

IRAN-UNITED STATES CLAIMS TRIBUNAL

دیوان داوری دعاوی ایران - ایالات متحده

815

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داوری دعاوی ایران - ایالات متحده
ثبت شد - FILED	
Date	24 NOV 1986 تاریخ
	۱۳۶۵/۹/۲
No.	A15 شماره

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.

Request for interim measure of protection  
regarding Iranian property removed by the  
United States from Victory Van warehouse

DECISION

1. On 27 January 1986 the Agent of the Islamic Republic of Iran filed a "Request For Interim Measure of Protection Regarding Iranian Property Removed Forcefully by the United States From Victoria Van Warehouse". The request concerned Iranian property which was located in the Victory Van warehouse in the United States and which was inventoried by an expert appointed by the Tribunal in connection with Case No. 382 pending before Chamber Three. The request asserted that on 27 November 1985 a United States Navy representative removed from the warehouse without Iran's consent or knowledge two boxes of spare parts labelled "classified". Alleging that the removal of the two boxes "not only has inflicted irreparable harm upon Iran but also has frustrated several orders of Chamber III issued in Case No. 382 for taking inventories", the Claimant requested that the Tribunal "issue an order requiring the United States to return safely the two boxes it had removed forcefully from Victoria Van Corporation's Warehouse".

2. By an Order filed on 29 January 1986, the Tribunal invited the Respondent to comment on the Claimant's request.

3. In its Comments, filed on 5 February 1986, the Respondent asserted that during the inventory it discovered that certain spare parts had been marked "classified" at the time of shipment to Iran's freight forwarder and that they remained subject to classified treatment. The Respondent argued that under United States law such items must be stored in warehouses certified for that purpose. The Respondent stated that since Victory Van warehouse was not so certified, the parts were removed and are now held by the United States Government in Iran's name in a secure location. The Respondent also stated that Iran was informed about the removal in advance, that it recognized Iran's title to the items and that the removal had not frustrated any Orders of the Tribunal since the expert in Case No. 382 was provided

with the necessary information so as to include the items in his inventory. The Respondent argued that the Claimant had not specified the alleged "irreparable harm".

4. By an Order filed on 6 March 1986 the Tribunal noted that on 16 December 1985 the expert in Case No. 382 informed the Chairman of Chamber Three that he had accomplished the inventory without difficulties and that the U. S. State Department and Iran's representative "have been currently informed". In the Order, the Tribunal requested the Claimant to specify whether and in what way the removal of the two boxes had frustrated Orders of Chamber Three and inflicted irreparable harm on Iran. The Tribunal requested the Respondent to specify whether its assurance with regard to Iran's title to the items also contained an assurance that the United States Government would not change, modify or affect them in any other way while they were held by it.

5. On 24 April 1986 the Respondent, in its response to the Tribunal's Order, reiterated that the classified items had been removed with the knowledge of Iran's representative, that the United States recognizes Iran's title to them, and that it holds them in Iran's name. The Respondent further assured the Tribunal that "the United States Government will not change, modify or affect in any other way the parts that were removed from the Victory Van warehouse".

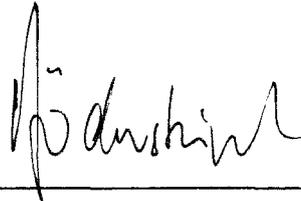
6. On 21 May 1986 the Claimant, in response to the Tribunal's Order and the Respondent's comments, stated that its knowledge of the removal should not be interpreted as consent since it promptly objected. While the Claimant no longer referred to the alleged frustration of the Tribunal's Orders concerning the expert's inventory in Case No. 382, it repeated that the removal of the two boxes inflicted irreparable harm on it. The Claimant asserted that the equipment in the boxes, which was to be used in a massive military project, had been manufactured in such a specific way that even a small modification could make them worthless and

hamper the whole project. The Claimant argued that "because of the specific and exclusive manufacturing of the said equipments, if they are not returned to Iran in the same conditions they were taken, Iran will sustain irreparable harm".

7. The Tribunal notes that the Claimant no longer relies on the alleged frustration of Tribunal Orders in connection with the expert's inventory in Case No. 382 as a basis for its request for interim measures. As far as the allegation of irreparable harm is concerned, the Tribunal notes that, although the United States has removed the items in question from the Victory Van warehouse to another warehouse certified to store "classified" equipment, the United States still recognizes Iran's title to these items, holds them in Iran's name, and has given assurance that they will not be changed, modified, or affected in any other way. It does not appear that the risk of any mishandling or unintentional modification of the equipment is at present greater than it would have been had the equipment remained in the Victory Van warehouse. The Tribunal also cannot see how the mere removal of the two boxes and their storage in a different location would increase the risk of impairing the relief sought by Iran in the present Case, i.e. return of the equipment to Iran. The Tribunal therefore does not find that irreparable harm was caused to Iran by this action. The Tribunal notes that the question of the final disposition of the two boxes or of any liability in connection with their removal is not at issue in the proceedings concerning the present request for interim measures.

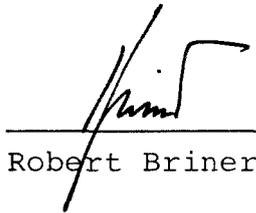
8. In these circumstances, Iran's request "to urge the United States to return the two boxes to" the Victory Van warehouse cannot be granted.

Dated, The Hague,  
24 November 1986



Karl-Heinz Böckstiegel  
President

In the name of God



Robert Briner



Michel Virally

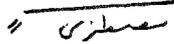


Hamid Bahrami-Ahmadi  
Dissenting Opinion

In the name of God

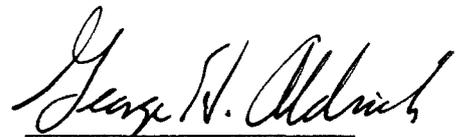


Howard M. Holtzmann



Mohsen Mostafavi

Dissenting Opinion

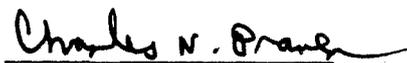


George H. Aldrich

In the name of God



Parviz Ansari Moin  
Dissenting Opinion



Charles N. Brower