

ORIGINAL DOCUMENTS IN SAFE

Case No. 238

Date of filing: 9 sep 1983

** AWARD - Type of Award FINAL
 - Date of Award _____
5 pages in English 4 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: _____

 - Date _____
 _____ pages in English _____ pages in Farsi

DUPLICATE
ORIGINAL

نسخہ برابر اصل

CASE NO. 238

CHAMBER TWO

AWARD NO. 78 -238-2

UNITED TECHNOLOGIES
INTERNATIONAL, INC.,

Claimant,

- and -

TELECOMMUNICATIONS COMPANY
OF IRAN,

Respondent.

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه دآوری دعاوی ایران - ایالات متحدہ
ثبت شد - FILED	
Date	۱۳۶۲ / ۶ / ۱۸
9 SEP 1983	
No. 238	شماره ۲۳۸

238-26
۲۳۸-۲۶

AWARD DISMISSING CLAIM
AND COUNTERCLAIM FOR LACK
OF JURISDICTION

Representatives of the Parties

For the Claimant:

Jan J. Hoynacki, Esq.
1601 Wall Street
Fort Wayne
Indiana 46804 U.S.A.
Attorney

Carol Goodman,
LeBoeuf, Lamb, Leiby & MacRae
168 Milk Street
Boston, Massachusetts 02109 U.S.A.
Attorney

For the Respondent: Mr. M. Vaezi
Managing Director and
Chairman of the Board
Telecommunications Company of Iran
Dr. Ali Shariati Avenue
Tehran, Iran

By its Statement of Claim filed with the Tribunal on 13 January 1982, the Claimant, UNITED TECHNOLOGIES INTERNATIONAL, INC., claimed damages for breach of seven contracts for the purchase of telephone cables entered into between one of its subsidiaries and the Respondent, TELECOMMUNICATIONS COMPANY OF IRAN.

In its Statement of Defence and Counterclaim filed on 15 November 1982 the Respondent alleged, *inter alia*, that the contracts on which the claim was based were excluded from the jurisdiction of the Tribunal by virtue of Article II (1) of the Claims Settlement Declaration which excludes:

"....claims arising under a binding contract between the parties specifically providing that any disputes thereunder shall be within the sole jurisdiction of the competent Iranian Courts, in response to the Majlis position."

The relevant provision, Article 10 of each of the seven contracts, provides as follows:

"in case of any disputes the matter will be referred to a committee which is appointed by the Purchaser. If such dispute is not settled between this committee and the seller within one month in an amicable manner, Iranian courts in Tehran shall have jurisdiction to settle the dispute."

On 26 November 1982 the Tribunal issued an order requesting that the Claimant and Respondent file, by 15 January and 15 March 1983 respectively, their written submissions on the question of the Tribunal's jurisdiction.

On 13 January 1983, the Claimant filed its submissions. It stated that at the time of filing the Statement of Claim it did not consider that the language of Article 10 of the seven contracts fell within the exclusion outlined in Article II (1) of the Claims Settlement Declaration. However, in the light of the Tribunal's

findings in three of the Interlocutory Awards of 5 November 1982 (Ford Aerospace & Communications Company and Air Force of the Islamic Republic of Iran, ITL-6-159-FT; The Halliburton Company and Doreen/Imco, ITL-2-51-FT (Part III); T.C.S.B., Inc. and Iran, ITL-5-140-FT (Part III)), the Claimant submitted that its claim was excluded from the Tribunal's jurisdiction and should be dismissed together with the Counterclaim which arises from the same transactions.

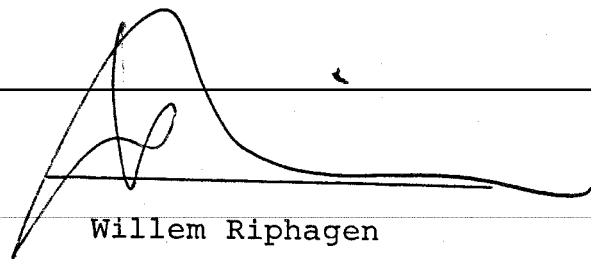
The Respondent did not file a submission on the issue of jurisdiction.

In the light of the foregoing,

THE TRIBUNAL AWARDS AS FOLLOWS:

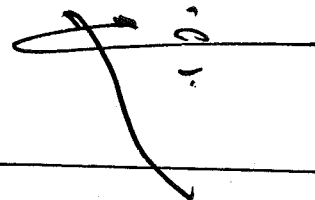
The Respondent having asserted and the Claimant having acknowledged that the Tribunal has no jurisdiction over claims arising from contracts on which the claim and counterclaim herein are based, the claim is hereby dismissed on the ground that it is excluded from the Tribunal's jurisdiction by virtue of Article II (1) of the Claims Settlement Declaration. Consequently, the Counterclaim also must be dismissed.

Dated, The Hague
8th September 1983

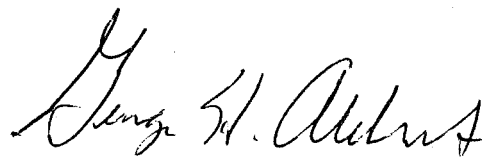
A large, stylized handwritten signature in black ink, featuring a prominent loop and a long horizontal stroke extending to the right.

Willem Riphagen
Chairman
Chamber Two

In the name of God

A handwritten signature in black ink, consisting of a horizontal line with a small loop above it and a long, sweeping stroke extending downwards and to the right.

Shafie Shafeiei

A handwritten signature in black ink, written in a cursive style with a large initial 'G' and a long horizontal stroke.

George H. Aldrich