

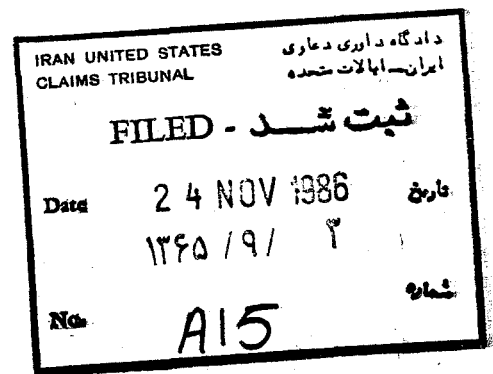
In the Name of God

CASE NO. A15 (II:A and II:B)
FULL TRIBUNAL
DECISION
NO. DEC 52-A15 (II:A and II:B)-FT

THE ISLAMIC REPUBLIC OF IRAN,
Claimant,

and

THE UNITED STATES OF AMERICA,
Respondent.



DISSENTING OPINION OF JUDGE PARVIZ ANSARI WITH
RESPECT TO DECISION NO. DEC 52-A15 (II:A and II:B)-FT

I dissent to the majority's Decision rejecting the Claimant's Request for Interim Measure of Protection.

1. In actuality, the said interim measures were requested for the sake of maintaining the status quo. For a number of years prior to the illegal and unjustified act by the Respondent, the goods in question had been stored in the warehouse of Behring International (which was not authorized to store the classified goods); yet the Respondent never objected to this fact. After the goods were removed to Victory Van Warehouse, the Claimant

was forcibly and involuntarily deprived of possession of those goods, which it owns. There is no argument here over ownership of the goods, or that the Respondent had stored them in the Claimant's name. The Parties do not dispute that ownership of the goods is vested in the Islamic Republic of Iran; therefore, the Tribunal's reliance on the matter of their ownership and the continuation thereof, is irrelevant to the Claimant's aim (i.e., to maintain the status quo) in requesting interim measures.

It can be flatly stated that the Respondent's act constitutes an alteration of the status quo to its own advantage.

2. The majority's reason for its decision, namely that there had been no "irreparable harm" caused by removal of the goods, is incorrect.

There needs to be some legal basis for this vague and "elastic" term; or at least it should be precisely delimited.

Article 26 of the Tribunal Rules, which is the legal basis for granting of interim measures of protection, has never contained any such condition for their issuance, such that the absence thereof would lead to rejection of a request for interim measures.

Moreover, even if it be accepted that this condition constitutes accepted grounds under international law for issuance of interim measures, in that event its parameters and applications should be specified and determined. See: Behring International, Inc., and The Islamic Republic Iranian Air Force, et al, Interim and Interlocutory Award No. ITM/ITL 52-382-3, page 58 and footnote 42.

In the instant case, given the Respondent's acts and the situation created by it, the Tribunal cannot possibly be certain that no irreparable harm has been caused. In other words, just what harm can be said to be worse than for goods which were previously in the possession of their owner to have been removed from its possession and placed in the possession of the adverse party?

3. In view of the foregoing,

First, I dissent to the majority's Decision; and

Second, the Respondent has the duty to return the removed goods to Victory Van Warehouse.

The Hague,

Dated 24 November 1986

A handwritten signature in black ink, appearing to read 'Ansari' followed by a flourish and the Persian word 'الف' (Alif) in the margin.

Parviz Ansari