

A4-69

دیوان داوری دعاوی ایران - ایالات متحدہ

Cases Nos. A-4 and A-15

Chamber Two

Award No. ITL 33-A-4/A-15(III)-2

THE GOVERNMENT OF THE ISLAMIC
REPUBLIC OF IRAN,

Claimant,

-and-

THE GOVERNMENT OF THE UNITED
STATES OF AMERICA,

Respondent.

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داوری دعاوی ایران - ایالات متحدہ
ثبت شد - FILED	
Date	۱۳۹۲ / ۱۱ / ۱۲ تاریخ
01 FEB 1984	
No.	A 4 & A 15 شماره

INTERLOCUTORY AWARD

Within the framework of Claims Nos. A-4 and A-15(III) filed with the Tribunal by the Government of the Islamic Republic of Iran against the Government of the United States of America, seeking the restitution to the Claimant of immoveable and moveable properties of the Iranian Embassy and Consulates located in the United States, and damages for an alleged breach by the Respondent of its obligations in this respect under the Declaration of the Government of the Democratic and Popular Republic of Algeria of 19 January 1981, the Claimant submitted on 20 December 1983 a Request for an interim measure to prevent the Government of the United States of America from auctioning the moveable properties of the Iranian Embassy and Consulates in the United States and to cancel any transaction entered into pursuant to such auctions.

In an Order filed on 18 January 1984, Chamber Two of the Tribunal, which had been appointed to deal with this request by Presidential Order No. 17 of 5 January 1984, held that the circumstances as presented to the Tribunal at the time were not such as to require the exercise of its power to order the requested interim measure of protection, as these circumstances did not appear to create a risk of an irreparable prejudice, not capable of reparation by the payment of damages. In this Order it was further noted that this decision did not prevent the Party which had made the request from making a fresh request based on new facts.

On 31 January 1984 the Government of the Islamic Republic of Iran filed a Related Request for an Interim Order enjoining the United States Government from auctioning movable properties of Iran's Embassy and Consulates in the United States.

In this new request, the Government of the Islamic Republic of Iran asserts the occurrence of new facts, indicating to the Tribunal that a public auction will take place in Washington, D.C., at C.G. Sloan & Company, Inc., from 3 through 5 February 1984, at which, it is stated, specific irreplaceable items of property, "exquisite, historical, and national properties existing in Iran's Embassy and Consulates in the United States", are to be sold. To specify its Request, the Government of the Islamic Republic of Iran has attached to it a telex dated 31 January 1984 from the Iranian Interest Section at the Algerian Embassy in Washington, together with the auctioneer's advertisement published in the "Iran Times" of 20 January 1984 and the relevant pages of the auction's catalogue.

Furthermore, the Government of the Islamic Republic of Iran, on 1 February 1984, has submitted a more specific list of these properties, to wit: items 1736 to 1817 of the relevant pages of the auction's catalogue.

Finally, the Tribunal has received a letter from the Agent of the United States of America, conveying the comments from the US State Department, which states: "OFM confirmed today with Sloane's that none of the items in question are being sold on consignment from the Department of State. At the December sale in New York at Sotheby Parke Bernet, Sloane's bought all the crested china, crystal and silver offered and is now reselling those items for its own account. Similarly, other items from earlier Sloane's sales are being resold by private individuals, including two rugs, twelve crested platters, and some paintings", and: "... we have just learned that there will be a 'minor catalogue sale' at Sloane's on February 25-26 which will include lesser items from the Department consignment initially intended for the December 9-11 auction. Some of these items were published in

the catalogue prior to the December sale but were not auctioned when other more valuable items were brought into the sale from other sources."

By Presidential Order No. 23 of 1 February 1984, Chamber Two was appointed to deal with this question of interim measures.

The Tribunal notes that the Government of the United States of America, in its memorial in opposition to Iran's Request for interim measures, filed on 3 January 1984, pertaining to the request dealt with in the Order filed on 18 January 1984, repeatedly asserts that objects which have unique historical, artistic or cultural value are not envisaged to be sold, and, "that it has made every effort to identify objects among the Iranian properties which possess significant historical, cultural or other unique features and to ensure that such objects are preserved for eventual return to Iran. Objects such as early Persian manuscripts (including Korans), tiles, prints, and pottery from the eighteenth and nineteenth centuries remain in storage and will not be sold." In the same Memorial, the Government of the United States of America points out, in regard to previous auctions of items of property from the Iranian Embassy and Consulates in the United States, that "(t)he auction sales were entirely regular and lawful. Title to those properties has passed under United States law. The United States has no basis for suits to rescind the transactions, and no way of compelling the purchasers to relinquish the items they acquired." (p. 19 of the US Memorial).

Under reference to its Order of 18 January 1984, in view of the new facts introduced by the Government of the Islamic Republic of Iran, as well as in view of the above quoted

paragraph from the US Memorial of 3 January 1984, it appears to the Tribunal that the items on the list are irreplaceable, and the Tribunal finds it necessary, therefore, to take an interim measure.

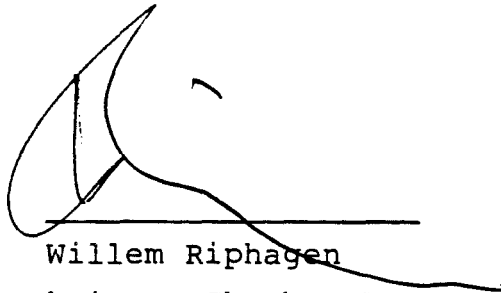
For the foregoing reasons,

THE TRIBUNAL MAKES THE FOLLOWING INTERLOCUTORY AWARD:

The Tribunal holds that the circumstances, as they are now presented to it, are such as to require the exercise of the Tribunal's power to order an interim measure of protection, pending the decision of the Full Tribunal in cases A-4 and A-15.

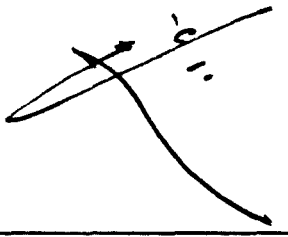
The Tribunal urgently requests the Government of the United States of America to take all necessary and appropriate measures to prevent the sale of Iran's diplomatic and consular properties in the United States which possess important historical, cultural, or other unique features, and which, by their nature, are irreplaceable.

Dated, The Hague
1 February 1984

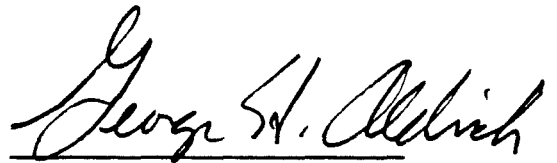


Willem Riphagen
Chairman Chamber Two

In the Name of God



Shafie Shafeiei



George H. Aldrich

I concur, although I believe only some of the items on the referenced list are arguably irreplaceable.