

DUPLICATE
ORIGINAL
نسخہ برابر اصل

CASE NO. B13
CHAMBER TWO
AWARD NO. 266-B13-2

25

IRANIAN CUSTOMS ADMINISTRATION,
Claimant,
and
UNITED STATES OF AMERICA,
Respondent.

IRAN UNITED STATES CLAIMS TRIBUNAL	دیوان داوری دعاوی ایران ایالات متحدہ
فیت شد - FILED	
Date	13 NOV 1986
	۱۳۶۵ / ۸ / ۲۲
No.	B13

AWARD

I. FACTUAL AND PROCEDURAL BACKGROUND

1. On 15 January 1982, the IRANIAN CUSTOMS ADMINISTRATION¹ ("the Claimant"), filed a Statement of Claim seeking 7,371,379 Rials as customs duties and charges it alleges are owed by the Respondent, the UNITED STATES OF AMERICA. The claim apparently arises out of an arrangement whereby the Claimant allowed various goods to be temporarily imported into Iran free of the usual customs duties as part of the United States' exhibitions at various International Trade and Tool Fairs and the United States Trade Center. Letters of Guarantee were often issued by the United States Embassy in Tehran which generally guaranteed compliance with governing Iranian customs regulations². The Claimant argues that this meant that the United States would accept financial liability to pay the requisite customs duty on goods that were not re-exported.

2. The United States' initial response to this and similar claims, was to file, on 19 April 1982, a Petition requesting the Tribunal to order the Government of Iran to produce relevant official records, held at the United States Embassy in Iran, relating to the United States' participation in International Fairs in Iran. After the occupation of the Embassy on 4 November 1979, the United States ceased to have access to those records.

¹The Statement of Claim designates the Claimant as "Ershad Customs House" but was signed by the "Director General to Iranian Customs House". In its most recent filing the Claimant refers to itself as "the Iranian Customs Administration". The Tribunal has adopted this designation.

²In this Case the Claimant did not submit in evidence copies of any pertinent Letters of Guarantee or materials evidencing the total amount claimed.

3. However, this Petition was superseded by the filing by the United States of a "Request for Dismissal For Lack of Jurisdiction" which accompanied its Statement of Defence, filed on 15 November 1982. In its Request, the United States argues that the Tribunal lacks jurisdiction over this and other similar claims. It states that this claim is an official claim but argues that it does not "arise from contractual arrangements between [the two Governments] for the purchase and sale of goods and services", as required by Article II, paragraph 2, of the Claims Settlement Declaration. Pursuant to Article 21 of the Tribunal Rules, the United States requested the Tribunal to rule on this jurisdictional plea before proceeding further with the arbitration of the claim.

4. By Order filed on 17 February 1986, the Tribunal advised the Parties that "in light of the Awards rendered by Chambers One and Three in similar Cases" it intended to decide the jurisdictional issue raised by the United States "as soon as practicable". By Order filed on 5 June 1986, the Tribunal informed the Parties, inter alia, that it intended to decide the jurisdictional issue on the basis of the documents submitted by 30 August 1986. The Claimant filed a further submission on 29 August 1986.

II. REASONS FOR THE AWARD

5. It is undisputed that this Case involves a claim by Iran against the United States and falls within the jurisdictional category of "official claims" pursuant to Article II, paragraph 2, of the Claims Settlement Declaration.

6. The Tribunal's jurisdiction over "official claims" is limited to those which arise

"out of contractual arrangements between]the United States and Iran[for the purchase and sale of goods and services".

The Tribunal must therefore be satisfied not only that the claim arises out of contractual arrangements but also, more specifically, that the contractual arrangements are for the provision of goods and services.

7. In the present Case, the claim is for payment of allegedly outstanding customs duties and charges. An obligation to pay such duties arises by operation of relevant Iranian customs regulations, and independently of any contract. As such it is clearly outside the Tribunal's jurisdiction. See Iranian Customs Administration and The United States of America, Award No. 172-B3-3 (17 April 1985).

8. It could also be argued in the present context that the claim arises out of Letters of Guarantee issued by the United States Embassy, and that such guarantees constitute contractual arrangements between the two Governments. However, even if such guarantees were issued relating to this claim and could be characterized as contractual arrangements between the two Governments, they were not for the purchase and sale of goods and services. They constitute an assumption of administrative responsibility by the Embassy to facilitate the importation of goods for exhibition at the various Tool and Trade Fairs and the United States Trade Center. They purportedly guaranteed not only payment of requisite customs duties but also compliance generally with Iranian customs regulations. The Tribunal has previously determined that such arrangements do not constitute contracts "for the purchase and sale of goods and services" in the ordinary meaning of those words. See Iranian Customs Administration and The United States of America, Award No. 105-B16-1 (24 January 1984).

9. The Tribunal is satisfied that there is no other possible jurisdictional basis in the Claims Settlement Declaration for this claim.

III. AWARD

10. For the foregoing reasons,

THE TRIBUNAL AWARDS AS FOLLOWS:

- (a) The claim of the Iranian Customs Administration is dismissed for lack of jurisdiction.
- (b) Each Party shall bear its own costs of arbitration.

Dated, The Hague
13 November 1986.

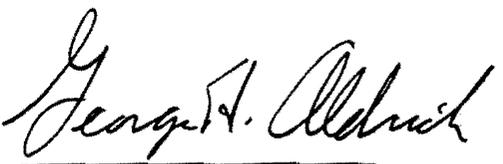


Robert Briner
Chairman

In the name of God,



Hamid Bahrami-Ahmadi
Dissenting Opinion



George H. Aldrich