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AIMS TRIBUNAL

دیوان داری دعاوی ایران - ایالات متحدہ

(۳۹ - ۳۷۴)

ORIGINAL DOCUMENTS IN SAFE

Case No. 439

Date of filing: 16 Oct 86

\*\* 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 \_\_\_\_\_  
 \_\_\_\_\_ pages in English \_\_\_\_\_ pages in Farsi

\*\* SEPARATE OPINION of \_\_\_\_\_  
 - Date \_\_\_\_\_  
 \_\_\_\_\_ pages in English \_\_\_\_\_ pages in Farsi

\*\* DISSENTING OPINION of Correction to Dis opinion  
of Mr Brower  
 - Date 16 Oct 86  
2 pages in English \_\_\_\_\_ pages in Farsi

\*\* OTHER; Nature of document: \_\_\_\_\_  
 \_\_\_\_\_  
 - Date \_\_\_\_\_  
 \_\_\_\_\_ pages in English \_\_\_\_\_ pages in Farsi

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دیوان داوری دعوی ایران - ایالات متحدہ

IRAN-UNITED STATES CLAIMS TRIBUNAL

DUPLICATE ORIGINAL  
نسخہ برابر اصل

CASE NO. 439  
CHAMBER TWO  
AWARD NO. 256-439-2

INTERNATIONAL SYSTEMS & CONTROLS CORPORATION,

Claimant,

and

INDUSTRIAL DEVELOPMENT AND RENOVATION ORGANIZATION, IRAN WOOD AND PAPER INDUSTRIES, MAZANDARAN WOOD AND PAPER INDUSTRIES, and THE ISLAMIC REPUBLIC OF IRAN,

Respondents.

|                                    |                                  |
|------------------------------------|----------------------------------|
| IRAN UNITED STATES CLAIMS TRIBUNAL | دیوان داوری دعوی<br>ایالات متحدہ |
| ثبت شد - FILED                     |                                  |
| Date                               | 16 OCT 1986<br>۱۳۶۵ / ۷ / ۲۴     |
| No.                                | 439                              |

CORRECTION TO DISSENTING OPINION

The following correction is hereby made to the English version of my Dissenting Opinion filed in this Case on 26 September 1986:

At page 24, line 6, the first hyphen in the cited award number should be removed, so that the award number reads "ITL 37-111-FT" in place of "ITL-37-111-FT."

A copy of the corrected page is attached.

Dated, The Hague  
16 October 1986

*Charles N. Brower*  
Charles N. Brower

It would appear that despite the basic need for continuous beneficial ownership, its complete absence in regard to a specific claim may be excused where the fundamentally American character of the claim is nonetheless evident. Cf. International Schools Services, Inc. and National Iranian Copper Industries Company, Award No. ITL 37-111-FT, pp. 10-12 (6 April 1984), reprinted in 5 Iran-U.S. C.T.R. 338, 343-44 ("This interest [of natural persons in a corporation or other entity] need not amount to beneficial ownership.").<sup>29</sup>

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(Footnote Continued)

dividend and of a 31 percent equity interest in the issuing Iranian company, likewise all insured by OPIC to the extent of 64 percent. On 31 August 1981 Claimant and OPIC had settled as to these items as well. The settlement agreement also contained "an assignment to OPIC of 'a beneficial interest' . . . ." Id.

<sup>29</sup>A recent decision of this Chamber itself appears at least implicitly to confirm that even a modest degree of ownership may suffice. In Seaco, Inc. and Islamic Republic of Iran, Award No. ITL 61-260-2 (20 June 1986), the American claimant sought to assert indirectly a claim held by an Australian corporation, AustIran. It asserted as the basis of its "ownership" (1) the fact that its separate, wholly owned Australian subsidiary "acquired voting proxies for" 50 percent of AustIran on 7 November 1978; and (2) the fact that Claimant "also enjoys a beneficial interest in 27.5 percent of the common stock of AustIran, pursuant to a deed" executed in favor of Claimant's separate, wholly owned Australian subsidiary by the same 50 percent shareholders. The Tribunal found that various approvals requisite to the contemplated transfer of shares "were never obtained and [Claimant's wholly owned Australian subsidiary] was therefore not, at the relevant times, a record owner of any shares of AustIran." In other words, beneficial ownership, apparently dependent upon an executory accord, expired with the definitive failure of its execution, which likewise precluded vesting of legal title. Therefore, since Claimant's wholly owned Australian subsidiary "did not actually own a single share of AustIran stock during the time between the date the claims arose and the date of the Claims Settlement Declaration," the Tribunal concluded it had no jurisdiction over claims held by AustIran.