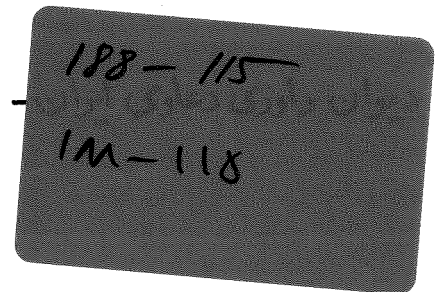


ORIGINAL DOCUMENTS IN SAFE



Case No. 188

Date of filing: 13 Oct 83

\*\* 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 \_\_\_\_\_  
 - 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: Comments of G. Alderich on

Judge Shafeiei's Reasons of non  
Signature of award  
 - Date 13-10-83  
4 pages in English 5 pages in Farsi

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DUPLICATE  
ORIGINAL  
نسخه برابر اصل

188-115  
188-118

I.

NATIONAL AIRMOTIVE CORPORATION,  
Claimant,  
and  
THE ISLAMIC REPUBLIC OF IRAN and  
IRAN AIRCRAFT INDUSTRIES,  
Respondents.

CASE NO. 449  
CHAMBER THREE  
AWARD NO. 58-449-3

II.

INTREND INTERNATIONAL, INC.,  
Claimant,  
and  
THE IMPERIAL IRANIAN AIR FORCE,  
THE ISLAMIC REPUBLIC OF IRAN and  
THE PROVISIONARY REVOLUTIONARY  
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Respondents.

CASE NO. 220  
CHAMBER TWO  
AWARD NO. 59-220-2

III.

REYNOLDS METALS COMPANY,  
Claimant,  
and  
ISLAMIC REPUBLIC OF IRAN,  
INDUSTRIAL DEVELOPMENT AND  
RENOVATION ORGANIZATION OF IRAN,  
IRANIAN ALUMINIUM COMPANY (IRALCO),  
Respondents.

CASE NO. 83  
CHAMBER TWO  
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IV.

GRUEN ASSOCIATES, INC.,  
Claimant,  
and  
IRAN HOUSING COMPANY, MINISTRY  
OF HEALTH AND SOCIAL WELFARE,  
GOVERNMENT OF THE ISLAMIC  
REPUBLIC OF IRAN,  
Respondents.

CASE NO. 188  
CHAMBER TWO  
AWARD NO. 61-188-2

Comments of George H. Aldrich on Judge Shafeie'i's Reasons  
for Non-Signature of Awards Numbered 58-449-3, 59-220-2,  
60-83-2, and 61-188-2

I have hesitated to respond to this document filed by  
Judge Shafeie'i on 9 August 1983, as I do not wish to prolong  
this unfortunate public airing of our internal differences.

However, I have concluded that there is one point to which I must respond in view of attacks on the awards in question. Judge Shafeiei says his absence for the month of July was permissible and justified and was for the purposes of rest and completing some backlogged Chamber work. The facts, however, force me to the conclusion that his absence was impermissible and that it was intended: (a) to avoid any further deliberations with Judge Bellet; (b) to attempt thereby to prevent Chamber 2 from rendering awards in the pending cases prior to the 31 July effective date of Judge Bellet's resignation; and (c) to provide grounds for attacks on any awards issued during that absence.

The Chamber had structured its entire hearing schedule for the spring of 1983 with a view to the time available to it before the August 1 effective date of Judge Bellet's resignation to deliberate on and decide the cases it heard. This was discussed at innumerable Chamber meetings from at least January 1983. Those discussions indicated that all three members of the Chamber clearly understood that May was the last opportunity for hearings, that I would be away for most of June and that the month of July was the time during which we would have to work intensively to conclude deliberations and issue awards. In early January at the 72nd meeting of the Full Tribunal when the Tribunal vacation period from 10 June to 17 July was decided upon, I made it clear to our colleagues in the other chambers that Chamber 2 could not follow that schedule because of Judge Bellet's resignation and would have to meet throughout July. Judge Bellet concurred, and Judge Shafeiei did not disagree.

Until late June Judge Shafeiei never indicated to me or, so far as I know, to Judge Bellet any disagreement with our plan to work through July to finish the pending cases. In fact, in late May, just before my departure for the United States, he urged strongly that the Chamber not issue its awards in the Kimberly-Clark and ITT cases (awards numbered 46 and 47) saying we should discuss them further

during July. See Judge Shafeieei's reasons for not signing award number 46 (filed on 27 May 1983) in which he quotes a letter he wrote Judge Bellet as follows:

"I am of the opinion that this issue and other issues should be studied and discussed with greater care. I am preparing myself for this study and shall have completed this work in the coming weeks. The Award will certainly have been signed prior to the termination of your incumbency."

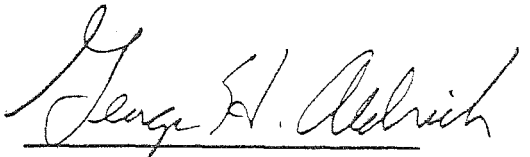
Since it was well understood that I was leaving The Hague two days after the day that award was signed and would not return until 25 June, Judge Shafeieei's argument can only be understood as meaning that he wanted the further deliberations to occur during July.

Upon my return to the offices of the Tribunal on 27 June, I was understandably quite surprised to see Judge Shafeieei's letter to Judge Bellet dated 23 June stating that he would be on vacation until the end of July. I spoke to Judge Shafeieei at the earliest opportunity and urged him to reconsider that decision. He told me how unhappy he was with Judge Bellet and said he did not wish to meet further with him, but I was left with the impression that he would remain in The Hague at least part of the time and would be prepared to discuss directly with me certain draft awards and might participate in further Chamber meetings if that could be done amicably. In the event, however, he left the city soon thereafter and apparently did not return until August.

To what extent Judge Shafeieei's absence was motivated by dislike of continued work with Judge Bellet and to what extent it was motivated by a desire to prevent the pending cases from being decided before Bellet's resignation took effect, I cannot know. In light of the above summarized facts, however, I could not escape the conclusion that his absence during July was unauthorized, was contrary to what the Chamber (and apparently he) had previously planned and assumed, and was designed to prevent, if possible, the

Tribunal from dealing with the cases then under deliberation while Judge Bellet remained Chairman of the Chamber and, in any event, to provide an argument for attacks on any awards issued during that absence. I note in this connection that Judge Shafeiei's letter of 23 June requested that no Chamber meetings be held in his absence, although he knew that both deliberations and urgent administrative decisions were pending.

I made informal efforts through Judge Kashani and the Iranian Agent, Mr. Kashan, to urge Judge Shafeiei to return before the end of July, but these efforts proved unavailing. In light of this situation, Judge Bellet and I decided that the Chamber was justified, and in fact obligated, by international law and precedent to proceed with the awards on which we could agree, explaining therein the reasons for the absence of Judge Shafeiei's signature. Any other conclusion, in a continuing tribunal of this type with many cases on its docket, would permit the Tribunal's work to be sabotaged. In this connection, we were aware that the Full Tribunal on a number of occasions had met and taken decisions, even judicial decisions, in the absence of one or more arbitrators.

  
George H. Aldrich

Dated, The Hague  
13 October 1983