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S CLAIMS TRIBUNAL

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CASE NO. 289
CHAMBER ONE
AWARD NO. 253-289-1

McLAUGHLIN ENTERPRISES, LTD.,
Claimant,

and

THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN,
INFORMATION SYSTEMS IRAN,
Respondents.

AWARD

Appearances:

For the Claimant:
Mr. R. B. McKay, Attorney
Mr. B. McLaughlin
Mr. O. Romanelli, Claimant's Representatives

For the Respondents:
Mr. M. K. Eshragh, Agent of the Government of the Islamic Republic of Iran
Mr. A. Nouri, Legal Adviser to the Agent
Mr. H. Piran, Assistant to the Agent
Mr. H. Imani, Attorney to ISIRAN

Mr. M. A. Ahmadzadeh,
Representative of ISIRAN

Also present: Mr. J. R. Crook, Agent of the United States of America.

I. FACTS AND CONTENTIONS

1. The Claim in this Case arises out of a contract concerning consulting services for Iranian military information systems engineering. The Claimant, McLAUGHLIN ENTERPRISES, LTD. ("McLAUGHLIN"), alleges that the Respondent, INFORMATION SYSTEMS IRAN ("ISIRAN"), breached the contract, and it seeks damages for that breach, plus interest and costs. ISIRAN brings Counterclaims for damages for breach of the contract by the Claimant, plus interest, and for recovery of social security premiums and taxes, and requests costs.

2. On 1 October 1975, the Claimant and ISIRAN entered into a contract pursuant to which McLaughlin was to provide systems engineering consulting services to ISIRAN, whose principal function was to serve as the computer development agency for Iranian Government organizations, particularly for the Iranian military forces. This contract, as subsequently amended, will hereinafter be referred to as "the Contract". The Contract as originally concluded contemplated that the Claimant would deliver an end product, i.e. a planned program of systems engineering, until a definite date for a fixed price. The Claimant contends that an Amendment of 19 January 1976 modified the Contract so that thereafter the Claimant provided expertise on a man-month basis as requested by ISIRAN, with no specified termination date.

3. The Claimant asserts that it performed its obligations under the Contract until 10 January 1979. In December 1978 and January 1979, the Claimant withdrew its personnel from Iran. It asserts that it was entitled to do so under the force majeure clause of the Contract, because the lives of Americans were in danger in Iran at that time and because ISIRAN was in breach of its contractual obligations by failing to pay for services rendered by the Claimant from 23 September 1978 through 10 January 1979. It informed ISIRAN in a letter dated 27 December 1978 that it felt "obliged to return [its] personnel to the United States temporarily", but at the same time expressed its hope that its personnel would be able to return to resume their duties when the situation in Iran stabilized. The Claimant further argues that, since there was no definite termination date under the Contract as amended, the Claimant could not breach by recalling its personnel.

4. ISIRAN contends that the Contract was not signed by an authorized representative, that it was unlawful, and that it was contrary to its interests. ISIRAN asserts that the Claimant did not perform acceptable services between September 1978 and January 1979 and that by withdrawing its personnel voluntarily from Iran pursuant to its 27 December 1978 letter, the Claimant breached the Contract. ISIRAN contends that it received no notice of breach or force majeure. ISIRAN asserts that it had wanted the Claimant's personnel to stay in Iran and that a termination notice, which it sent the Claimant on 25 February 1979, did not retroactively cure the Claimant's breach, which occurred as a consequence of the Claimant's letter of 27 December 1978.

5. The Claimant maintains that ISIRAN's managing director, who signed the Contract, was authorized to do so. It denies any allegation of unlawfulness of the Contract, pointing out that ISIRAN had made no such allegation before the filing of its Statement of Defence in this Case.

6. The Claimant seeks the following relief: $186,945 for services rendered pursuant to the Contract from September 1978 through January 1979; $116,746.02 (alternatively $47,776.12) for refund of a performance guarantee that was withheld by ISIRAN; and $100,662 for termination costs incurred as a consequence of ISIRAN's alleged breach of the Contract. The Claimant seeks interest at an average rate of 14.56 percent on the $404,351.02 aggregate principal amount claimed, as well as costs. While the Claimant has named the Government of Iran as a Respondent for its Claim, it has not specified whether or not the Government and ISIRAN should be held jointly and severally liable for the Claim.

7. Apart from its described denial of the merits of the Claim, ISIRAN raises objections to the Tribunal's jurisdiction. It asserts that the Claimant's United States nationality has not been proven, that ISIRAN is not a controlled entity within the meaning of Article VII, paragraph 3, of the Claims Settlement Declaration, and that the dispute settlement provisions of the Contract exclude this Claim from the Tribunal's jurisdiction. ISIRAN also brings three Counterclaims. It seeks damages of $99,675.25 plus interest at the rate of 12 percent, allegedly incurred due to the Claimant's breach of the Contract; social security premiums of $519,395.39; taxes of $336,298.59; and costs.

8. The Government of Iran asserts that the Claim is not attributable to it. It seeks payment of its costs.

II. REASONS FOR AWARD

1. Jurisdiction

a) The Claimant's United States nationality

9. The Claimant is a Delaware corporation in good standing. At all relevant times, all of its shares were owned by five United States nationals, photocopies of the relevant portions of whose passports the Claimant submitted in evidence. Thus, the Claimant has established its United States nationality.

b) ISIRAN as a controlled entity

10. Relying on its separate legal identity, ISIRAN denies that it is controlled by the Government of Iran. In particular, it argues that indirect control does not fulfill the requirements of Article VII, paragraph 3, of the Claims Settlement Declaration.

11. The Tribunal has already found, however, that ISIRAN is so controlled and that such control suffices to establish jurisdiction. See Ultrasystems, Inc. and Islamic Republic of Iran et al., Partial Award No. 27-84-3, pp. 8-9 (4 March 1983), reprinted in 2 Iran-U.S. C.T.R. 100, 105; Logos Development Corp. and Information Systems Iran, Award No. 228-487-3, para. 7 (30 April 1986). The Tribunal has jurisdiction over ISIRAN.

c) Dispute settlement clause

12. ISIRAN argues that the clause choosing Iranian law to govern the Parties' rights and duties under the Contract, together with the dispute settlement clause of the Contract, vest the Iranian courts with exclusive jurisdiction over the present Claim. According to Article XIX of the Contract, any disputes or claims related to it "shall finally be

settled by arbitration under the Rules of Arbitration set out in appropriate Iranian Rules of Civil Procedure". In Gibbs & Hill, Inc. and Iran Power Generation and Transmission Company et al., Interlocutory Award No. ITL 1-6-FT, Part III (5 November 1982), the Tribunal held that a virtually identical clause did not fall within the scope of the forum clause exclusion contained in Article II, paragraph 1, of the Claims Settlement Declaration. The Contract thus does not exclude the present Claim from the Tribunal's jurisdiction.

2. Merits of the Claims

a) The invoice Claim

13. The Claimant contends that from 23 September 1978 through 10 January 1979 it performed services pursuant to the Contract, for which it billed ISIRAN monthly, but for which it was not paid. The Claimant has submitted copies of the invoices submitted to ISIRAN, which reflect the hours that its employees worked during that time in performance of the Contract. These invoices total $186,945.

14. In addition to its objections to the validity of the Contract, ISIRAN contends that the Claimant's services were not acceptable, that they were not approved, and that the Claimant did not submit progress reports as required by the April 1976 Amendment to the Contract. The Claimant asserts that it followed the same invoicing procedure as with previous invoices which ISIRAN had paid, that approval of its services can be inferred from ISIRAN's conduct, and that in the absence of contemporaneous objections ISIRAN is now estopped from taking a contrary position.

15. The Tribunal first determines that the Contract forms a valid basis for the legal relationship between ISIRAN and the Claimant. The Contract was signed by the

managing director on ISIRAN's behalf, and ISIRAN accepted and paid for services pursuant to it. Absent any specific allegation in this respect, the Tribunal has no reason to doubt its lawfulness.

16. Further, the Tribunal concludes from the evidence before it that the Claimant properly performed the services required under the Contract, as reflected in the invoices. According to the Contract and the practice of the Parties, the invoices were to be certified not by ISIRAN, but by the Claimant. After the January 1976 Amendment had changed the Claimant's work under the Contract from delivery of a product to the provision of personnel to perform assignments from ISIRAN, comprehensive progress reports were no longer required. The progress reports that the Claimant did submit fulfilled the changed requirements of the Contract. Moreover, ISIRAN did not object to the Claimant's performance or to the amounts billed for services through January 1979 before the commencement of the present proceedings. On 25 February 1979, it sent a letter to the Claimant, asking that the Claimant consider the letter a "notice of termination" in view of the deterioration of the political and financial situation in Iran and the circumstances that "your staff assigned to our contract have left their position and there is a change in the pattern of our customer requirements". The letter contained no other reference to the Contract or the services rendered by the Claimant, and in particular, raised no objections to the Claimant's performance. In addition, by letter dated 22 May 1979, the Claimant submitted to ISIRAN a "consolidated statement of accounts" for services rendered and for reimbursable expenses under the Contract. One item for which the Claimant requested payment therein was the $186,945 for unpaid invoices, a detailed summary of which was attached to the statement of accounts. ISIRAN did not object to this claim, and it in fact never responded to this statement of accounts. Nor did it answer a second payment

request of the Claimant, dated 19 November 1979, which enclosed a copy of the Claimant's 22 May 1979 letter. On the basis of this record, ISIRAN cannot now be heard to make a general denial of the Claimant's proper performance of the Contract.

17. The Claimant did not, as ISIRAN contends, breach the Contract by withdrawing its personnel from Iran in December 1978 and January 1979. The Claimant's letter dated 27 December 1978, which informed ISIRAN of the "temporar[y]" withdrawal of its personnel, stated that "[t]his action is due to lack of cashflow in Iran and ... the current general situation." The letter went on to state that the Claimant wished "to continue in force" the Contract and to return its personnel when the situation in Iran stabilized. The insecure situation alone justified the Claimant's temporary withdrawal of personnel. Moreover, ISIRAN had assigned the Claimant no tasks pursuant to the man-month scheme, and had itself breached the Contract by failing to pay for services rendered and billed. The Claimant is thus entitled to $186,945 for unpaid invoices.

b) The withholding

18. The Claimant seeks the refund of amounts that were withheld as a performance guarantee from invoice payments made by ISIRAN. The Claimant asserts that from October 1975 to September 1978 ISIRAN withheld an aggregate of $194,355.57. The Claimant acknowledges that, unlike Article XVI of the original Contract, the amended Contract, under which the Claimant provided man-months of services, did not require a withholding. Nevertheless, in practice ISIRAN continued to withhold 10 per cent from the invoice amounts paid to the Claimant. The Claimant asserts that it is

entitled to reimbursement of the amounts withheld because it performed its contractual obligations. It argues that ISIRAN acknowledged the Claimant's entitlement to the withheld amounts when ISIRAN paid back $77,609.55 of the withholding in July 1977.

19. ISIRAN asserts that Article XVI of the original Contract was not amended and that therefore, according to this provision, the Claimant was to be refunded the withheld amounts only after ISIRAN had approved the work. Arguing that the Claimant had not properly performed, but rather breached the Contract, ISIRAN asserts that it owes the Claimant no refund. ISIRAN further states that, in addition to the $77,609.55, it refunded the Claimant another $66,844.81 for withholding in October 1978. While the Claimant states that it has no knowledge or record of this last refund, it expressly stated at the Hearing that it could not rebut the documents submitted by ISIRAN showing payment of such a refund to the Claimant in Iran.

20. The Tribunal notes that, whereas the Contract as amended in April 1976 no longer required that a withhold be made, such withhold actually continued to be made in practice until September 1978 each time ISIRAN paid the Claimant invoice amounts. Having performed its contractual obligations, the Claimant is entitled to reimbursement of the withheld amounts not yet repaid. ISIRAN's action in paying back part of the withhold constitutes an acknowledgement that in principle all was reimbursable.

21. In determining the amount still due the Claimant, the Tribunal is satisfied from the evidence submitted by ISIRAN and not rebutted by the Claimant that ISIRAN refunded the Claimant an amount of $66,844.81 in October 1978, which must therefore be deducted from the withhold still due the Claimant. Originally, a total of $192,230.48 was withheld during the relevant period. This is the figure that ISIRAN

states appears in its books. The Claimant states that the slightly larger total of $194,355.57 was withheld. In response to direct questions from the Tribunal at the Hearing, neither Party could account for or decisively resolve the discrepancy of $2,125.09. Nor does either Party's evidence decisively establish its proffered figure. Because the Claimant bears the burden of proof on this issue, the Tribunal adopts ISIRAN's figure. From the billings since March 1977, according to the practice of the Parties, the Claimant was to bear five percent taxes, or $5,397.48. Again, the figures presented by the Parties differ, the Claimant's showing that the five percent tax was taken off the invoice amounts before deduction of the withholding, ISIRAN's showing that the five percent tax was taken off the amounts after the withholding had been deducted. Neither Party put in evidence decisively establishing its accounting. Because the Claimant bears the burden of proof on this issue, the Tribunal accepts ISIRAN's figures. However, the Tribunal deducts tax only on amounts withheld after March 1977, when the Parties initiated their practice of withholding tax payments from invoice amounts. From the remaining $186,833.00 thus due, the two refunds of $77,609.55 and $66,844.81 must be deducted, leaving a balance owed the Claimant of $42,378.72.

c) Termination costs

22. The Claimant seeks reimbursement of termination costs of $100,662. It asserts that Article XV of the Contract obliged ISIRAN to bear transportation and shipping costs for returning employees to the United States, and that termination salaries had to be absorbed by ISIRAN because the Contract was a "cost-plus" contract and the Claimant's agreements with its employees provided for termination pay. In the Claimant's view, a termination notice sent by ISIRAN makes its responsibility for termination costs clear beyond

doubt. This notice, in a letter of 25 February 1979 from ISIRAN to the Claimant, reads as follows:

> "As you are well aware the political and financial situation in Iran has steadily been deteriorating and since your staff assigned to our contract have left their position and there is a change in the pattern of our customer requirements, therefore, please consider this letter as a notice of termination".

23. ISIRAN denies any obligation to pay termination costs by pointing out that the Contract had no expiration date; that Claimant relied on force majeure as an excuse to recall its personnel; that ISIRAN requested continuation of the Claimant's performance rather than termination; that the Claimant breached the Contract; and that ISIRAN's 25 February 1979 letter only confirmed the force majeure situation and the Claimant's breach of the Contract by the withdrawal of its personnel.

24. The Claimant rests its claim for termination costs on Article XV of the original Contract, which provided that in the event ISIRAN terminated the Contract for its convenience, it would pay to the Claimant "the actual costs of returning its expatriate employees to their point of departure." The Tribunal concludes, however, that because of new arrangements to which the Parties agreed, this provision no longer applied by the time the Contract came to an end. On 30 March 1977, the Parties executed a "Pricing Agreement", which after setting forth new man-month rates, specified that those "rates include all other charges related to acquiring and supplying manpower to ISIRAN each month." Because termination costs are clearly "related to acquiring and supplying manpower to ISIRAN each month," this new language precludes the claim for such costs. The character of the amended Contract confirms this conclusion. As noted, the Contract originally specified a total price and a termination date. In that context, the purpose of a provision requiring ISIRAN to reimburse relocation costs in

the event of premature termination is obvious, for in that event the Claimant would not have had a fair opportunity to cover the costs of returning its personnel to the United States. But there was no provision in the original Contract requiring ISIRAN to reimburse relocation costs upon the expiration of the Contract in accordance with its terms. Thus, once the Parties amended the Contract to one whereby the Claimant provided man-month services only upon ISIRAN's request, the rationale for the reimbursement provision disappeared - at least where, as in the event, the amended Contract continued beyond the originally contemplated termination date and generated billings exceeding the originally contemplated contract price. In light of the conclusion that the amended Contract imposed no obligation on ISIRAN to reimburse termination costs, the Tribunal need not determine whether ISIRAN's letter of 25 February 1979 constituted termination for convenience.

25. The Claimant argues also that ISIRAN breached the Contract by failing to pay a number of invoices and that ISIRAN's obligation to reimburse the Claimant's termination costs applies with even greater force in the event of breach. However, the Claimant did not invoke breach as a reason for the withdrawal of its personnel. Instead, the circumstances identified in the letter by which the Claimant advised ISIRAN of the withdrawal suggest force majeure, and the letter expressly states the Claimant's view that the Contract should "continue in force" until the situation in Iran stabilized sufficiently to permit return of the Claimant's personnel.

26. The claim for termination pay fails as well. Even were Article XV of the original Contract to apply, it expressly limits the contemplated reimbursement to the "actual cost" of returning expatriates to their homes. The Claimant relies on the description in the 19 January 1976 Letter Agreement of the amended Contract as a "cost-plus

type" agreement, arguing that termination pay is a contemplated and reimbursable cost. That argument, however, is precluded by the express terms of the Pricing Agreement of 30 March 1977.

27. The Claimant further bases its claim for termination costs on the consolidated statement of accounts that it sent to ISIRAN on 22 May 1979 and the reminding letter of 19 November 1979 referring to that statement. Such a statement of accounts cannot become an independent basis of a claim, however, but can only confirm a claim that is otherwise legally justified. Because there is no other basis for the claim for termination pay, the statement of accounts cannot suffice to establish it. In sum, the claim for termination costs is dismissed in full.

d) Interest

28. The Claimant seeks interest on the principal amounts claimed at an average rate of 14.56 percent per year from January 1979 on. It asserts that it paid actual interest at various rates amounting to such an average on loans that it concluded in respect of the project at issue in the present Case.

29. The Respondents request that the Tribunal defer its decision on the interest until the Full Tribunal has decided Case No. A19.

30. The argument that interest should not be allowed pending the Full Tribunal's decision in Case No. A19 cannot be accepted. As the Tribunal held in R.J. Reynolds and Islamic Republic of Iran, Award No. 145-35-3, p. 21 (6 August 1984):

> "When the issue of interest was previously raised informally in the Full Tribunal, the prevailing opinion was that pending an eventual decision on

> the subject by the Full Tribunal, each Chamber shall resolve issues of interest in cases before it according to its own best judgment. The three chambers have consistently done so. To act otherwise would have meant blocking the work of the Tribunal for an unforeseeable length of time, as interest is claimed in practically every case."

The Respondents' request is therefore denied.

31. The Claimant is entitled to interest on $186,945 for unpaid invoices and on $42,378.72 for amounts withheld. Both amounts were due by the end of January 1979. The Tribunal therefore awards interest on $229,323.72 from 1 February 1979.

32. With respect to the appropriate rate of interest to be applied, this Chamber expressed its intention to develop and apply a consistent approach to the awarding of interest in cases before it in Sylvania Technical Systems, Inc. and Islamic Republic of Iran, Award No. 180-64-1 (27 June 1985). In the absence of a contractually stipulated rate of interest, the Tribunal derives a rate of interest based approximately on the amount that the successful Claimant would have earned had it had the funds available to invest in a form of commercial investment in common use in its own country. Six-month certificates of deposit in the United States are such a form of investment for which average interest rates are available from an authoritative official source.

33. In the present Case, the relevant period for the two Claims begins on 1 February 1979. The average rate of interest paid on six-month certificates of deposit from that date through the date of this Award was approximately 11.25 percent, and it is that rate which the Tribunal applies.

e) The claim against the Government of the Islamic Republic of Iran

34. The Claimant seeks an award not only against ISIRAN, but also against the Government of Iran. It does not state, however, whether it holds the Government and ISIRAN independently or jointly and severally liable, nor has it specified the legal basis for its claim against the Government at all. From the record before it the Tribunal finds that there is no basis for any liability of the Government of Iran in the present Case. The claim against it is therefore dismissed.

3. The Counterclaims

a) Damages for breach of contract

35. ISIRAN claims damages of $99,675.25 which it allegedly incurred due to the Claimant's breach of the Contract. It contends that it had to pay this amount for two of the Claimant's employees for the period March to September 1978, but that due to the absence of these employees it could not finish the respective projects and consequently could not get a refund of this amount from its military customers.

36. The Claimant contends that the recalling of its personnel from Iran was justified by force majeure; that the Contract did not provide for the recovery of such damages; that all projects were completed; and that ISIRAN cannot claim damages in the face of its own termination of the Contract.

37. The Contract did not condition the payment of the man-months provided by the Claimant on prior or subsequent "reimbursement" of ISIRAN from its military customers. In addition, no showing has been made of any breach of the

Contract by the Claimant that would have caused the damage alleged by ISIRAN. This counterclaim must therefore be dismissed.

b) Social security premiums

38. ISIRAN asserts that, pursuant to contractual provisions and compulsory Iranian law, the Claimant was obligated to pay social security premiums for its personnel in Iran. Since the Claimant did not pay them, ISIRAN is responsible for their payment, and its claim for reimbursement was outstanding as of the time when the Contract became binding on the Parties, ISIRAN argues. ISIRAN, which has not paid the premiums yet, seeks Rials 36,669,315, plus late payment damages.

39. The Claimant denies liability on the counterclaim for social security premiums on the grounds that ISIRAN has no standing to assert it; that such a claim is not enforceable outside Iran; that it was not outstanding on 19 January 1981; that the Contract provided for ISIRAN to absorb these costs; and that ISIRAN did not submit proof of the amounts claimed.

40. As far as the contractual basis for ISIRAN's counterclaim for social security premiums is concerned, the Tribunal notes that one of the provisions on which ISIRAN relies expressly excludes any obligation on the part of ISIRAN, whereas the other requires the Claimant to "indemnify ISIRAN for any payments which ISIRAN may be obligated to make, due to failure by]the Claimant[to observe Social Insurance Law and Regulations". This obligation for the Claimant to indemnify ISIRAN would constitute a contractual basis for a claim for reimbursement in case ISIRAN had in fact paid social security premiums that were owed by the Claimant. Since ISIRAN did not pay any premiums, however, no such claim for reimbursement was outstanding on 19 January 1981. The counterclaim for social security premiums must therefore be dismissed.

c) Taxes

41. ISIRAN brings a counterclaim in the amount of $336,298.59 for taxes allegedly owed, but not paid by the Claimant. It asserts that the Contract required the Claimant to bear Iranian taxes and ISIRAN to withhold and pay them, and that this was expressly confirmed by the Pricing Agreement of 30 March 1977 instituting the new man-month scheme. ISIRAN argues that this counterclaim was outstanding on 19 January 1981 because the Claimant's obligations had arisen when it signed the Contract. It acknowledges that it has not paid any taxes yet, but points to its immediate liability for them according to Iranian tax law.

42. The Claimant denies ISIRAN's standing for this counterclaim as well as its enforceability outside Iran. It asserts that it satisfied its obligations under the Contract, that no taxes could be owed for the period 1975 to 1979 because it sustained losses then, and that this counterclaim was not outstanding on 19 January 1981.

43. The Tribunal does not need to deal with this question since, no payments for taxes having been made by ISIRAN, a claim for reimbursement was not outstanding on 19 January 1981. The Tribunal thus has no jurisdiction over this counterclaim, which must therefore be dismissed.

4. Costs

44. The Claimant seeks costs of arbitration of over $85,000. This amount includes costs for translations, attorneys fees and travel of approximately $20,000 that were only specified at the Hearing, and to which the Respondents objected. Having regard to criteria of the kind outlined in Sylvania Technical Systems, Inc. and Islamic Republic of Iran, Award No. 180-64-1, pp. 35-38 (27 June 1985), and taking into account the outcome of this Case, the Tribunal determines that the Claimant is entitled to costs in the amount of $10,000. In view of this amount awarded for

costs, the Tribunal does not need to decide on the admissibility of the submissions relating to the approximately $20,000.

III. AWARD

45. For the foregoing reasons,

THE TRIBUNAL AWARDS AS FOLLOWS:

(a) The Respondent INFORMATION SYSTEMS OF IRAN is obligated to pay the Claimant MCLAUGHLIN ENTERPRISES, LTD. the sum of Two Hundred Twenty Nine Thousand Three Hundred Twenty Three United States Dollars and Seventy Two Cents (U.S.$229,323.72); plus simple interest at the rate of 11.25 percent per annum (365-day basis) on this amount from 1 February 1979 up to and including the date on which the Escrow Agent instructs the Depositary Bank to effect payment out of the Security Account; plus costs of arbitration in the amount of $10,000.

(b) These obligations shall be satisfied by payment out of the Security Account established pursuant to paragraph 7 of the Declaration of the Government of the Democratic and Popular Republic of Algeria dated 19 January 1981.

(c) The remaining Claims and the Counterclaims are dismissed.

(d) This Award is hereby submitted to the President of the Tribunal for notification to the Escrow Agent.

Dated, The Hague
16 September 1986

Karl-Heinz Böckstiegel
Chairman
Chamber One

In the name of God

Mohsen Mostafavi
Dissenting in part,
Concurring in part.

Howard M. Holtzmann
Joining fully in the Award, except joining solely in order to form a majority as to the award of only $10,000 in costs. See my Separate Opinion in Sylvania Technical Systems, Inc. and Islamic Republic of Iran, Award No. 180-64-1 (27 June 1985).