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CLAIMS TRIBUNAL

دیوان داوری دعاوی ایران - ایالات متحدہ

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ORIGINAL DOCUMENTS IN SAFE

Case No. 957

Date of filing: 22.4.87

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** CONCURRING OPINION of _____
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** SEPARATE OPINION of _____
- Date _____
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** DISSENTING OPINION of _____
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IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داوری دعاوی ایران - ایالات متحدہ	
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CASE NO. 957

CHAMBER ONE

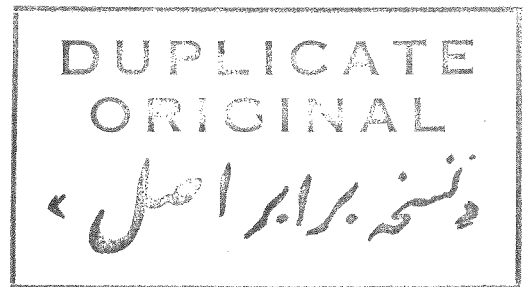
AWARD NO. 299-957-1

THE NAVY OF THE GOVERNMENT
OF THE ISLAMIC REPUBLIC OF IRAN,

Claimant,

and

GENERAL DYNAMICS CORPORATION
(POMONA DIVISION), THE GOVERNMENT
OF THE UNITED STATES OF AMERICA,
Respondents.



AWARD

I. THE PROCEEDINGS

1. On 19 January 1982, the Claimant, THE NAVY OF THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN ("the Iranian Navy") filed a Statement of Claim against the Respondents, GENERAL DYNAMICS CORPORATION (POMONA DIVISION) ("General Dynamics") and THE GOVERNMENT OF THE UNITED STATES OF AMERICA ("the United States").

2. The claim arises out of a contract ("the Contract") entered into on 4 February 1976 between the Iranian Navy and General Dynamics for the provision of maintenance services for the protection and upkeep of certain of the Iranian Navy's guided rocket launching systems. The Iranian Navy alleges that it shipped a number of items to General Dynamics for repair in 1978 pursuant to the Contract but that these items were not returned at the end of the agreed repair period. The Iranian Navy requests the return of the said items, which it values at US\$45,000, from General Dynamics, together with damages for non-delivery amounting to \$50,000. It further seeks to recover the same amount in damages against the United States, together with damages allegedly occasioned by the refusal of the United States to issue a permit enabling the said items to be shipped to Iran. The Iranian Navy also requests its costs of arbitration.

3. On 28 March 1983, General Dynamics filed a Statement of Defence on the merits together with a request that the claim against it be dismissed for lack of jurisdiction as it was a claim by an Iranian governmental entity against a United States national and, as such, had been held inadmissible by the Full Tribunal in Case No. A2.

4. On 30 March 1983, the United States filed a Statement of Defence together with a request that the claim be dismissed for lack of jurisdiction against both

Respondents. The United States argues that pursuant to the Decision of the Full Tribunal in Case No. A2, the Tribunal has no jurisdiction over claims brought by Iranian governmental entities against United States nationals such as General Dynamics. Further, the United States argues that there was no contractual relationship between it and the Iranian Navy for the purchase and sale of goods and services so as to give rise to an "official" claim within the meaning of Article II, paragraph 2, of the Claims Settlement Declaration. Nor, it submits, is the present claim an "interpretative dispute" within the meaning of Article II, paragraph 3, of the Claims Settlement Declaration. The United States further argues that Case No. 957 should be terminated because it is duplicative of part of the claim in Case No. B61, an "official" claim filed by the Ministry of National Defence of the Islamic Republic of Iran against the United States of America.

5. The Iranian Navy filed a Reply on 10 May 1984, in which it argued, inter alia, that the presence of both named Respondents brought the claim within the Tribunal's jurisdiction as their involvement in the Contract was closely interrelated.

6. General Dynamics filed a submission on 18 June 1984 in which it renewed its request for dismissal of the claim against it. Comments on this submission were filed by the Iranian Navy on 1 August 1986. General Dynamics again renewed its request for dismissal in a further submission filed on 27 October 1986.

II. REASONS FOR AWARD

7. The question before the Tribunal is whether it has jurisdiction in the present Case over, first, General Dynamics and, second, the United States as Respondents.

8. As to General Dynamics, it is not disputed that this Respondent is a non-governmental corporate entity of United States nationality. In one of its earliest interpretative rulings on the meaning of the Claims Settlement Declaration, the Tribunal held that the General Declaration and Claims Settlement Declaration did not confer jurisdiction over claims by Iran against United States nationals. Case No. A2, Decision No. DEC 1-A2-FT (26 January 1982), reprinted in 1 Iran-U.S. C.T.R. 101. See also Ministry of National Defence of the Islamic Republic of Iran and Government of the United States of America, Award No. 247-B59/B69-1 (15 August 1986). There is thus no basis on which the Tribunal can entertain the claim which the Iranian Navy seeks to bring against a United States national, General Dynamics, in the present Case.

9. As to the United States itself, the Iranian Navy could have brought an "official claim" against the United States provided that it could have established the existence of "contractual arrangements . . . for the purchase and sale of goods and services" as required by Article II, paragraph 2, of the Claims Settlement Declaration. A claim against the United States identical to the present Case has been filed by the Ministry of National Defence of the Islamic Republic of Iran as claim no. C-7 in Case No. B61, an "official" claim currently pending before Chamber One of the Tribunal. Since the claim against the United States in the present Case is clearly duplicative of another pending claim, the Tribunal dismisses it without prejudice to the question of whether, as part of Case No. B61, it is within the Tribunal's jurisdiction as an "official claim".

III. AWARD

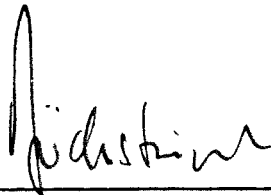
For the foregoing reasons,

THE TRIBUNAL AWARDS AS FOLLOWS:

- a) The claim of THE NAVY OF THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN against GENERAL DYNAMICS CORPORATION (POMONA DIVISION) is dismissed for lack of jurisdiction.
- b) The claim of THE NAVY OF THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN against THE GOVERNMENT OF THE UNITED STATES OF AMERICA is dismissed without prejudice to the Tribunal's determination of claim no. C-7 in Case No. B61.
- c) Each Party shall bear its own costs of the arbitration.

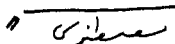
Dated, The Hague

22 April 1987



Karl-Heinz Böckstiegel
Chairman
Chamber One

In the name of God



Mohsen Mostafavi
Concurring



Howard M. Holtzmann