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** DECISION - Date of Decision 9 OCT 87
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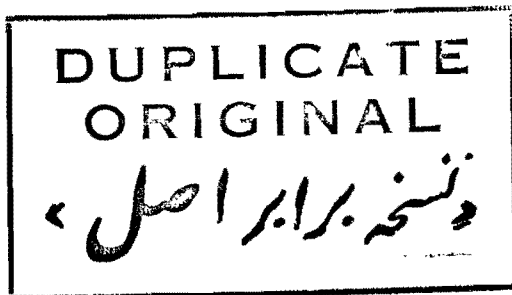
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CASE NO. 338

CHAMBER TWO

DECISION NO. DEC.66-338-2

INTERFIRST BANK DALLAS, N.A.

(formerly, "FIRST NATIONAL BANK IN DALLAS"),

Claimant,

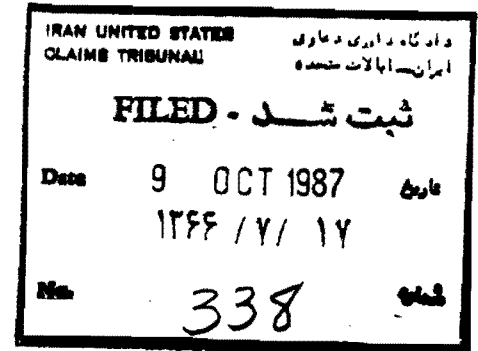
and

THE ISLAMIC REPUBLIC OF IRAN,

INDUSTRIAL AND MINING DEVELOPMENT BANK OF IRAN,

and BANK SANAT VA MADAN,

Respondents.



DECISION

1. InterFirst Bank Dallas, N.A. ("InterFirst"), formerly known as First National Bank in Dallas, brought a claim against the Industrial and Mining Development Bank of Iran ("IMDBI") and Bank Sanat va Madan ("Bank Sanat"), as successor in interest to IMDBI, to recover the principal and interest due on a floating rate bearer note issued by IMDBI in April 1977.

2. A separate case, Case No. 724, which involved a claim brought by Bank Markazi against InterFirst relating to deposits held by InterFirst in the names of Bank Bazargani and Bank Sepah, was terminated by the Tribunal on 27 November 1985 as a result of the Tribunal's decision in Case No. A17, Decision No. DEC 37-A17-FT (18 June 1985). In terminating

Case No. 724, the Tribunal reminded the parties that, if the Iranian bank claim involved in Case No. 724 "relates to a claim by a United States banking institution ... then a party in such other Case may request that the Iranian bank claim be decided as a counterclaim in that other Case."

3. On 19 December 1985, Bank Markazi requested the Tribunal to decide its claim in Case No. 724 as a counterclaim in Case No. 338. Subsequently, on 19 June 1986, InterFirst, stating that it had been paid in full by the Respondents, requested termination of Case No. 338 and objected to Bank Markazi's request.

4. As a result of InterFirst's request, the Tribunal notified the Parties that it would terminate arbitral proceedings in Case No. 338 unless the Respondents raised justifiable grounds for objection in accordance with Article 34 of the Tribunal Rules. On 2 March 1987, the Agent of the Islamic Republic of Iran objected to termination of Case No. 338 on the ground that a counterclaim had been brought and, furthermore, requested that Case No. 679, a claim brought by Bank Markazi against European American Banking Corporation, be also incorporated as part of the counterclaim in Case No. 338.

5. The Tribunal, in an Order of 10 March 1987, noted that Bank Markazi is not a party in Case No. 338 and that the Respondent had not yet shown the relationship between Bank Markazi's claim in Case No. 724 and Case No. 338. The Tribunal invited the Respondent to file a brief on these issues. On 10 June 1987, Bank Markazi submitted its brief entitled "Respondent's Counterclaim."

6. The substance of Bank Markazi's argument is that the Tribunal has jurisdiction over the counterclaim on the basis of principles of set-off which, according to Bank Markazi,

need not satisfy the jurisdictional requirements for counterclaims set forth in Article II, paragraph 1, of the Claims Settlement Declaration. Consequently, the fact that "Bank Markazi and InterFirst had claims against each other", as Bank Markazi has alleged, would be a sufficient relationship for the exercise of Tribunal jurisdiction.

7. At the outset the Tribunal must indicate that it can find no basis for Bank Markazi's assertion that Bank Markazi and InterFirst have set forth claims against each other in these Cases. The Tribunal has already noted that Bank Markazi is not a party to Case No. 338. Bank Markazi does assert in its brief, however, that it is a proper counterclaimant under Paragraph 2(B) of the Undertakings of the Government of the United States of America and the Government of the Islamic Republic of Iran with Respect to the Declaration of the Government of the Democratic and Popular Republic of Algeria of January 19, 1981 (the "Undertakings"), and may, therefore, in bank disputes, bring proceedings on its own behalf and on behalf of the Government of the Islamic Republic of Iran and the agencies, instrumentalities, and entities of Iran. The Tribunal, however, has already decided, in its termination of Case No. 724 pursuant to the Decision in Case No. A17, that Bank Markazi's claims in Case No. 724, based on the Undertakings, are not within the Tribunal's jurisdiction.¹ Consequently, the Tribunal is not persuaded that Bank Markazi has standing to raise its counterclaim in this Case.

¹ See Decision No. DEC 37-A17-FT (18 June 1985) at 19: "Claims by Iranian banks against United States banking institutions are within the jurisdiction of the Tribunal only to the extent, if any, that they are disputes as to amounts owing from Dollar Account No. 2 for the types of debts payable out of that account which have been referred to the Tribunal in accordance with Paragraph 2(B) of the Undertakings."


8. With regard to Bank Markazi's argument concerning counterclaim jurisdiction, the Tribunal has already held that claims can "only be used for set-off if they fulfill the requirements for counterclaims as laid down in Article II, paragraph 1, of the Claims Settlement Declaration." Computer Sciences Corporation and The Government of the Islamic Republic of Iran, et al., Award No. 221-65-1 (16 April 1986); Howard Needles Tammen & Bergendoff and The Government of the Islamic Republic of Iran, et al., Award No. 244-68-2 (8 August 1986). However, in view of the fact that the Claim has been withdrawn the question of a possible set-off has become moot.

9. Bank Markazi has, however, also asserted that its counterclaim does fulfill the requirement of Article II, paragraph 1, of the Claims Settlement Declaration that a counterclaim must arise "out of the same contract, transaction or occurrence that constitutes the subject matter" of InterFirst's claim. Bank Markazi's assertion, however, is supported by no more than several broad statements about the general nature of banking transactions among banks. The Tribunal finds these statements inadequate to establish any relationship between InterFirst's claim in Case No. 338 against Bank Sanat and Bank Markazi's claim in Case No. 724 against InterFirst. Consequently, the Tribunal finds that it has no jurisdiction over Bank Markazi's counterclaim.

10. Finally, the Tribunal notes the request of the Agent of the Islamic Republic of Iran that Case No. 679, a case related to Case No. A17 and terminated by Decision No. DEC 50-679-2 (17 October 1986), also be incorporated as part of the counterclaim in this Case. In view of the fact, however, that the Claimant in this Case is InterFirst and not European American Banking Corporation, such a counterclaim cannot be admitted.

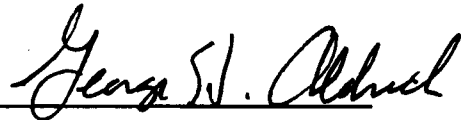
11. For the foregoing reasons, the Tribunal finds no justifiable grounds for objection to the termination of arbitral proceedings in Case No. 338. Consequently, the arbitral proceedings in this Case are hereby terminated pursuant to Article 34(2) of the Tribunal Rules. The Co-Registrars are instructed to strike the Case from the Register.

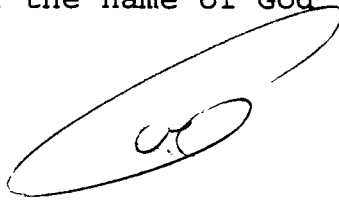
Dated, The Hague
9 October 1987



Robert Briner

In the name of God



George H. Aldrich

Hamid Bahrani-Ahmadi
Dissenting Opinion