

ORIGINAL DOCUMENTS IN SAFE

Case No. 11875

Date of filing: 13 March 84

** 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 Mr M. HOLTSMAN in part
 - Date _____
 _____ pages in English 5 pages in Farsi

** SEPARATE OPINION of _____
 - Date _____
 _____ pages in English _____ pages in Farsi

** DISSENTING OPINION of Mr M. HOLTSMAN in part
 - Date _____
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** OTHER; Nature of document: _____

 - Date _____
 _____ pages in English _____ pages in Farsi



CASE NO. 11875

CHAMBER ONE

AWARD NO. 102-11875-1

THE GOVERNMENT OF THE UNITED STATES OF AMERICA, on behalf and for the benefit of SHIPSIDE PACKING COMPANY, INC.,

Claimant,

and

THE ISLAMIC REPUBLIC OF IRAN,

Respondent.

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داری دعوی ایران - ایالات متحده
ثبت شد - FILED	
Date	۱۳۶۲ / ۱۲ / ۲۳ 13 MAR 1984
No	11875

OPINION OF HOWARD M. HOLTZMANN CONCURRING IN PART
AND DISSENTING IN PART FROM AWARD ON AGREED TERMS

NOTIFICATION OF CORRECTION

Attached are the corrected pages 4 and 5 of the English version of the Opinion of Mr. Howard M. Holtzmann concurring in part and dissenting in part, filed on 9 February 1984.

The Co-Registrars

on Agreed terms, must be given great weight. Accordingly, I concur in including in the Award storage charges accrued after 19 January 1981, and in directing payment of such charges from the Security Account. I note, by way of analogy, that payment from the Security Account of continuing storage charges after 19 January 1981 is akin to paying continuing interest accrued after that date -- something which the Tribunal has awarded in a number of cases.

I also note that the parties have carefully and correctly provided that various charges for packing and transportation needed to carry out the Settlement Agreement are to be paid for from fresh funds and not from the Security Account.

II. Dissenting Views On Secrecy

I must dissent from the action of the majority of the Chamber in granting a request of the parties³ that the Award on Agreed Terms be kept secret. As I have pointed out in other cases,⁴ the Tribunal Rules permit confidential treatment only for military and trade secrets. Article 32, paragraph 5.

³ The Deputy Agent of the United States, who also signed the Joint Request, did not join in the request that the Settlement Agreement be granted secret treatment.

⁴ See e.g., Opinion of Howard M. Holtzmann re Three Awards on Agreed Terms; Concurring as to Case No. 19 and 387; Dissenting as to Case No. 15 (Part I) (filed 20 June 1983); Pan American World Airways, Inc. and The Government of the Islamic Republic of Iran, Case No. 488, (Dissenting Opinion of Howard M. Holtzmann to Award on Agreed Terms) (filed 9 February 1983).

In this case, the Tribunal has mistakenly granted secrecy to a Settlement Agreement which contains nothing even remotely resembling a trade or military secret -- and the parties have not pointed to any confidential material or otherwise offered any reason for secrecy.

Sound considerations of policy point to the desirability of making public this entire Award on Agreed Terms, including the Settlement Agreement which is included by reference as part of it. The example of the mechanisms agreed to by the parties might be helpful in structuring settlements in other cases. Here secrecy hides a good example, as it hides a bad one in the Pan American Award on Agreed Terms.⁵ I therefore dissent from the portion of the Award which provides that the Settlement Agreement be kept secret.

Dated, The Hague

9 February 1984



Howard M. Holtzmann

⁵ Pan American World Airways, Inc. and The Government of the Islamic Republic of Iran, Case No. 488 (Dissenting Opinion of Howard M. Holtzmann to Award on Agreed Terms) (filed 9 February 1983).