

129-449

S CLAIMS TRIBUNAL

دیوان دآوری دعاوی ایران - ایالات متحدہ

129-449

ORIGINAL DOCUMENTS IN SAFECase No. 129Date of filing: 22-Sep87

** AWARD - Type of Award _____
 - Date of Award _____
 _____ pages in English _____ pages in Farsi

** DECISION - Date of Decision 18-Sep87
6 pages in English _____ pages in Farsi

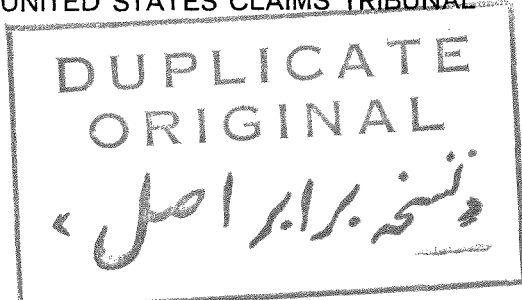
** CONCURRING OPINION of _____
 - Date _____
 _____ pages in English _____ pages in Farsi

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

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

** OTHER; Nature of document: _____

 - Date _____
 _____ pages in English _____ pages in Farsi



SEDCO, INC.,

Claimant,

and

NATIONAL IRANIAN OIL COMPANY and
THE ISLAMIC REPUBLIC OF IRAN,

Respondents.

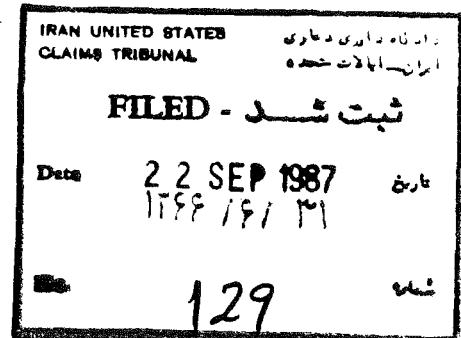
DECISION

449
دیوان دآوری دعاوی ایران - ایالات متحدہ

CASE NO. 129

CHAMBER THREE

DECISION NO. DEC64-129-3



1. On 10 August 1987 the Agent of the Government of the Islamic Republic of Iran informed the Tribunal that the Respondents in this Case "have announced that, on the strength of Articles 35, 36 and 37 of the Tribunal Rules, they object to Award No. 309-129-3 of 7 July 1987." The Agent attached the Farsi version of the Respondents' objections and stated that the English version would be filed as soon as it was prepared.

2. On 11 August 1987 the Islamic Republic of Iran submitted the English version of its objections to the Award in this Case, as filed in Farsi on 10 August. On 13 August 1987 the National Iranian Oil Company ("NIOC") submitted the English version of its objections to the Award. Those documents are hereinafter referred to as "the Requests."

3. Articles 35, 36 and 37 of the Tribunal Rules require that requests for interpretation, correction of errors, or additional award as authorized in those Articles be made within 30 days of receipt of the award by the party making

the request. In addition, the Tribunal Rules provide that a party is deemed to have received an award on the date the award is served upon the Agent of the Government of that party. Article 2, para. 3.

4. The English version of Award No. 309-129-3 in this Case was filed on 7 July 1987 and was served on the Agent of the Government of the Islamic Republic of Iran on 9 July 1987. The Farsi version of the Award was filed on 9 July 1987 and was served on the Agent on 10 July 1987. In accordance with this Tribunal's decisions, the date of "receipt of the Award" which must be determined in deciding the timeliness of requests such as the present ones is "the date that the Award in that party's language is served upon the Agent of the relevant State-Party." Hood Corporation and Islamic Republic of Iran, Decision No. DEC 34-100-3, at 1-2 (1 March 1985); Tribunal Rules, Article 2, note 3. Accordingly, to be timely, any request by the Respondents in this Case pursuant to Articles 35, 36 and 37 of the Tribunal Rules must have been filed within 30 days of 10 July 1987. Because the thirtieth day from 10 July 1987, i.e., 9 August 1987, fell on a Sunday, the last day such a request could be filed in this Case was the next business day, 10 August 1987. See Article 2, note 1, of the Tribunal Rules.

5. As noted above, only the Farsi versions of the Requests were submitted by 10 August 1987. The Tribunal has previously ruled, however, that

for the purpose of meeting the 30-day limitation [in requests such as the present], the date a "request" is made is the date that the requesting submission, even if in only one language, is received. Such request may not be filed or acted upon, however, until the other language version is received and such other version must be received within a reasonable period.

Hood Corporation, supra, p. 2. (Emphasis added.) In the present Case the Farsi versions of the Requests were

received within the deadline, and the English versions of the Requests were received within three days thereafter. Accordingly the Tribunal decides that the Requests in this Case were made in a timely manner.

6. Nevertheless the Tribunal is unable to grant the relief sought in the Requests. The Requests allege several procedural and legal errors which the Respondents assert were committed by the Tribunal in the Award, and urge the Tribunal to reconsider its decisions. The Tribunal is without power to entertain the Requests, however, which amount in effect to a request for appeal or review of the Award by the Tribunal. The Tribunal has held in numerous cases that "there is no basis in the Tribunal's Rules of Procedure or elsewhere for review of an award on such grounds." Paul Donin de Rosier and Islamic Republic of Iran, Decision No. DEC 57-498-1, para. 4 (10 Feb. 1987); American Bell International, Inc. and Islamic Republic of Iran, Decision No. DEC 58-48-3, para. 5 (19 March 1987); Ford Aerospace & Communications Corporation and Islamic Republic of Iran, Decision No. DEC 59-93-1, para. 4 (23 April 1987).¹

7. Nothing in the Requests falls within the ambit of Articles 35, 36 or 37 of the Tribunal Rules, which are invoked by the Respondents as the basis of the Requests. Article 35 permits a party to request from the Tribunal an explanation of ambiguous language contained in an award. See Ford Aerospace & Communications Corp. and Air Force of

¹One of NIOC's allegations of procedural error contains a factual error which warrants comment, however. NIOC states that Judge Mangård was "not competent" to participate in the issuance of the Award under Article 13, paragraph 5 of the Tribunal Rules, since before his resignation from the Tribunal he had not participated in a Hearing on the merits in this Case but only in a Pre-Hearing Conference. In fact the final Hearing in this Case was held on 21-23 June 1985, before Judge Mangård's resignation took effect on 1 July 1985.

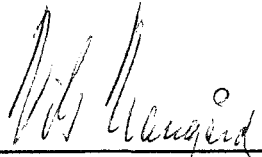
the Islamic Republic of Iran, Decision No. DEC 47-159-3, para. 2 (2 October 1986); Paul Donin de Rosier, *supra*, para. 6. The Tribunal is not able to identify any ambiguous language in the Award, and the Respondents have pointed to none. Accordingly there is nothing to interpret.

8. Article 36 of the Tribunal Rules allows a party to request the Tribunal to "correct in the award any errors in computation, and any clerical or typographical errors, or any errors of similar nature." The Respondents' Requests identify no such errors in the Award, however.

9. Article 37 of the Tribunal Rules permits a party to "request the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the Award." The Tribunal fully considered all claims and counterclaims presented in the Case and dealt with them in detail in the Award. The Respondents have identified no claims omitted from the Award as issued as to which an additional award may be needed.

10. Accordingly the Requests are dismissed.

Dated, The Hague
18 September 1987



Nils Mangård
Chairman
Chamber Three

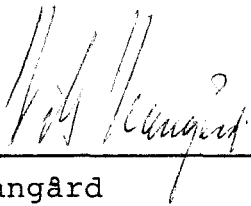
In the name of God



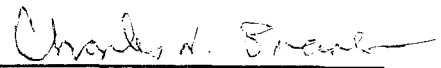
Charles N. Brower

Parviz Ansari Moin

Judge Ansari was fully consulted concerning this Decision, and was invited to sign it. Nevertheless, on the day appointed for signature, he declined to sign the Decision.

A handwritten signature in cursive script, appearing to read "Nils Mangård", written over a horizontal line.

Nils Mangård

A handwritten signature in cursive script, appearing to read "Charles N. Brower", written over a horizontal line.

Charles N. Brower