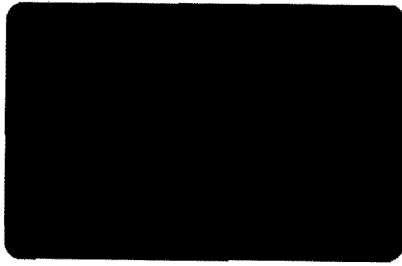


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IRAN-UNITED STATES CLAIMS TRIBUNAL

دیوان داوری دعای ایران - ایالات متحدہ



CASE NO. 62

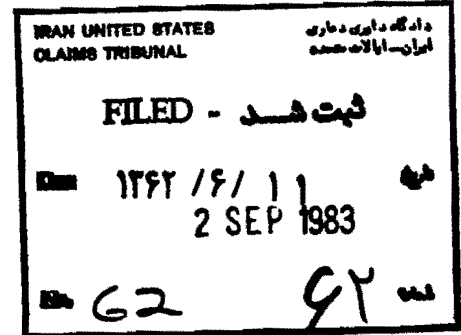
CHAMBER THREE

AWARD NO. 74 -62-3

BLOUNT BROTHERS CORPORATION,
Claimant,

and

MINISTRY OF HOUSING AND URBAN
DEVELOPMENT and GOSTARESH
MASKAN COMPANY,
Respondents.



AWARD

Appearances

For the Claimant:

Mr. A.H. Gaede, Jr.
Mr. Lant B. Davis
Attorneys

Mr. W.H. Mullins,
Blount Brothers Corporation

For the Respondents:

Mr. M.K. Eshragh
Agent of the Islamic Republic
of Iran

Mr. K. Tabasi
Legal Advisor to the Agent

Mr. J. Morlaie
Mr. Mirshafiean
Ministry of Housing

Mr. Morteza Mostafari
Gostareh Maskan Co.

Also present:

Ms. Jamison Selby
Deputy Agent of the United
States of America



I. THE PROCEEDINGS

On 17 November 1981, Blount Brothers Corporation ("Blount") filed a claim against Iran and referred to the Government of Iran, the Ministry of Housing and Urban Development of Iran ("MHUD") and Gostaresh Maskan Company (also called Housing Development Company of Iran - "Gostaresh Maskan"), which Claimant alleged was an agency, instrumentality or entity controlled by the Government of Iran.

On 6 April 1982, MHUD filed its Statement of Defence, and on 28 April 1982 it filed a counterclaim. On 8 June 1982 Claimant filed a response to the counterclaim. Having held a Pre-Hearing Conference on 1 October 1982, the Tribunal issued an order requiring Claimant to file on or before 1 November 1982 material on certain jurisdictional issues and requiring all parties to file all evidence and legal arguments they wished to submit in connection with claims and defences and a list of witnesses they would produce at the Hearing on or before 31 January 1983. By a subsequent order the latter time limit was extended until 21 February 1983.

On 1 and 5 November 1982 Claimant filed material relating to jurisdiction.

On 31 January 1983, Claimant and MHUD filed their arguments and evidence.

On 1 March 1983, Gostaresh Maskan filed a Statement of Defence and sought to raise a counterclaim. MHUD also filed additional papers.

On 11 and 14 March 1983, Gostaresh Maskan filed additional material. Claimant objected to such late filings and moved to strike them from the proceedings.

The Hearing was held on 14 and 15 March 1983. During the course of the Hearing Gostaresh Maskan submitted a second counterclaim. The matter was submitted to the Tribunal at the conclusion of the Hearing.

By an Order of 19 April 1983, the Tribunal determined that the late filings of Gostaresh Maskan would be accepted, but that its late filed counterclaims would be rejected pursuant to Article 19 (3) of the Tribunal Rules, no justification for the delay in presenting them having been shown. The Tribunal further decided that Claimant would have an opportunity to submit a reply to the accepted late filings, and it did so.

II. CONTENTIONS OF THE PARTIES

1. Claimant's Contentions

Claimant contends that it is a corporation organized and existing under the laws of the State of Delaware of the United States and that it is a wholly-owned subsidiary of Blount International Ltd., also a Delaware corporation, which is in turn a wholly-owned subsidiary of Blount, Inc., a publicly-traded Delaware Corporation. Claimant asserts

that more than 50 percent of the stock of Blount, Inc. is owned by citizens of the United States. Accordingly, Claimant contends that it is a United States national, as that term is defined in the Claims Settlement Declaration.

According to Claimant, on 1 December 1976 MHUD invited tenders for the construction, by one or more contractors, of a number of housing units in the Tehran urban area. In February of 1977, Claimant and Gostaresh Maskan submitted such a tender. On 19 March 1977, MHUD awarded to Claimant and Gostaresh Maskan the contract ("Construction Contract") to construct 2,299 housing units in 121 five-story buildings at Parandak, Iran (sometimes known as the "Parandak Project"). Later by a change order, another building was added for a total of 122 buildings. Blount and Gostaresh Maskan were to construct the units on finished pads supplied by MHUD; streets, utilities and other such elements were not included. The base contract price was 5,433,181,688 rials (which at the official exchange rate then amounted to approximately US \$77,000,000). The base contract price was to be adjusted by an index factor set forth in the Construction Contract. The formal contract was not signed until May 1978.

Claimant and Gostaresh Maskan formed a private joint stock company called Gostaresh-Blount Joint Stock Company ("Gostaresh-Blount"), but that entity was only to receive and pay monies. It also was to engage in projects not related to the Parandak project. Claimant and Gostaresh Maskan each owned one half of the capital stock of

Gostaresh-Blount, but in June 1977 Claimant sold 800 of its shares to Gostaresh Maskan, which then controlled 90 percent of the voting stock of Gostaresh-Blount. Claimant asserts that this entity is not a party to this action.

On 13 June 1977, Gostaresh Maskan and Claimant signed a Construction-Management Contract ¹ ("Management Contract") whereby Claimant agreed to serve as construction manager for the Parandak Project and Gostaresh Maskan agreed to indemnify Claimant against all claims related to the Construction Contract. Under the Management Contract, Claimant was, inter alia, to maintain a staff to coordinate the Parandak Project and to provide general management and accounting services; to inspect the work as performed; and to establish procedures for coordination among MHUD, architects, contractors and the construction manager; and to review and process applications for payment by trade contractors and suppliers. Gostaresh Maskan was to reimburse Claimant on a monthly basis for certain personnel costs. Claimant was also to receive from Gostaresh Maskan a fee of 2½ percent of all payments made by MHUD, 10 percent of the profits attributable to the Parandak Project, and certain reimbursable costs. Gostaresh Maskan controlled the bank account for the project as well as all dealings with and correspondence to MHUD.

¹The contract specified "Blount Brothers International" as a party, but according to Claimant this was simply another name for Blount or a division of Blount, and not a separate entity.

Claimant asserts that by April 1977 its employees were on the job site coordinating the start up of the Parandak Project, but that the project was delayed because of certain actions of MHUD. Claimant maintains that MHUD delayed, inter alia, in designating the land for the location of the temporary construction camp, in completing and approving the land survey and the site plan, in delivering finished pads and in specifying the location of the buildings. Claimant contends that it and Gostaresh Maskan on the one hand and MHUD on the other hand agreed upon a schedule whereby construction would begin in January 1978, and the project would be completed within 30 months.¹

Claimant asserts that in December 1978, it requested that Gostaresh Maskan notify MHUD that an event of force majeure had occurred because of the Revolution. Claimant further contends that, at that time, approximately 23 percent of the entire project had been completed (based on a ratio of invoices to the total projected cost or base contract price set forth in the Construction Contract).

Claimant contends that Gostaresh Maskan has been nationalized or, in any event, that it is controlled by the Government of Iran within the meaning of the Claims Settlement Declaration.

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It should be noted that Claimant does not, as Respondents seem to believe, base any specific claims on these alleged delays on the part of MHUD; the allegation is made mainly in defence to a counterclaim.

Claimant asserts that by virtue of the Management Contract it is entitled to (a) its management fee of 2½ percent of the base contract price, or US \$1,930,768, (b) an estimated profit allowance of US \$1,158,461, (c) an additional US \$946,293 for a management fee based on the adjustment factor set forth in the contract, and (d) reimbursable costs of US \$335,959. Claimant states that it was paid US \$398,168, and that it therefore is now entitled to US \$3,973,313, plus interest for the delay in payment and costs of the arbitration. Claimant concedes that amounts which would have been withheld for tax purposes may be subtracted from such amounts.

Claimant contends that it is entitled to these amounts based on the following alternative legal theories: it is entitled to monies in connection with its Management Contract with Gostaresh Maskan, which, Claimant asserts, is an entity controlled by the Government of Iran; it is entitled to monies by virtue of Iran's alleged expropriation of its contract rights; it is entitled to damages from Iran for its alleged interference with Claimant's contract rights. Claimant asserts that it is entitled to its fees on the basis of the entire contract price because it was precluded by the Government of Iran from fulfilling the contract while the project has continued with Gostaresh Maskan, which continued to work on the project and derive income therefrom.

Claimant argues that its claim is not based on the Construction Contract with MHUD and thus that the forum selection clause in that contract is not applicable (see below at 2). Even if that clause were applicable it would not, according to Claimant, divest the Tribunal of jurisdiction by virtue of the exclusion provision in the Claims Settlement Declaration.

In response to the counterclaims raised (see below at 2), Claimant argues that it is not responsible for any delays in the project because the delays were the fault of and acquiesced in by MHUD; and that the Tribunal has no jurisdiction over such a claim. Claimant further asserts that the Tribunal has no jurisdiction over the claims for taxes or social insurance premiums, but that, even if it did have jurisdiction, there are no taxes or social insurance premiums owing.

2. Respondents' Contentions

Respondents challenge jurisdiction on the ground that Claimant has not proven that it is a United States national.

MHUD contends that there is some confusion over the identity of the actual respondent and that there is no jurisdiction over a claim against Gostaresh Maskan since it is not an entity controlled by the Government of Iran.

MHUD also asserts that the dispute comes under the Construction Contract and that paragraph 14.2 of that contract includes a clause providing that disputes shall be referred to competent courts of Iran so that, under the Claims Settlement Declaration, the Tribunal has no jurisdiction over the claim.

MHUD asserts that its Construction Contract was with Claimant and Gostaresh Maskan and that Claimant was jointly and severally responsible for the performance of that contract. Respondents argue that the Management Contract, whereby Blount limited its own obligations under the Construction Contract, was signed without due authorization, and that, consequently, the Management Contract is invalid.

The Respondents contend that Gostaresh Maskan did not receive any payments under the Construction Contract and that therefore the claim for a 2½ percent fee based on such payments is unfounded. The Respondents further contend that the project was unprofitable for the contractor and that, consequently, the claim for 10 per cent of the profits is meritless. In defence, the Respondents also contend that the project was delayed as a result of the actions and omissions of Blount so that Blount would not in any event be entitled to any fee. Moreover, Respondents argue that if the Management Contract was terminated, either by force majeure or otherwise, Blount is not entitled to any fee.

The Respondents raise two counterclaims. First, on the basis of the alleged project delay caused by Blount, the Respondents seek damages based on a penalty provision contained in the Construction Contract, amounting to 524,175,840 rials plus interest. Second, the Respondents seek taxes in the amount of 8,091,975 rials and social insurance premiums in the amount of 101,708,060 rials, plus interest.

III. REASONS FOR AWARD

1. Jurisdiction over the claim

Claimant has submitted certificates showing that it, its parent corporation and its parent's parent (Blount, Inc.) are United States corporations. It has also submitted material from proxy statements and a sworn affidavit showing that over 50 percent of the shareholders of Blount, Inc. are and have been at the relevant times United States citizens. There is no evidence contradicting these facts. Accordingly, the Tribunal is satisfied that Claimant is a United States national as that term is defined in the Claims Settlement Declaration.

With regard to the Respondents' contention that there is some confusion as to who is the actual respondent, the Tribunal notes that both MHUD and Gostaresh Maskan submitted defences on the merits of the case and that the Claimant has in its filings specified the legal theories upon which the various claims are based. The Tribunal cannot find that any prejudice has been caused to any party due to any deficiencies in this respect.

With regard to the issue of whether Gostaresh Maskan is an entity controlled by the Government of Iran, the evidence shows that the majority owner of the stock of Gostaresh Maskan had been Mr. Ali Ebrahimi. In a sworn affidavit, he asserts that his stock in the company was seized pursuant to "The Legal Act of Holding and Management of Stocks in Contracting and Consultant Engineering Firms and Institutes", enacted on 9 March 1979. The same affidavit further states that, on 19 January 1980, the Government of Iran installed Mr. Parvez Shams Towfighi as a director of the company and that he was succeeded by another Government appointed director. Respondents do not deny that such appointments took place; according to Respondents a Government appointed director was necessary to prevent unemployment and to continue the Parandak Project.

Gostaresh Maskan submitted statements from 24 personnel members of Gostaresh Maskan and its subsidiaries who state that the company "is a joint-stock private company, carrying on its activities as before, according to its statutes and its relevant rules and regulations" and then conclude that the company "is a non-governmental one in any sense". This conclusory statement does not, however, overcome the evidence provided of government control. Respondents submitted no other evidence on the subject. Based on the evidence before it, the Tribunal concludes that Gostaresh Maskan is an entity controlled by the Government of Iran so that the Tribunal has jurisdiction over claims against that entity.

The Construction Contract provides for settlement of disputes through arbitration by a Committee. Article 14.2 states that

[i]f the dispute is not settled by the Committee or, if a party refuses to accept the decision of the Committee, the dispute shall be referred to the competent courts of Iran.

Claimant's claim does not arise out of the Construction Contract, but out of its Management Contract with Gostaresh Maskan and alleged non-contractual acts of the Government of Iran. Therefore, the above-quoted article is not applicable and the Tribunal need not reach the question whether it specifically refers to dispute settlement through Iranian courts so as to divest the Tribunal from jurisdiction by virtue of Article II, paragraph 1, of the Claims Settlement Declaration.

The Tribunal concludes that it has jurisdiction over the Claimant's claim.

2. The merits of the claim

Under the Management Contract, Claimant was to perform construction management services and to provide certain expert personnel for the Parandak project. In return for such consideration, Gostaresh Maskan was to pay Claimant a fee of 2½ percent of payments made by or on behalf of MHUD under the Construction Contract, 10 percent of the profits of performing the Construction Contract and reimbursement for certain specified expenses. Claimant computes its damages on the basis of the full price of the Construction Contract.

Respondents assert that under Iranian law Claimant's failure to disqualify itself from involvement in Gostaresh-Blount in connection with the Management Contract invalidated that agreement. But such an argument is based on an incorrect premise that the agreement was between Gostaresh-Blount and Claimant; in fact, the agreement was between Gostaresh Maskan and Claimant. Accordingly, the Management Contract is not invalid on this ground. Moreover, payments were made by Gostaresh Maskan, thus showing that the parties treated the Management Contract as being in effect.

Claimant alleges that in December 1978, it requested Gostaresh Maskan to notify MHUD of a condition of force majeure. There is no indication that the formal requirements of the Construction Contract regarding force majeure were actually followed. Nor is there sufficient evidence that Claimant itself made any effort to protect its rights to future compensation under either the Management or the Construction contract. It appears that even though there was no formal termination, all of the parties considered Claimant's role to have terminated as of December 1978, before the Parandak Project was completed. In view of this, the Tribunal finds that Claimant cannot recover damages based on the full contract price. Although Claimant's responsibilities had been discharged, it is still entitled to compensation for performance already rendered under the Management Contract.

It is not possible to draw any precise conclusions from the evidence as to the amounts actually paid by MHUD under the Construction Contract by the time Claimant ceased its engagement in the Parandak Project in December 1978. Article 9.4 of the Construction Contract provides, inter alia, that the Employer shall pay 10 per cent of the total contract price upon the signing of the contract and make further advance payments (in all 15 per cent) at later stages; that the first advance payment shall be amortized by crediting 12 per cent of the total gross amount of each monthly Interim Payment Certificate until fully recouped by Employer; that also other deductions shall be made from the monthly Interim Payment Certificates such as withholdings to cover Iranian taxes and other official charges, and a 10 per cent performance guarantee. There is evidence to show that the first advance payment, 543,318,168 rials, or 10 per cent of the total contract price, was made to Blount-Gostares's account during the relevant period. But there is no indication of how much of that advance was amortized, how much should be regarded as final payments for services rendered and materials supplied up to December 1978, and what net payments were made or due on the basis of monthly certificates for that period. Thus it is not possible to calculate the 2½ percent fee in strict accordance with the Management Contract, i.e., on the basis of payments actually made. Under these circumstances, it is in the Tribunal's view justifiable to make the fee calculations on the basis of the degree to which the Project was completed by December 1978.

In this connection it should be noted that, although certain documents submitted by Respondents show that MHUD at times complained about delays and deficiencies in the construction work and even threatened to terminate the Construction Contract, there is not sufficient evidence that Claimant failed to perform in an adequate and timely manner the services required of it under the Management Contract, as contended by Respondents. This supports the conclusion that compensation for the services can be based on a percentage of the completion of the project. It should also be noted that if such method of calculating the compensation is applied, Claimant will automatically bear the economic consequences of any possible delay in the progress of the project attributable to Claimant's acts or omissions. That Blount did not have eight people working full time on the project is not a violation of the contract language referring to the supply of "eight people ... or as required". The Management Contract specifies that the people provided by Claimant "will be mobilized as the project requirements dictate". The evidence supports Claimant's position that it supplied people "as required," and there was no evidence of complaints at that time about the number of people supplied.

There are two ways of calculating the percentage of the completion of the project. One way is to measure the extent of progress in the actual erection of the housing units. The Respondents contend that only 13.5 per cent of the building erection was physically completed by the end of 1978. Another way is to consider the ratio between the total gross

amount actually billed under the contract and the total contract price. Claimant asserts that if this latter method of calculation is used, approximately 23 per cent of the contract was completed by the end of 1978.

The Tribunal holds that the second method of calculation is the more appropriate one for the purposes of determining compensation, as it more correctly reflects the total value of the services rendered. The cost of executing various parts of the physical works naturally varies with the nature of these works.

The preponderance of the evidence suggests that the figure of 23 percent is sufficiently accurate as an approximate percentage of the completion of the project at the time Claimant's services ceased. Accordingly, for purposes of determining Claimant's compensation, the Tribunal shall utilize that figure.

The contract price was 5,433,181,688 rials. Twenty-three percent of that amount is 1,249,631,788 rials. Claimant is entitled to 2.5% of the latter amount, or 31,240,795 rials. Under the Construction Contract, part of the payments were to be in US dollars. In the Management Contract there is a reference to amounts payable for costs in dollars. There is not sufficient indication that the payments were generally retained by Claimant in rials. The amounts were due in early 1979. Under these circumstances the Tribunal should use the exchange rate at the time the

money was owing. Thus, the amount due Claimant is US \$444,076.

In addition to the fee now discussed, Claimant was to receive one tenth of the profits derived by Gostaresh Maskan and Claimant from the Construction Contract. Claimant estimates the profit to be 15 percent of the base contract price and supported the reasonableness of this estimate with the testimony of one former and one current employee. The Respondents on the other hand have presented some material in support of their contention that Gostaresh Maskan in fact gained no profit from the project.

Respondents have relied, in support of their contention, inter alia, on the balance sheet of Gostaresh-Blount ¹ per 20 March 1978 where no profit is shown. That the cash-flows experienced early in the course of a project do not allow an immediate realization of a profit is not an indication that the project itself is unprofitable. Start-up and other one-time costs are frequently over-represented in the early stages of a project and expected profits are actually realized at later stages; however, both early costs and later profits are apportioned over the life of the project. Moreover, the Tribunal notes that the company must

¹ As previously stated the collection of monies due to the Contractor under the Construction Contract and the accounting was the tasks of Gostaresh-Blount.

be deemed to be under Government control at least since January 1980 (see above sub III.1).

The Tribunal finds it reasonable to assume that after the Construction Contract took effect in March 1977 the Contractor has gained, or could have gained, some profit from the Parandak project, and that some of this profit is attributable to the time before Blount's departure.

Exercising its discretion in determining the amount due to Claimant as its share of the profit under the Management Contract, the Tribunal awards a lump sum of US \$175,000, based on a rate of profit of approximately 10 per cent of the total contract price.

Claimant contends that the fee should be increased because the gross contract amount included in the Construction Contract was to be adjusted by virtue of increases or decreases in the cost of materials and labour pursuant to a specified formula which was to include indices compiled by the Iranian Plan and Budget Organization. These indices were never compiled. Thus, Claimant utilized what it states is a single quarterly index. Claimant's calculations of future escalations are based on estimates derived from a bar chart schedule. Claimant provided evidence on how the formula should be applied if the full contract price was used, but not sufficient evidence on the basis of a percentage of the full contract price. It should be noted that

certain items were not to be covered by the price adjustment. Also there is not sufficient evidence that the procedures applicable to invoking the adjustment were effected. Thus under the circumstances the Tribunal does not award Claimant any amount based on estimated cost adjustments.

Under the Management Contract, Claimant was entitled to certain reimbursable expenses. These were to include all costs related to the personnel, "as well as required facilities to perform their various functions". Invoices were submitted to the Gostaresh-Blount joint venture, which handled payments. These invoices included the reimbursable expenses. The amount presently unpaid for invoiced reimbursable expenses is US \$335,959. There is no evidence that Gostaresh-Maskan objected to any of these invoices. Indeed, part payment was made. Claimant made available all of the invoices and supporting data, and Gostaresh did not specifically challenge any of the amounts. Accordingly, the Tribunal finds that Gostaresh Maskan is obligated to Claimant for the goods and services provided which were to be reimbursed in the amount of US \$335,959.

Thus, Claimant was entitled to a total amount of US \$955,035 or - after a 5.5% tax deduction in accordance with Claimant's admission - US \$902,508. Since it has already been paid US \$376,688, it is now entitled to US \$525,820.

Gostaresh Maskan at the Hearing produced two 12,500,000 rial cheques which it claims were paid to Blount. The evidence shows that one of the cheques was returned for insufficiency of funds and the second one was never deposited. Therefore, neither cheque constitutes a payment.

Claimant is entitled to compensation in regard to the non-payment of the sums owing. The Tribunal finds that Claimant should be awarded interest at the fair rate of 10 per cent per year from 1 January 1979 to the date on which the Escrow Agent instructs the Depositary Bank to pay the Award.

The Tribunal finds no ground for holding Respondent MHUD liable under the claim. The claim against MHUD should therefore be dismissed.

3. The counterclaims

With respect to the counterclaims for delay, MHUD would, under the Construction Contract, only be entitled to liquidated damages for delays after the completion date. The original completion date was extended by the actions of the parties and would have occurred after Blount's departure from Iran. Since in this Award the Tribunal has not taken into account benefits which would accrue to Blount after its departure, Blount cannot be held responsible for matters that arise thereafter. It should also be noted that as of November 1978, MHUD's consulting engineer indicated that "the Contractor's undertakings have been discharged in the main".

MHUD's counterclaim for delay is based on a penalty clause in the Construction Contract. None of the parties has in its arguments addressed the question whether this counterclaim can be said to arise out of the same "contract, transaction or occurrence" as does the Claimant's claim, so as to give the Tribunal jurisdiction over this counterclaim by virtue of Article II, paragraph 1 of the Claims Settlement Declaration. In view of the above holding with regard to this counterclaim, the Tribunal does not have to reach this jurisdictional issue.

With respect to any claims for taxes and social insurance premiums, even if the Tribunal has jurisdiction over them, a matter the Tribunal does not decide, there is not sufficient evidence before the Tribunal to indicate that such taxes are owing. Claimant relied on the services of the Iran offices of an internationally recognized accounting firm to handle its taxes. It also utilized an accountant who kept records which it supplied to the accounting firm. Blount submitted evidence of its tax returns and its records relating social insurance premiums. Respondents did not submit sufficient evidence of non-payment of taxes or social insurance premiums by Blount or its agents.

Accordingly, even if the Tribunal could exercise jurisdiction over the counterclaims for taxes and social insurance premiums, Respondents would not be entitled to any recovery therefore.

4. Costs of arbitration

The Tribunal determines that each party shall bear its costs of arbitration.

IV. AWARD

THE TRIBUNAL HEREBY AWARDS AS FOLLOWS:

The Claim insofar as it is directed against the Respondent MINISTRY OF HOUSING AND URBAN DEVELOPMENT is dismissed.

The Counterclaims of Respondents are dismissed.


Respondent GOSTARESH MASKAN COMPANY is obligated to pay and shall pay to Claimant BLOUNT BROTHERS CORPORATION the sum of Five Hundred and Twenty Five Thousand Eight Hundred and Twenty United States Dollars (US \$525,820) plus interest at the annual rate of ten (10) per cent calculated from 1 January 1979 to the date on which the Escrow Agent instructs the Depositary Bank to effect payment of the Award.

Such payment shall be made out of the Security Account established pursuant to Paragraph 7 of the Declaration of the Government of the Democratic and Popular Republic of Algeria dated 19 January 1981.

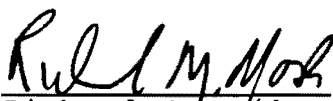
Each party shall bear its costs of arbitration.

This Award is hereby submitted to the President of the
Tribunal for notification to the Escrow Agent.

Dated, The Hague
2 September 1983


Nils Mangard
Chairman
Chamber Three

In the name of God,


Richard M. Mosk
Concurring

M. Jahangir Sani

EXPLANATION FOR FAILURE OF
JUDGE SANI TO SIGN AWARDS

The deliberations in this case were held, with members Mangård, Jahangir Sani and Mosk present, after the Hearing which was held on 14 and 15 March 1983 and before the Tribunal's summer recess, which began on 11 June 1983. During the Chamber's final meeting prior to the recess, it was determined that the Chamber would reconvene in early August 1983. In conformity with this determination, the Chairman issued a memorandum on 13 June 1983, requesting the arbitrators to reserve 8, 10 and 12 August 1983 for deliberations. Presidential Order No. 10, dated 15 June 1983, provided that, in cases involving requests for interim relief or other urgent matters, Chamber Two was authorized to act in lieu of Chamber Three until 31 July 1983. Furthermore, the Tribunal's official schedule of proceedings, dated 6 June 1983, indicated that a meeting of the Full Tribunal was scheduled for 15-17 August 1983, that Hearings before Chamber Three were scheduled for 18, 19, 25 and 30 August, and that a Pre-Hearing Conference before Chamber Three was scheduled on 1 September 1983.

On 6 August 1983, the Chairman of Chamber Three issued a schedule of meetings under which the finalization of awards was to take place in Case Nos. 84, 124, 185 and 346 on 11 and 12 August 1983, and further deliberations were to be held in Case Nos. 35, 62, 67 and 127 on 13 August 1983.

By a letter dated 10 August 1983, the Agent of the Islamic Republic of Iran stated to the Tribunal,

that Judge Mostafa Jahangir Sani the Iranian Arbitrator of Chamber Three of the Tribunal has submitted his resignation to the Government of the Islamic Republic of Iran. His resignation has been accepted by the Government and will be effective as of 10 August 1983. His successor will be introduced to the Tribunal in due course.

No reasons were cited for the purported resignation.

The President of the Tribunal ordered that certain Hearings before the Full Tribunal, which were scheduled to take place during its 15-17 August 1983 meetings, be postponed. In addition, the Chairman of Chamber Three cancelled the meetings set for the finalization of awards and further deliberations during the week of 8 August 1983.

Judge Jahangir Sani did not appear at the Full Tribunal meeting held on 15 August 1983. At the 17 August 1983 Full Tribunal meeting, the President stated that the Tribunal had as yet received no valid reasons for Judge Jahangir Sani's absence and had not authorized that absence. The President also declared that it would be for Chamber Three and the Full Tribunal to determine the legal consequences of that


Judge Jahangir Sani was not present for the signing of the Award in this case at the 2 September Chamber meeting.

Under the above circumstances, the Tribunal has determined that it may proceed with the signing of the Award in the absence of Judge Jahangir Sani pursuant to Article 32, paragraph 4, of the Tribunal Rules.

Dated, The Hague
2 September 1983



Nils Mangård
Chairman
Chamber Three



Richard M. Mosk