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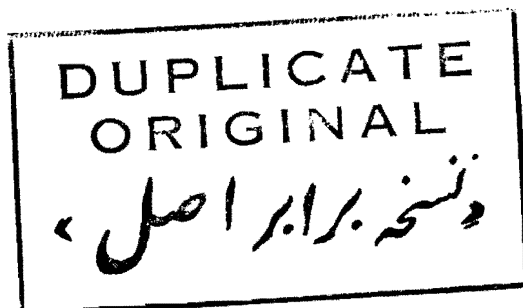
\*\* CONCURRING OPINION of \_\_\_\_\_  
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\*\* SEPARATE OPINION of \_\_\_\_\_  
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\*\* DISSENTING OPINION of \_\_\_\_\_  
- Date \_\_\_\_\_  
\_\_\_\_\_ pages in English \_\_\_\_\_ pages in Farsi

\*\* OTHER; Nature of document: correction to the Final Award  
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- Date 7 Sep 1994  
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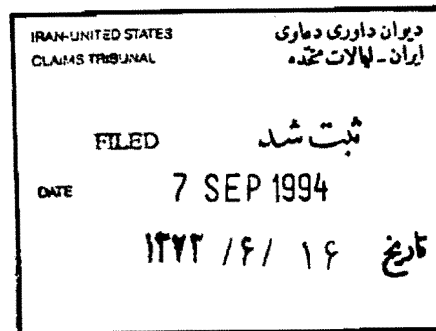
Chamber Two

Award No. 558-178-2

FAITH LITA KHOSROWSHAHI,  
SUSANNE P. KHOSROWSHAHI,  
MARCENE P. KHOSROWSHAHI,  
KEVIN KAYVAN KHOSROWSHAHI, and  
CAMERON KAMRAN KHOSROWSHAHI,  
Claimants,

and

THE GOVERNMENT OF THE  
ISLAMIC REPUBLIC OF IRAN  
THE MINISTRY OF INDUSTRIES AND MINES,  
THE ALBORZ INVESTMENT CORPORATION,  
THE KBC COMPANY, and  
THE DEVELOPMENT AND INVESTMENT BANK OF IRAN,  
Respondents.



**CORRECTION TO THE FINAL AWARD**

In accordance with Article 36, paragraph 1, of the Tribunal Rules, the following corrections are hereby made to the Final Award in this Case, Award No. 558-178-2 filed on 30 June 1994:

1. Page 3, reference to "Para. No." for headings and sub-headings of the Table of Contents should, in the order of appearance, read:

1, 5, 9, 9, 9, 21, 23, 23, 29, 30, 34, 54, 54, 59, 60, 60, 60, 64, 65, 65, 68, 69, 74, 80, 81 and 82.

2. Page 19, paragraph 35, line 2, the cross reference should read "paras. 47-52", rather than "paras. 46-51".

3. Page 24, paragraph 50, line 6, the cross reference should read "para. 46", rather than "para. 45".

4. Page 25, paragraph 51, lines 9 and 10, the cross reference should read "para. 44", rather than "para. 43".

5. Page 35, paragraph 77, line 1, the cross reference should read "para. 34", rather than "para. 33".

6. Page 35, paragraph 77, line 9, the cross reference should read "para. 47", rather than "para. 46".

7. Page 35, paragraph 78, line 10, the cross reference should read "para. 50", rather than "para. 49".

8. Page 36, paragraph 79, line 11, the cross reference should read "para. 53", rather than "para. 52".

Copies of the corrected pages of the Final Award are attached.

Dated, The Hague

07 September 1994

*Krzysztof Skubiszewski*

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Krzysztof Skubiszewski  
Chairman  
Chamber Two

In the Name of God

*George H. Aldrich*  
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George H. Aldrich

*Koorosh H. Ameli*  
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Koorosh H. Ameli

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disregarding any diminution of value due to the nationalization itself or the anticipation thereof, and excluding consideration of events thereafter that might have increased or decreased the value of the shares.<sup>6</sup>

On the other hand, while any diminution of value caused by the expropriation of the property itself should be disregarded, "prior changes in the general political, social and economic conditions which might have affected the enterprise's business prospects as of the date the enterprise was taken should be considered". American Int'l Group, supra, at 18, 4 Iran-U.S. C.T.R. at 107. In the same Award the Tribunal has also stated that the value of a going concern involves "not only the net book value of its assets but also such elements as good will and likely future profitability, had the company been allowed to continue its business under its former management." Id., at 21, 4 Iran-U.S. C.T.R. at 109.

#### Contentions of the Parties

35. In view of the valuation method ultimately used by the Tribunal (see infra, paras. 47-52), the Tribunal will only briefly summarize the Parties' main assumptions and arguments and not discuss in detail the different valuation formulae used by the Claimants and Respondents respectively.

36. The Claimants originally sought Rials 2,100 per share as compensation for their expropriated interest in Alborz. In subsequent submissions they relied on valuation analysis of several experts which gave different values of Alborz. At the Hearing, the Claimants presented and exclusively relied on the expert testimony of Mr. Robert Reilly, who arrived at a value of Rials 2,840 per share.

37. Mr. Reilly arrived at this figure by using a weighted

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<sup>6</sup>INA, supra, at 10, 8 Iran-U.S. C.T.R. at 380.

48. The Claimants have submitted a copy of the Tehran Economist, a financial news magazine, indicating that Alborz stock traded at Rials 2005 per share during the week ending October 25, 1978. The Respondents have introduced a letter from the General Secretary of the Tehran Stock Exchange stating that Alborz's last traded price before the suspension of trading of its shares in November 1978 was Rials 1850 per share. The Tribunal has consulted the Annual Report of the Tehran Stock Exchange. This report, published in April 1979, indicates that the last trade of Alborz shares prior to their taking occurred in the month of Aban, 1357 (October or November of 1978) at a price of Rials 1850 per share. To resolve the contradiction in the evidence of the Claimants and Respondents, the Tribunal will use the Annual Report price as the basis of the valuation analysis.

49. Because the last trade in Alborz shares took place approximately eight months before the taking of the Claimants' shares in Alborz, the Tribunal finds it necessary to consider the events of the intervening period. The Tribunal is convinced that the effects of the Islamic Revolution on the value of Alborz shares cannot be ignored. It is well known that Iran's economy was disrupted and transformed by the Revolution. Although an October/November market price for Alborz would doubtless have reflected the effects of the turmoil to date, many of the most significant economic and political disruptions were yet to come in the first months of 1979. Just as those disruptions had their impact on Iran's economy as a whole, they would almost certainly have had an impact on Alborz share prices if the stock had still been trading on the market.

50. A potential investor in Alborz shares at the time of the taking would certainly have noted the events of the Revolution and weighted the resulting political and economic risks. Alborz's Annual Report for the year ending March 20, 1979 makes clear that the upheaval affected Alborz's operations adversely. As noted supra, para. 46, the report documents a shortage of raw materials needed for production, transportation problems, work

stoppages, and temporary closures of some production facilities. Also, the 16 May 1979 report, covering the three preceding months, by Mr. Javad Khosrowshahi indicates that the above-noted problems had become more acute by mid-1979 and that the company was in an undesirable financial situation. Indeed the very fact that the Claimants, as well as some other members of the Khosrowshahi family, agreed in 1978 to defer the receipt of their declared dividends clearly indicated that Alborz was facing financial difficulties at the time.

51. However, the impact of the Revolution should not be exaggerated or reduced to broad generalizations. It can be assumed that a potential investor would be able to distinguish between investments likely to be undermined by the Revolution and those which might reasonably be expected to recover once the turmoil subsided. It is clear that Alborz, with its line of pharmaceutical, household, and personal care products, was in a better position to survive the Revolution than a concern distributing luxury tiles or western music. See, supra, para. 44. On the other hand, the Tribunal also notes that its task is to determine the value of Alborz shares in July 1979. At that time, it was also likely that a potential willing buyer would focus more on the short-term prospects of Alborz and the prevailing unforeseeability and instability of the market at the time. Therefore, the Tribunal finds that it must strike a fair balance, considering all the relevant factors in order to reach the fair market value which a potential willing buyer would have paid for the Alborz shares.

52. Although the evidence in this Case is not sufficient to allow the Tribunal to assign a precise value to Alborz shares at the date of the taking, the Tribunal is able to make a reasonable approximation. Based on a review of all the available evidence pertaining to valuation, the Tribunal determines that the last traded Alborz stock price of Rials 1850 per share is a reasonable starting point. In light of the above-described effects of the Revolution on Alborz, and having considered generally available

as "banks typically are valued at premiums above book value."

76. The Respondents disagree with the Claimants' valuation. At the Hearing, they argued that the government paid DIBI's former shareholders 89% of the share nominal value or Rials 890 per share. The Respondents suggested that this would be an appropriate amount of compensation for the Claimants as well.

77. As noted supra, para. 34, under the Treaty of Amity the Claimants are entitled to the full equivalent of their taken DIBI shares. Thus, the amount that the Government allegedly paid to other DIBI shareholders is, although relevant, not dispositive. It is the Tribunal's task to make its own determination of the value of the Claimants' DIBI shares. As in the valuation of Alborz, the Tribunal finds the evidence of DIBI's actual market prices during the year 1978 particularly relevant. See supra, para. 47. In that connection, the Tribunal notes that DIBI stock traded at a high of Rials 1850 per share in April and May of 1978. Its last traded price of Rials 1575 per share was in October 1978.

78. To establish a value of the DIBI shares as of 7 June 1979 the Tribunal will take the same approach as it did with the valuation of Alborz's shares. Thus, the Tribunal finds it reasonable to assume that the final price of Rials 1575 per share in October 1978 reflected the impact of revolutionary events to that date on DIBI. That price then needs to be adjusted to reflect the events that occurred between that last-traded price and the date of the taking. As discussed above, the evidence indicates that Alborz was detrimentally affected by the events of the Revolution. See supra, para. 50. In the absence of evidence to the contrary, the Tribunal finds it reasonable to conclude that DIBI was also affected by these events. The decline in its share price between May and October 1978 was even sharper than the decline in the price of Alborz shares during that period. After considering all the relevant elements of this claim, the Tribunal concludes that it is fair to discount DIBI's



last-traded price of Rials 1575 by 30%. This yields a per share value of Rials 1102.5 per share.

79. The Parties agree that four of the Claimants, i.e., Susanne, Marcene, Kevin and Cameron owned collectively 33,262 shares of DIBI. The Tribunal therefore awards the four Claimants compensation for deprivation of their ownership interests in DIBI by the Government of the Islamic Republic of Iran as follows:

|                         |    |             |     |        |        |
|-------------------------|----|-------------|-----|--------|--------|
| Susanne P. Khosrowshahi | IR | 5,500,372.5 | for | 4,989  | shares |
| Marcene P. Khosrowshahi | IR | 5,500,372.5 | for | 4,989  | shares |
| Kevin Khosrowshahi      | IR | 12,835,305  | for | 11,642 | shares |
| Cameron Khosrowshahi    | IR | 12,835,305  | for | 11,642 | shares |

Converted at the rate of exchange of Rials 70.475/US\$1, see supra, para. 53, Susanne P. and Marcene P. are each awarded \$78,047.14 and Kevin and Cameron are each awarded \$182,125.65.

#### VI. INTEREST

80. In order to compensate the Claimants for the damages they suffered as a result of the Respondents' failure to compensate them when their property was taken, the Tribunal considers it fair to award the Claimants simple interest at the rate of 8.6% from the dates of the deprivation of their interests.

#### VII. COSTS

81. Each Party shall bear its own costs of arbitration.

#### VIII. AWARD

82. For the foregoing reasons,