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IRAN-UNITED STATES CLAIMS TRIBUNAL

ن - ایالات متحدہ

ORIGINAL DOCUMENTS IN SAFE

Case No. 200

Date of filing: 16 Sept. '83

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

** DECISION - Date of Decision 16 Sept '83
4 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

Case No. 200

Chamber One

HENRY MORRIS,
Claimant,

and

GOVERNMENT OF THE ISLAMIC REPUBLIC
OF IRAN, BANK MELLAT (formerly
IRAN-ARAB BANK),
Respondents.

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه دآوری دعاوی ایران - ایالات متحدہ
FILED - ثبت شد	
No. 200	شماره
Date 16 SEP 1983	تاریخ
۱۳۶۲ / ۹ / ۲۵	

DECISION

Henry Morris, the Claimant in Case No. 200, has moved Chamber One for "reconsideration" of its Award which dismissed his claim and obligated him to pay costs of the Respondent bank (Award No. 36-200-1). Mr. Morris at the same time moves "in the alternative, for re-hearing before the Full Tribunal".

With respect to the motion for reconsideration by Chamber One, the Tribunal Rules do not permit such reconsideration in the circumstances present here. In order to promote the finality of Awards, the Tribunal Rules limit the powers of the Tribunal after an Award has been issued. Following issuance of an Award, the arbitrators may only give an interpretation of their Award (Article 35), or "correct any errors in computation, any clerical or typographical errors, or any errors of similar nature" (Article

36), or make an additional Award "as to claims presented in the arbitral proceedings but omitted from the award" (Article 37). Mr. Morris' motion is not based on any of the circumstances covered by Articles 35, 36 or 37.

Concerning the alternative motion requesting a re-hearing before the Full Tribunal, it is to be noted that the Algiers Declarations, from which the Tribunal's jurisdiction derives, do not provide for a re-hearing by the Full Tribunal of an Award made by a Chamber. Thus, the Claims Settlement Declaration expressly provides that "Claims may be decided by the Full Tribunal or by a panel of three members of the Tribunal as the President shall determine". (Article III, paragraph 1, emphasis added). No procedure for appeal from a Chamber to the Full Tribunal is provided in the Declaration or the Tribunal Rules; Awards are to be made by the Full Tribunal or by a Chamber. Case No. 200 was assigned to Chamber One in accordance with regular procedures established pursuant to Presidential Order No. 1, and the Chamber has rendered its Award. That Award is final and binding upon the parties. See, Claims Settlement Declaration, Article IV, paragraph 1; Tribunal Rules, Article 32, paragraph 2.

Whether a Chamber or the Full Tribunal, despite the absence of any express provision, has inherent power to review and revise an Award under exceptional circumstances -- e.g., when an Award was based on forged documents or perjury -- is a question which the Tribunal does not need to reach in this decision.

It is to be noted that there has been no denial of due process in this case. The motions of Mr. Morris are based, in part, upon the fact that the Respondent bank presented certain exhibits for the first time at the Hearing. As to these exhibits, the Tribunal would first state that, in principle, it considers late presentation of documentary evidence to be an undesirable practice. The exhibits which were presented by the Respondent bank at the Hearing without prior notice to Claimant fall into two categories. The first group of exhibits are copies of five telexes concerning Claimant's action with respect to the bank guarantee which was the basis of the claim. The same actions were already to a large extent disclosed by exhibits and pleadings presented by Claimant himself and Claimant can hardly assert that he was surprised by these telexes inasmuch as two of them were sent by him, two by his own bank, and the remaining one by another bank in the United States as to which it appears that he was informed. The second group of exhibits relate to the disposition by the Respondent bank of funds deposited with it in Iran by the purchaser of the bank guarantee. That was an issue which was sharply disputed when it arose at the Hearing, but, as the Award expressly states, the Tribunal decided the claim without the need to reach that issue. The present motions are also based upon the Respondent bank's introduction of certain new arguments for the first time at the Hearing. The Claimant, however, had the opportunity to respond to those arguments at the Hearing, and his counsel did so vigorously. It was for

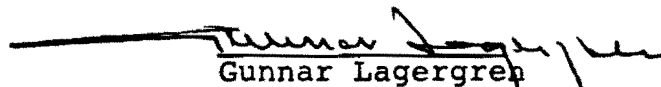
these reasons that the Tribunal did not consider it necessary to invite Claimant to submit a post-hearing submission on the matters raised by the Respondent's new exhibits and arguments.

For the foregoing reasons,

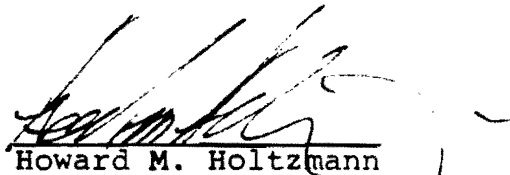
The Tribunal denies the motion of Henry Morris for reconsideration of the Award in Case No. 200 and the alternative motion for a re-hearing before the Full Tribunal.

Dated, The Hague

16 September 1983


Gunnar Lagergren
Chairman
Chamber One


Mahmoud M. Kashani


Howard M. Holtzmann