

366-137

CLAIMS TRIBUNAL

دیوان داوری دعاوی ایران - ایالات متحدہ

137

ORIGINAL DOCUMENTS IN SAFE

Case No. 366

Date of filing: 3. Mar 88

\*\* 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 \_\_\_\_\_  
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\*\* SEPARATE OPINION of \_\_\_\_\_  
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\*\* DISSENTING OPINION of \_\_\_\_\_  
- Date \_\_\_\_\_  
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\*\* OTHER; Nature of document: Correction To Decision  
- Date 3. March 88  
\_\_\_\_\_ pages in English \_\_\_\_\_ pages in Farsi

CASE NO. 366  
CHAMBER THREE  
DECISION NO. DEC 74-366-3

ENDO LABORATORIES, INC.,  
Claimant,

and

THE ISLAMIC REPUBLIC OF IRAN,  
TRASSPHARM TRADING COMPANY,  
IRAN WALLACE COMPANY,  
DAROU PAKHSH and  
BONYADE MOSTAZAFAN,  
Respondents.

IRAN UNITED STATES CLAIMS TRIBUNAL		دعوی ایالات متحده
فایلت شد - FILED		
تاریخ	3 MAR 1988	تاریخ
	۱۳۶۶ / ۱۲ / ۱۳	
شماره	366	شماره

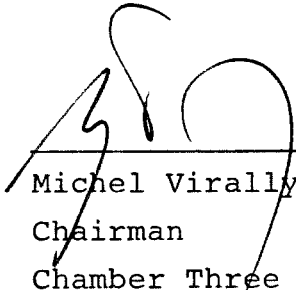
CORRECTION TO DECISION

The following corrections are hereby made to the English version of the Decision in this Case filed on 29 February 1988.

1. At page 2, paragraph 1, line 8, replace "5 February 1980" with "5 February 1988".
2. At page 3, paragraph 4, line 1, replace "Article 36" with "Article 36 of the Tribunal Rules"


Copies of the corrected pages are attached.

Dated, The Hague,  
3 March 1988

  
Michel Virally  
Chairman  
Chamber Three



In the name of God

  
Charles N. Brower

  
Parviz Ansari Moin

1. On 3 November 1987 the English text of Award No. 325-366-3 was filed. On 30 November 1987 the Farsi text of the same Award was filed. By a submission filed in English and Farsi on 29 and 30 December 1987, respectively, the Agent of the Islamic Republic of Iran and the Respondent Darou Pakhsh requested an interpretation and correction of the Award. The Claimant, Endo Laboratories, Inc., objected to this request by a submission filed 5 February 1988.

2. The Respondents contend that the Award requires interpretation "because it does not specify whether the parties' relationship was based on the purchase and sale of goods or whether it was based on distributorship and commission." The Respondents refer to and rely on para. 21 of the Award, in which the Tribunal, inter alia, describes the Parties' relationship until 1978. The Tribunal notes, however, that the claim at issue does not pertain to any agreement prior to 1978. As specified in para. 21 it arises out of "an agreement for the sale and purchase of certain pharmaceutical products" entered into in 1978. The sale and purchase at issue is pursuant to "Order No. 81" detailed in para. 25 of the Award. The Tribunal therefore concludes that the Award does not require interpretation in this respect.

3. The Respondents also take issue with the Award on several matters of substance and base thereon several requests for correction. These include a) a request for the Tribunal to correct its alleged failure to take into account in the Respondents' favor gratis samples amounting to 10% of the ordered amount; b) a request for the Tribunal to correct its finding in paragraph 57 (b) for which, according to the Respondents, no evidentiary basis exists; c) a request for the Tribunal to apply a 30% credit due the Respondents on account of commission, as opposed to a 25% credit, on the grounds that the Claimant had applied a 30% credit throughout the course of the relationship; d) a

request that the Tribunal decrease the total sum awarded by the amount of the clearance charges; and finally e) a request that the Tribunal not award interest in this Case.

4. The Tribunal notes that Article 36 of the Tribunal Rules authorizes the Tribunal solely to correct "any errors in computation, any clerical or typographical errors, or any ~~errors of similar nature.~~" The Tribunal finds that none of the Respondents' requested corrections falls within the parameters of Article 36.

5. The Tribunal, however, would like to point out the following: First, it follows from the Award, in particular paras. 22, 25-28 and 43, that the Respondent Trasspharm was entitled to 10% gratis samples, that these samples were included in the effected shipments, but that this entitlement to gratis samples did not affect the value of the claim. Second, as follows from para. 36 of the Award, the commission was calculated on each order, not on each shipment. Consequently, the computation in para. 55, which concerned the third shipment, is correct. As regards the computations for the second shipment, and as follows from paras. 35-38, the amount of the commission is only one of the elements which the Tribunal has taken into consideration. Third, the Tribunal notes that the claimed credit for custom clearance charges was not raised in due time and therefore has not been before the Tribunal.