

IRAN-UNITED STATES CLAIMS TRIBUNAL

دادگاه داوری دعاوی ایران - ایالات متحده
14.5.82
1700

To: Co-Registrars

14 May 1982

From: Miss Meadows

Case No. 373 - Aeromaritime Inc.

I enclose the original signed Awards (two in each language) for filing, service on the Parties and distribution.

With thanks,



G.F. Meadows

Clerk to Chamber Two

Case No. 373

Chamber Two

AEROMARITIME, INC.

Claimant,

and

THE GOVERNMENT OF THE ISLAMIC REPUBLIC
OF IRAN, IRAN AIRCRAFT INDUSTRIES and
IRAN HELICOPTER SUPPORT AND RENEWAL
COMPANY,

Respondents.

AWARD NO. 2-373-2

IRAN UNITED STATES
CLAIMS TRIBUNAL

دادگاه داورى دعاوى
ايران - ايالات متحده

FILED - ثبت شد

No. 373 ۳۷۳ شماره

Date May 17, 1982

۱۳۴۱/۲/۲۷ ذى الحجه

APPEARANCES:

For Claimant:

Robert B. Wallace,
Attorney,
Surrey & Morse

For Respondents:

Mohammed K. Eshragh,
as the Agent of the Islamic
Republic of the Iran-United
States Claims Tribunal

I. FACTS

In its Statement of Claim the Claimant makes the following statement:

"Aeromaritime is a corporation organized under the laws of the District of Columbia. Since its inception it was owned by employees and ex-employees, largely American citizens. Since 1977, however, it has been owned indirectly, through a series of intermediary corporations, by citizens of Lebanon."

The Claimant further requests "an immediate ruling, prior to consideration of any substantive issue of this claim, whether or not this Tribunal will exercise jurisdiction over its claim."

On 19 April 1982 the Agent of the Islamic Republic of Iran wrote to the Tribunal conveying the following views of the respondents:

1. Based on the Claimant's Statement on page 4 of the Statement of Claim, admitting that ownership of Aeromaritime, Inc. has, indirectly and through a series of intermediary companies, been transferred to Lebanese nationals since 1977, it is understood that the Iran-United States Claims Tribunal does not have jurisdiction over the subject Statement of Claim by a company owned by Lebanese (non U.S.) nationals, according to the following provisions:
 - (a) Paragraph 1 under Article 2 of the Claims Settlement Declaration, setting out the Tribunal's functions to examine claims by U.S. nationals against Iran.
 - (b) Paragraph 1 under Article 7 of the above Declaration, which defines "nationals".
 - (c) Paragraph (d) under Article 11 of the Algerian Declaration, preventing the United States from litigations against Iran in U.S. courts by non-U.S. nationals.

The Iran-United States Claims Tribunal was established pursuant to the Claims Settlement Declaration, in Article II, para. 1 of which the Tribunal was given jurisdiction, in part, over:

"claims of nationals of the United States against Iran and claims of nationals of Iran against the United States, and any counterclaim which arises out of the same contract, transaction or occurrence that constitutes the subject matter of that national's claim...."

The term "national" is defined in Article VII, para. 1 of the Claims Settlement Declaration to mean:

1. A "national" of Iran or of the United States, as the case may be, means (a) a natural person who is a citizen of Iran or the United States; and (b) a corporation or other legal entity which is organized under the laws of Iran or the United States or any of its states or territories, the District of Columbia or the Commonwealth of Puerto Rico if, collectively, natural persons who are citizens of such country hold, directly or indirectly, an interest in such corporation or entity equivalent to fifty per cent or more of its capital stock.

2. "Claims of nationals" of Iran or the United States, as the case may be, means claims owned continuously, from the date on which the claim arose to the date on which this agreement enters into force, by nationals of that state, including claims that are owned indirectly by such nationals through ownership of capital stock or other proprietary interests in juridical persons, provided that the ownership interests of such nationals, collectively, were sufficient at the time the claim arose to control the corporation or other entity, and provided, further, that the corporation or other entity is not itself entitled to bring a claim under the terms of this agreement. Claims referred to the Arbitral Tribunal shall, as of the date of filing of such claims with the Tribunal, be considered excluded from the jurisdiction of the courts of Iran, or of the United States, or of any other court.

II. REASONS FOR AWARD

In light of the jurisdictional provisions quoted above, the Tribunal has no jurisdiction over claims by nationals of any other country.

On the basis of the statements made by the parties and in light of the foregoing provisions, the Claimant is not a "national" of the United States within the meaning of Article VII, of the Claims Settlement Declaration because an interest equivalent to fifty percent or more of the capital stock of the Claimant corporation was not held on January 19, 1981 by natural persons who are citizens of the United States.

III. AWARD

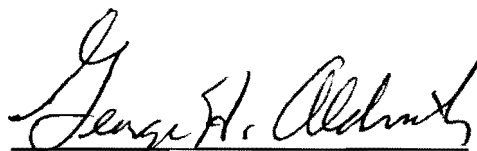
The Tribunal hereby issues its Award in this case by deciding that the claim is not within the jurisdiction of the Tribunal.

Dated, The Hague

13 May 1982



Pierre Bellet,
Chairman
Chamber Two



George H. Aldrich
Member



Shafie Shafeiei
Member