

ORIGINAL DOCUMENTS IN SA

Case No. 437

Date of filing: 24 Feb 86

** AWARD - Type of Award _____
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** DECISION - Date of Decision _____
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** CONCURRING OPINION of Mr. Ansari
 - Date 24 Feb 86
2 pages in English 2 pages in Farsi

** SEPARATE OPINION of _____
 - Date _____
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IRAN-UNITED STATES CLAIMS TRIBUNAL

دیوان دآوری دعاوی ایران - ایالات متحدہ

In The Name of God

DUPLICATE
ORIGINAL

دستخبره برابر اصل

CASE NO. 437

CHAMBER THREE

AWARD NO. 212-437-3

H.A. SPALDING, INC.,

Claimant,

and

THE MINISTRY OF ROADS AND

TRANSPORT OF THE ISLAMIC

REPUBLIC OF IRAN and

THE ISLAMIC REPUBLIC OF IRAN,

Respondents.

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه دآوری دعاوی ایران - ایالات متحدہ
ثبت شد - FILED	
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No.	437 شماره

CONCURRING OPINION OF PARVIZ ANSARI

Although I concur to the Award, I deem it necessary for me to set forth the following remarks in connection with the issue of costs of arbitration, over which there was a difference of opinion among the members of the Chamber:

In view of the international character of the Iran-United States Claims Tribunal, as expressly provided in Article II of the Claims Settlement Agreement;

In view of the fact that Article VI, paragraph 3 of the Claims Settlement Agreement, and Articles 38.2 and 41.1 of the Tribunal Rules, provide that the costs of the Tribunal shall be borne equally by the Government of the Islamic Republic of Iran and the Government of the United States of America;

In view of the fact that pursuant to Article 40 of the Tribunal Rules, the Tribunal is vested with broad discre-


tionary authority to refrain from awarding costs of arbitration;

In view of the fact that the objective and nature of arbitration are on principle different from the objective and nature of judicial affairs in the municipal courts, with the former being more flexible and lenient, and because in the judicial precedents of some nations, including the United States, provision is even made for nonissuance of awards for court costs in cases;

And in view of the fact that this Tribunal has also issued a number of awards wherein the successful party has not been awarded costs, and with respect to which reference may be had to the following awards:

7-14-3, 20-17-3, 31-157-2, 35-219-2, 46-57-2, 59-220-2, 61-188-2, 72-124-3, 74-62-3, 93-2-3, 97-54-3, 99-245-2, 114-140-2, 122-38-3, 133-340-3, 135-33-1, 136-49/50-2, 139-166-2, 140-194-2, 141-7-2, 175-180-3, 184-161-1, 192-285-2.

Therefore, I hold that it is neither equitable, nor consistent with the purpose for which this Tribunal was established-- or with the logic underlying judicial arbitration-- to impose an award for costs of arbitration upon the losing party. For these reasons, any criterion which may be established for costs of arbitration, and whatever interpretation applied thereto (such as that set forth in Award No. 180-64-1, SYLVANIA TECHNICAL SYSTEMS, INC., and THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN), is unacceptable.



Parviz Ansari