

ORIGINAL DOCUMENTS IN SAFE

Case No. 298

Date of filing: 19. Jun 86

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

** DECISION - Date of Decision _____
_____ 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

** OTHER; Nature of document: Declaration of Mr Bahmani

- Date _____
3 pages in English _____ pages in Farsi

In the Name of God

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IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داوری دعاوی ایران - ایالات متحدہ
ثبت شد - FILED	
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No.	298 شماره

CASE NO. 298
 CHAMBER TWO
 AWARD NO. ITL 66-298-2

JAMES M. SAGHI, MICHAEL R. SAGHI,
 and ALLAN J. SAGHI,

Claimants,

and

THE GOVERNMENT OF THE ISLAMIC
 REPUBLIC OF IRAN,

Respondent.

DUPLICATE
 ORIGINAL
 «نسخه برابر اصل»

DECLARATION OF HAMID BAHRAMI-AHMADI WITH RESPECT
 TO THE LEGAL OPINION ISSUED BY TWO MEMBERS OF
 CHAMBER TWO, IN CONNECTION WITH CASE NO. 298

I take note of the legal opinion rendered by two mem-
 bers of Chamber Two, in connection with determination of
 the nationality of the Claimants in the above-referenced
 case. I have neither participated in the deliberations in
 that case, nor signed the legal opinion relating thereto,
 for the following reasons:

1. The Government of the Islamic Republic of Iran has not agreed, on the basis of any of the provisions of the Algiers Declarations, to this Tribunal's jurisdiction to hear claims against it by its own nationals. Moreover, by its objection following issuance of the Award in Case No. A/18, the Government of Iran eliminated whatever doubts possibly existed as to whether it tacitly accepted the Tribunal's jurisdiction in this regard.

Because there has not to date been any agreement as to the Tribunal's jurisdiction (clause compromissoire) in this connection, my esteemed colleagues and I are unable to intervene in such claims.

2. The Tribunal Rules do not grant any authority for two members of a Chamber to issue an Award without the third member's having participated in the deliberations thereon. The Chambers of this Tribunal are three-member arbitral panels, and a necessary precondition of the validity of their Awards is that all three arbitrators have been effectively present at the deliberative sessions thereon. Therefore, I regard the present "Interlocutory Award" as constituting a "legal opinion" by my colleagues, for which reason the instant Declaration cannot be construed as a separate or dissenting Opinion by this writer. My purpose here is merely to note that the document which has been issued cannot be taken as constituting an Award by Chamber Two of the Tribunal.

3. In order for Awards by the Chambers of this Tribunal to be binding on the parties, not only must they have been issued following the participation of all three members of the Chamber and upon a finding of the Tribunal's jurisdiction over the relevant claim, but they must also be rendered in accordance with law, on the basis of Article V of the Claims Settlement Declaration. The legal opinion rendered both violates principles of international law and Iranian and United States laws and regulations pertaining to nationality, and conflicts

with the precedents followed by this Chamber in similar instances. There is no need for issuance of this legal opinion in connection with the present case; nor, where the two Governments are attempting to resolve the legal difficulties relating to such claims, does it help to settle the issue. It will therefore be appropriate for my esteemed colleagues to order the correction of the title caption of this legal opinion.

The Hague,

29 Deymah 1365/19 January 1987

A handwritten signature in black ink, consisting of a stylized 'H' and 'A' followed by a dot, enclosed within an oval shape.

Hamid Bahrami-Ahmadi