its Award or further to explain its reasons for the Award, there is no basis in the Tribunal Rules or elsewhere for a request of this kind on such grounds. See Paul Donin de Rosiere, et al. and Islamic Republic of Iran, et al., Decision No. DEC 57-498-1, para. 4 (10 Feb. 1987), reprinted in 14 Iran-U.S. C.T.R. 100, 101; Norman Gabay and Islamic Republic of Iran, Decision No. DEC 99-771-2, para. 8 (24 Sept. 1991).

7. With respect to the question of specific performance, the Tribunal held in Paragraph 43 of the Award that the events in Iran in November 1979, and the Executive Orders issued by the United States that imposed restrictions on dealings with Iran, constituted force majeure within the meaning of the contracts between the Parties (the "Pearl Contracts"). The Tribunal further held in Paragraph 84 that the Claimant's nonperformance under the Pearl Contracts was excused by those force majeure events. By these findings, the Award dismissed on the merits the Navy's counterclaim for specific performance of the Pearl Program so long as the force majeure conditions continued, which they did at least until the date of the Algiers Declarations, 19 January 1981. Thus, no valid claim for specific performance arose prior to that date.

8. To the extent the Navy's counterclaim included a request that the Tribunal order Collins to resume performance of the Pearl Program on the basis of contractual obligations in effect subsequent to 19 January 1981, the Tribunal found in Paragraph 36 of the Award that the Pearl contracts did not terminate prior to 19 January 1981, and, in Paragraph 86, when dismissing the Navy's counterclaim for the return of unapplied advance payments, that the final adjudication of the remaining claims and counterclaims is not within the jurisdiction of the Tribunal. By these findings, the Award dismissed as not outstanding any request for specific performance based on contractual obligations in effect after 19 January 1981. It is clear that the Tribunal has no jurisdiction to interpret the rights and obligations subsequent to 19 January 1981 of the parties to those continuing contracts.

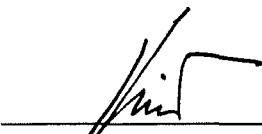
9. In view of the foregoing, the Tribunal finds that there is no basis under the Tribunal Rules for making the additional Award requested.

10. For the foregoing reasons:

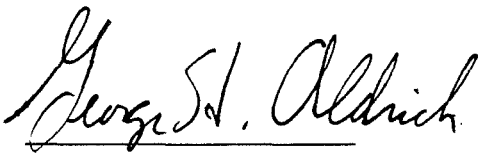
THE TRIBUNAL DECIDES AS FOLLOWS:

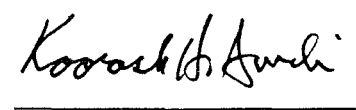
The request filed on 18 February 1992 by the Agent of the Government of the Islamic Republic of Iran on behalf of the Respondent, the Navy of the Islamic Republic of Iran, is denied.

Dated, The Hague
16 June 1992


Robert Briner
Chairman
Chamber Two

In the Name of God


George H. Aldrich


Koorosh H. Ameli
Dissenting Opinion