

DUPLICATE
ORIGINAL
«نسخہ برابر اصل»

CASE NO. 3

CHAMBER THREE

AWARD NO. 91-3-3

E.I. DU PONT DE NEMOURS AND COMPANY,

Claimant,

and

ISLAMIC REPUBLIC OF IRAN
and POLYACRYL IRAN CORPORATION,

Respondents.

IRAN UNITED STATES CLAIMS TRIBUNAL
دادگاه داوری دعاوی ایران - ایالات متحدہ

FILED - ثبت شد
No. 3 - ۳ شماره
Date 19 DEC 1983 تاریخ
1362/9/28

3-150
۳-۱۵۰

AWARD ON AGREED TERMS

Claimant E.I. DU PONT DE NEMOURS AND COMPANY filed with the Tribunal on 20 October 1981 a Statement of Claim against the Respondents ISLAMIC REPUBLIC OF IRAN and POLYACRYL IRAN CORPORATION. Respondents filed counterclaims.

On 12 December 1983 Claimant and Respondents filed a Joint Request for an Award on Agreed Terms with an attached settlement agreement (including a "Technical Agreement").

A copy of the Joint Request and the Settlement Agreement excluding the Technical Agreement, which the parties requested be kept confidential, are attached hereto.

The Tribunal finds that an award on agreed terms may be issued upon the submissions before it, in accordance with Article 34 of the Tribunal Rules and the standards applicable thereto.

Based on the foregoing,

THE TRIBUNAL AWARDS AS FOLLOWS:

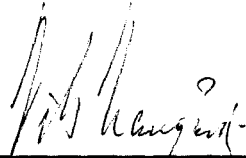
The settlement is hereby recorded as an Award on Agreed Terms binding on all the parties. Consequently Respondents, ISLAMIC REPUBLIC OF IRAN and POLYACRYL IRAN CORPORATION shall pay to Claimant E.I. DU PONT DE NEMOURS AND COMPANY the total amount of Forty Two Million Seven Hundred and Fifty Thousand U.S. dollars (U.S. \$42,750,000).

Such payment shall be made out of the Security Account established pursuant to paragraph 7 of the Declaration of the Government of the Democratic and Popular Republic of Algeria dated 19 January 1981.

This Award is hereby submitted to the President of the Tribunal for notification to the Escrow Agent.

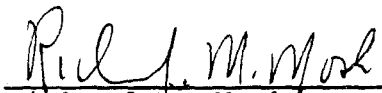
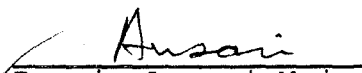
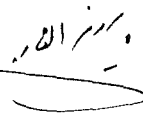
Dated, The Hague

19 December 1983



Nils Mangard
Chairman
Chamber Three

In the Name of God


Richard M. Mosk
Parviz Ansari Moin

IRAN-UNITED STATES CLAIMS TRIBUNAL

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داری داری ایران - ایالات متحده
ثبت شد - FILED	
۱۳۶۲ / ۹ / ۲۱	تاریخ
12 DEC 1983	
3	شماره

In the Matter of the Arbitration :
between :
:
E. I. DU PONT DE NEMOURS :
AND COMPANY, :
:
Claimant, :
and :
THE STATE OF IRAN :
(ISLAMIC REPUBLIC OF IRAN) and :
POLYACRYL IRAN CORPORATION, :
Respondents. :

CASE NO. 3
CHAMBER 3

JOINT REQUEST FOR AN AWARD ON AGREED TERMS

1. By its Statement of Claim filed in this case on October 20, 1981, the Claimant, E. I. du Pont de Nemours and Company ("Du Pont"), sought an award for payment of its claims against Respondents, the State of Iran (Islamic Republic of Iran) and Polyacryl Iran Corporation ("Respondents").




2. By their Statement of Defence and Counterclaims, Iran and Polyacryl sought an award for payment of counterclaims against Du Pont.

3. As a result of negotiations among the parties, Du Pont, Iran and Polyacryl have entered into a Settlement Agreement dated December 12, 1983, a true copy of which is submitted herewith. Under the Settlement Agreement, the parties have agreed to a settlement of all claims and counterclaims which they have asserted or were entitled to assert before this Tribunal. Among other things, the parties have agreed that Du Pont should be paid the amount of Forty Two Million Seven Hundred Fifty Thousand United States Dollars (U.S. \$42,750,000) from the Security Account established by Paragraph 7 of the Declaration of the Government of the Democratic and Popular Republic of Algeria of January 19, 1981, in full settlement of the claims asserted by Du Pont in this case.

4. Pursuant to said Settlement Agreement, and pursuant to the terms of Article 34 of the Rules of the Tribunal, the parties hereby jointly submit the Settlement Agreement to the Tribunal and request the Tribunal to issue an Award on agreed terms to Du Pont in the amount of U.S. \$42,750,000, which will record and give effect to the settlement.



5. Further pursuant to said Settlement Agreement, the parties request that the Technical Agreement between Du Pont and Polyacryl dated December 12, 1983, a true copy of which is annexed to the Settlement Agreement, be maintained confidential by the Tribunal.

IN THE NAME OF GOD

ISLAMIC REPUBLIC OF IRAN

BY Mohammad K. Eshragh

TITLE


1356/9/CI

E.I. DU PONT DE NEMOURS

AND COMPANY

BY




TITLE

Vice President

POLYACRYL IRAN CORPORATION

BY ZOLFAGHARY

TITLE


13829/11

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داری داری ایران-ایالات متحده
FILED = ثبت شد	
Date ۱۳۶۲ / ۹ / ۲۱	تاریخ
12 DEC 1983	
No 3	شماره ۳

SETTLEMENT AGREEMENT

THIS AGREEMENT by and among E. I. DU PONT DE NEMOURS AND COMPANY, a corporation existing under the laws of the State of Delaware, U.S.A. ("Du Pont"), the ISLAMIC REPUBLIC OF IRAN ("Iran"), and POLYACRYL IRAN CORPORATION, a corporation existing under the laws of Iran ("Polyacryl"), (collectively "the parties"),

WITNESSETH :

WHEREAS, there is presently pending in the Iran-United States Claims Tribunal (the "Tribunal") an arbitration brought by Du Pont, as claimant, against Polyacryl and Iran, as respondents, entitled E. I. du Pont de Nemours and Company and The State of Iran (Islamic Republic of Iran) and Polyacryl Iran Corporation, Case Number 3, Chamber 3 ("the arbitration"); and

WHEREAS, Du Pont has asserted various claims in the arbitration against Polyacryl and Iran; and

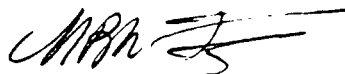
WHEREAS, Polyacryl and Iran have asserted various counterclaims in the arbitration against Du Pont and two Du Pont subsidiaries, Du Pont de Nemours International S.A. ("DISA") and Du Pont (U.K.) Limited ("DUK"); and



WHEREAS, the parties desire to settle between and among them all claims and counterclaims asserted in the arbitration, as well as all other claims and disputes of any kind in any way arising out of or related to the project (the "Polyacryl project") to design, construct and operate in Iran plants for the production of polyester and acrylic fibers, including, but not limited to, the agreements (with the exception of claims or disputes arising under this Settlement Agreement or the Technical Agreement attached hereto as Exhibit A), which they have had, now have or will have against one another from the beginning of the world to the end of the world, whether such claims have yet been asserted or not and whether asserted before the Tribunal, or arbitral or judicial courts elsewhere (the claims and disputes referred to in this recital, other than those involving this Agreement and the Technical Agreement, being hereinafter sometimes identified as "Polyacryl-related claims and disputes"); and

WHEREAS, Polyacryl is willing to obtain from Du Pont certain technical assistance significant to the operations of Polyacryl in satisfaction of the claims and counterclaims which the parties have asserted in the arbitration; and

WHEREAS, Du Pont and Polyacryl accordingly have agreed to enter into the Technical Agreement which is attached hereto as Exhibit A in satisfaction of Polyacryl's counterclaims against Du Pont alleging various breaches by Du Pont of its obligations under the agreements between Du Pont and Polyacryl.

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NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements set forth herein, the parties agree as follows:

1. Iran and Polyacryl jointly and severally agree to effect a payment to Du Pont in the amount of Forty Two Million Seven Hundred Fifty Thousand United States Dollars (U.S. \$ 42,750,000) ("the Settlement Amount") in the manner set out in Paragraph 2 below in complete and final settlement of all Polyacryl-related claims and disputes asserted, or which could be asserted, whether in the arbitration or otherwise, by Du Pont or its subsidiaries against Polyacryl and its subsidiaries, or Iran or its instrumentalities and related entities, it being understood by the parties that the amount actually paid to Du Pont will be the Settlement Amount, less any fees imposed by the U.S. Government or any bank transfer or other charges imposed by any natural person or legal entity other than Iran, its instrumentalities and related entities or Polyacryl or its subsidiaries in connection with the procedure whereby the arbitration will be settled and the payment of the Settlement Amount to Du Pont will be effected. In addition, Du Pont and Polyacryl agree to enter into the attached Technical Agreement in complete and final settlement of all Polyacryl-related claims and disputes asserted, or which could be asserted, whether in the arbitration or otherwise, by Iran, its instrumentalities or related entities or Polyacryl and its subsidiaries against Du Pont or its subsidiaries.

2. The parties agree to submit this Settlement Agreement, and such other documents and agreements as may be necessary or appropriate, to the Tribunal with the request that the Tribunal record this Settlement

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Agreement as an Award on agreed terms pursuant to Article 34 of the Rules of Procedure of the Tribunal and order the Settlement Amount to be paid to Du Pont out of the security account (the "Security Account") established under Paragraph 7 of the Declaration of the Government of the Democratic and Popular Republic of Algeria, dated January 19, 1981.

3. It is the desire of the parties that the Settlement Amount be awarded to Du Pont by the Tribunal as promptly as possible and that all the claims and counterclaims asserted in the arbitration be thereupon terminated. Accordingly, no later than December 12, 1983, the parties will jointly file with Chamber 3 of the Tribunal a request for an Award on agreed terms in the form of Exhibit B hereto. Following the filing of said request, the parties will cooperate fully with one another and with the Tribunal with respect to the consideration thereof by the Tribunal. This Settlement Agreement shall be deemed void and without further force or effect if not submitted to the Tribunal by December 12, 1983 as part of a joint request by the parties to the Tribunal to record it as an Award on agreed terms.

4. Effective as of the date of payment of the Settlement Amount to Du Pont, Du Pont, on behalf of itself, its employees (or transferees to the rolls of Polyacryl) and subsidiaries, hereby releases and forever discharges Iran, all political subdivisions, agencies, instrumentalities and officials of Iran, Polyacryl and its subsidiaries, and all employees of Polyacryl, and each of them, from any and all manner of actions, suits, judgements, arbitrations, damages, debts, obligations, claims and

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demands whatsoever, in any way arising out of or related to the Polyacryl project, including, but not limited to, the agreements, whether they be presently known or unknown or suspected or unsuspected, and whether they be related or unrelated to the arbitration as to law or facts or both, which against Iran, the political subdivisions, agencies, instrumentalities or officials of Iran, Polyacryl and its subsidiaries, the employees of Polyacryl, or any of them, Du Pont or any of Du Pont's employees (or transferees to the rolls of Polyacryl) or subsidiaries ever had, now has or will or may have, from the beginning of the world to the end of the world; provided, however, that this Paragraph 4 shall not apply to claims arising out of this Settlement Agreement or the attached Technical Agreement.


5. Upon the coming into force of the releases and discharges stipulated in Paragraph 4 hereof, Iran, all political subdivisions, agencies, instrumentalities and officials of Iran, Polyacryl and its subsidiaries, and all employees of Polyacryl, jointly and severally hereby release and forever discharge Du Pont, its employees (or transferees to the rolls of Polyacryl) and subsidiaries (including, but not limited to, DISA and DUK) from any and all manner of actions, suits, judgements, arbitrations, damages, debts, obligations, claims and demands whatsoever, in any way arising out of or related to the Polyacryl project, including, but not limited to, the agreements, whether they be presently known or unknown or suspected or unsuspected, and whether they be related or unrelated to the arbitration as to law or facts or both, which against

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Du Pont, said employees (or transferees to the rolls of Polyacryl) or subsidiaries, or any of them, Iran, the political subdivisions, agencies, instrumentalities or officials of Iran, Polyacryl and its subsidiaries, and the employees of Polyacryl, or any of them, ever had, now has, or will or may have, from the beginning of the world to the end of the world, including, but not limited to, all claims for taxes (or penalties or interest with respect thereto) and all other exactions or charges of any kind asserted by Iran or any of its political subdivisions, agencies or instrumentalities; provided, however, that this Paragraph 5 shall not apply to claims arising out of this Settlement Agreement or the attached Technical Agreement.

6. It is the intention of the parties that, upon payment to Du Pont of the Settlement Amount, all claims and counterclaims asserted in the arbitration shall be deemed dismissed with prejudice. In addition, promptly upon said payment having been made, the parties will move to dismiss with prejudice all litigations, arbitrations or other suits in any way arising out of or related to the Polyacryl project which they or their successors and assigns or subsidiaries may have pending against one another, whether in the United States of America or elsewhere in the world.

7. (a) Effective as of the date of payment of the Settlement Amount to Du Pont, all agreements and obligations between Du Pont and Polyacryl or Iran entered into at any time prior to the date of this Agreement, as well as all licenses (including, but not limited to, investment licenses) issued by Iran to Du Pont in connection with the Polyacryl project, shall automatically terminate and be of no further force or effect. Among the agreements which shall be terminated pursuant to this

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sub-paragraph (a) are the following : Technical Information Agreement, Training and Technical Assistance Agreement, Organization and Miscellaneous Assistance Agreement, and Design Agreement (said agreements being hereinbefore and hereinafter referred to as "the agreements"). In addition, effective as of said date, the Founders Agreement, dated August 6, 1974, among Du Pont and the Iranian shareholders of Polyacryl shall be of no further force or effect insofar as Du Pont is concerned.

(b)(i) Effective as of the date of payment of the Settlement

Amount to Du Pont, such right, title and interest as Du Pont or its nominees may have with respect to any shares of Polyacryl stock, including property rights, rights of ownership, dividends (declared or undeclared) and any other rights or interests based upon its holding of such shares, including, but not limited to, such rights as have been or may have been acquired by law, the Articles of Association of Polyacryl or otherwise, shall be deemed transferred to Iran and Du Pont shall be entirely divested of any interest or rights in Polyacryl. Thereafter, Iran shall be entitled to take all necessary steps to record said transfer without further authorization from Du Pont. In this connection, promptly following the payment of the Settlement Amount to Du Pont, Du Pont shall arrange for the delivery to Iran of its Polyacryl share certificates, representing all the Class B shares of Polyacryl and being forty percent (40%) of the total share capital of Polyacryl. If for any reason said share certificates are not delivered to Iran by the thirtieth (30th) day following the date of

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payment of the Settlement Amount to Du Pont, the share certificates not delivered shall be deemed null and void and Polyacryl shall be entitled to issue new shares in their place. Du Pont warrants and represents that it has not assigned, pledged or otherwise transferred said shares, or any interest in them, to any third party. Du Pont shall directly respond to and defend against any and all lawsuits or claims which may be asserted with respect to said shares by any third party assignee, pledgee or transferee from Du Pont and shall indemnify and hold harmless Iran and all its political subdivisions, agencies and instrumentalities against any damage or loss in this connection.

- (ii) Any tax or fee imposed outside Iran by virtue of the transfer of said Polyacryl shares pursuant to sub-paragraph (b)(i) shall be borne by Du Pont. Any such tax or fee imposed in Iran by virtue of the transfer of said Polyacryl shares shall be borne by Iran or Polyacryl.

8. Should the Tribunal refuse to grant an Award on agreed terms as contemplated hereby, this Agreement shall be deemed void and without further force or effect.

9. (a) Subject to the exceptions noted below, the parties agree that they will maintain as confidential the terms and conditions of the

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Technical Agreement which is attached hereto as Exhibit A. Accordingly, said Agreement shall not be disclosed by any of the parties to any persons or entities, other than the Tribunal, except to the extent that such disclosure:

- (i) is required by the Tribunal in connection with the proceedings before the Tribunal;
- (ii) is required by applicable law, rules or regulations;
- (iii) is ordered by a court in any judicial proceeding; or
- (iv) is required to be pleaded in order to establish any claim, action or defense based on said agreement.

(b) The parties shall request the Tribunal to maintain said Technical Agreement as confidential.

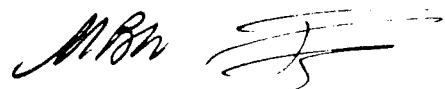
(c) Should the parties fail for any reason to submit this Settlement Agreement to the Tribunal for recording as an Award on agreed terms, or should the Tribunal for any reason fail or refuse to record this Settlement Agreement as an Award on agreed terms, the parties agree that this Agreement shall be maintained as confidential by each of them and that neither they nor their respective employees, representatives, witnesses (expert or otherwise), counsels or advisors shall be allowed to refer to it or to any of its terms or conditions in any proceedings before the Tribunal or in any communications with or to the Tribunal, or in any other judicial proceedings. The provisions of this Paragraph 9(c) shall survive the termination of this Agreement pursuant to Paragraphs 3 or 8 hereof.

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10. Du Pont confirms to Iran and Polyacryl that in the period following 1978 it has never participated in the preparation, endorsement, negotiation or other transfer of Polyacryl bills, cheques, notes or other negotiable instruments ("commercial paper") other than in connection with the legitimate business of Polyacryl. Iran and Polyacryl confirm to Du Pont that they are not aware of any instances in which Du Pont may have been in any way involved in such activity. Nevertheless, Du Pont agrees to accept responsibility for any commercial paper drawn on or issued against Polyacryl after 1978, other than in connection with the legitimate business of Polyacryl, but only to the extent Du Pont or any of its employees (or transferees to the rolls of Polyacryl following their departure from Iran) or subsidiaries, affirmatively, knowingly and fraudulently participated in the preparation, endorsement, negotiation or other transfer of such paper.

11. Promptly following the payment of the Settlement Amount to Du Pont, Du Pont hereby agrees to render to Polyacryl a statement of account concerning bank accounts opened outside Iran by and in the name of Polyacryl with respect to which Du Pont was granted check signing power by authority of Polyacryl. Du Pont warrants that funds deposited in said accounts were used by it exclusively in accordance with the authority granted by Polyacryl and undertakes to indemnify Polyacryl to the extent that it has not acted in accordance with said authority.

12. The parties agree to waive any and all claims for costs (including attorneys' fees) in any way arising out of or related to the prosecution



or defense (whether by arbitration or otherwise) of any Polyacryl-related claims or disputes asserted (or which could have been asserted), whether before the Tribunal or elsewhere.

13. This Settlement Agreement relates solely to Polyacryl-related claims and disputes and shall in no way affect any litigation, arbitration or suit which any of the parties (or their respective subsidiaries) may presently have pending, or which they may bring in the future, against any of the other parties, to the extent such litigations, arbitrations or suits involve matters not relating to Polyacryl-related claims or disputes. For purposes of this Paragraph, Polyacryl-related claims means those claims related to Case No. 3 at the Iran-United States Claims Tribunal and any Polyacryl project-related claims.


14. For purposes hereof, should Du Pont fail to receive payment of the Settlement Amount for any reason other than (a) the Tribunal's refusal to grant an Award on agreed terms as contemplated hereby, or (b) a reason attributable, directly or indirectly, to the Central Bank of Algeria or to Iran, its political subdivisions, agencies or instrumentalities or to Polyacryl and its subsidiaries, the payment of the Settlement Amount to Du Pont shall nonetheless be deemed to have been made.

15. The term "nominee" as used herein shall mean any individual or corporate body who is a registered holder of any Class B shares of Polyacryl stock, the real or beneficial ownership of which shares lies with Du Pont, and who was designated by Du Pont, either directly or indirectly, to act as such registered holder for any purpose whatsoever.

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16. Simultaneously with the submission to the Tribunal of duly executed copies of the Settlement Agreement, the Technical Agreement and the Joint Request for an Award on Agreed Terms, Du Pont will mail to Credit Suisse a letter irrevocably instructing Credit Suisse to open a "clean" bank guarantee through Bank Melli Iran in favour of Polyacryl in the amount of Seven Hundred Fifty Five Thousand United States Dollars (U.S.\$755,000) upon receipt by Credit Suisse of notification from Polyacryl that Du Pont has received payment of the Settlement Amount. Said bank guarantee, which shall have a term of 180 days, shall be payable to Polyacryl upon receipt by Credit Suisse of notification from the Managing Director of Polyacryl that Du Pont has not paid Iranian taxes in the rial equivalent, at the time of payment, of U.S.\$755,000 in connection with the U.S.\$3,000,000 licence fee payable by Polyacryl to Du Pont under Article IV.B of the Technical Information Agreement between Du Pont and Polyacryl dated August 11, 1974. The sum payable under the bank guarantee shall be equal to that part of said U.S.\$755,000 in tax with respect to which Du Pont fails to produce evidence of payment. In connection with the determination of the amount of tax paid by Du Pont with respect to said U.S.\$3,000,000 licence fee, Du Pont shall submit to Polyacryl such evidence as it may have that such taxes have been paid. Should any amounts be drawn under said bank guarantee, Polyacryl shall furnish to Du Pont tax receipts with respect thereto.

17. This Settlement Agreement shall be binding upon the parties and their respective successors, assigns, heirs, executors or administrators.

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18. The rights, privileges and obligations of each of the parties under this agreement may not be assigned or otherwise transferred except upon the prior written consent of the other parties.

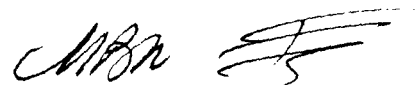
19. The parties warrant and represent that the persons executing this Agreement on each of their behalfs have been duly and fully authorized to do so and that their signatures will commit their respective principals to the fulfillment of their respective obligations hereunder.

20. This Settlement Agreement is executed in both English and Farsi originals, each of which is equally authoritative.

21. The negotiation, preparation or execution by the parties of this Settlement Agreement shall not be construed as an admission by any of them or any other party as to the accuracy or validity of any claims or counterclaims brought against any of them in the arbitration, nor shall it be construed as an acknowledgment of the Tribunal's jurisdiction over Case 3.

22. This Agreement contains all the agreements of the parties with respect to the subject matter hereof. It may not be amended, or modified except by a writing executed by the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to

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