

421-336

ORIGINAL DOCUMENTS IN SAFECase No. 421Date of filing: 29/11/93

** AWARD - Type of Award A.A.T
- Date of Award _____
4 pages in English 5 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

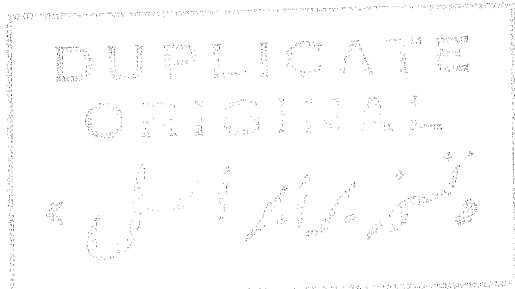
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- Date _____
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** OTHER; Nature of document: _____

- Date _____
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IRAN-UNITED STATES CLAIMS TRIBUNAL

دیوان داورى دعاوى ایران - ایالات متحدہ



CASE NO. 421

CHAMBER ONE

AWARD NO. 552-421-1

TAI, INC.,

Claimant,

and

THE GOVERNMENT OF THE ISLAMIC
REPUBLIC OF IRAN,
THE MINISTRY OF DEFENCE OF THE
ISLAMIC REPUBLIC OF IRAN,
THE MINISTRY OF POST, TELEGRAPH AND
TELEPHONE OF THE ISLAMIC REPUBLIC OF
IRAN,
THE NATIONAL IRANIAN OIL COMPANY,
BANK TEJARAT,

Respondents.

IRAN-UNITED STATES CLAIMS TRIBUNAL	دیوان داورى دعاوى ایران - ایالات متحدہ
FILED	ثبت شد
DATE	29 NOV 1993
	۱۳۷۲ / ۹ / ۸ تاریخ

AWARD ON AGREED TERMS

1. On 16 November 1993, the Claimant, TAI, INC., and the Respondents, THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN, THE MINISTRY OF DEFENCE OF THE ISLAMIC REPUBLIC OF IRAN, THE MINISTRY OF POST, TELEGRAPH AND TELEPHONE OF THE ISLAMIC REPUBLIC OF IRAN ("PTT"), THE NATIONAL IRANIAN OIL COMPANY and BANK TEJARAT, (collectively "the Parties") filed with the Tribunal a Joint Request for Arbitral Award on Agreed Terms ("the Joint Request"), and attached thereto, a Settlement Agreement in Case No. 421, Chamber One dated 19 October 1993 ("the Settlement Agreement"), signed by representatives of the Parties. In the Joint Request the Parties explain that they "have entered into such Settlement Agreement settling all claims and counterclaims now existing or capable of arising in connection with Case No. 421, and any other matters related thereto." Accordingly, the Joint Request asks the Tribunal to record the Settlement Agreement as an Arbitral Award on Agreed Terms pursuant to Article 34 of the Tribunal Rules. Copies of both the Joint Request and the Settlement Agreement are attached and incorporated herein by reference.¹

2. According to Article I of the Settlement Agreement,
- [t]he purpose and intent of this Settlement Agreement is to settle, dismiss and terminate forever and with prejudice all claims, counterclaims, disputes and differences and matters directly or indirectly raised or capable of being

¹ Article XI of the Settlement Agreement provides that the Parties should submit the Settlement Agreement together with the Joint Request to the Tribunal within sixty days from the date of the Claimant's signature of the Agreement, provided however that, the Agreement be approved and ratified by Iranian authorities as provided in Article XIV, and that "[i]f th[e] Settlement Agreement is not submitted within the said sixty day period, or as otherwise agreed by the Parties, then, it shall automatically become null and void, and the Parties, without prejudicing their respective rights will be placed in the same position as they were prior to the date of th[e] Settlement Agreement." According to Article XIV, "[s]igning of th[e] Agreement by the Agent of the Islamic Republic of Iran to the Tribunal shall represent that [the] approval and ratification [by the Iranian authorities] have been obtained." The Tribunal notes that the Settlement Agreement was signed by the representative of the Claimant on 22 September 1993 and by the Agent of the Islamic Republic of Iran to the Tribunal on 15 November 1993, and that the Settlement Agreement as well as the Joint Request were filed with the Tribunal on 16 November 1993.

raised in the Case, arising out of the relationships, transactions, contracts or events in any manner related to the subject matter of the Statements of Claim, Statements of Defense and Counterclaims, and other submissions by the Parties in the Case (the "Released Claims").

3. The Settlement Agreement then provides for certain obligations, declarations, releases, waivers, withdrawals and dismissals. In particular, Article II provides, inter alia, that the Claimant shall be paid the sum of five hundred thousand United States dollars (U.S.\$ 500,000) (the "Settlement Amount") out of the Security Account established pursuant to Paragraph 7 of the Declaration of the Democratic and Popular Republic of Algeria of January 19, 1981.

4. In addition, it is provided in Article VII of the Settlement Agreement that

[u]pon issuance of the Arbitral Award on Agreed Terms and payment of the Settlement Amount, Claimant shall transfer unconditionally and irrevocably to Respondents all its rights, titles, benefits and interests claimed in the Case, including but not limited to the balance of its Accounts Nos. 60014 and 70446 in Bank Tejarat Iran, except only Claimant's rights, titles, benefits and interests arising under this Agreement.

5. Finally, according to Article XII of the Settlement Agreement,

[w]ithin sixty days of the issuance of the Arbitral Award on Agreed Terms:

(a) PTT shall deliver to the Tribunal Registry a letter from Bank Tejarat in the form attached herewith.

(b) The Tribunal shall order the Tribunal's Registry to deliver the Letter of Bank Tejarat to Claimant described in the preceding paragraph.

6. The Tribunal accepts the Settlement Agreement in accordance with Article 34, paragraph 1, of the Tribunal Rules. The Tribunal will direct the Tribunal Registry to act in accordance with the Parties' request referred to in Article XII above.

7. Based on the foregoing,

THE TRIBUNAL AWARDS AS FOLLOWS:

(a) The Settlement Agreement is hereby recorded as an Award on Agreed Terms binding upon TAI, INC., THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN, THE MINISTRY OF DEFENCE OF THE ISLAMIC REPUBLIC OF IRAN, THE MINISTRY OF POST, TELEGRAPH AND TELEPHONE OF THE ISLAMIC REPUBLIC OF IRAN, THE NATIONAL IRANIAN OIL COMPANY and BANK TEJARAT, each of which is bound to fulfill the conditions set forth in the Settlement Agreement.

(b) The payment obligation specified in the Settlement Agreement in the amount of Five hundred thousand United States dollars (U.S.\$500,000) shall be satisfied by payment to TAI, INC. 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 Tribunal declares the proceedings in Case No. 421 terminated in their entirety and with prejudice.

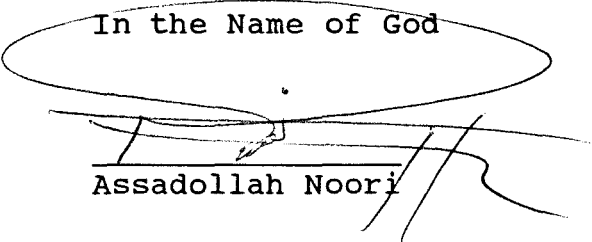
This Award is hereby submitted to the President of the Tribunal for notification to the Escrow Agent.

Dated, The Hague
29 November 1993

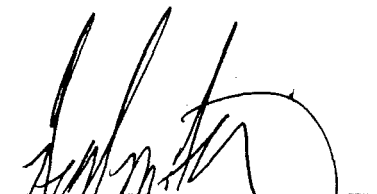


Bengt Broms
Chairman
Chamber One

In the Name of God



Assadollah Noori



Howard M. Holtzmann

Iran-United States Claims Tribunal

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TAI, Inc.,

Claimant

v.

Islamic Republic of Iran;
Ministry of Defense; Ministry
of Posts, Telegraph and Telephone,
National Iranian Oil Company;
and Bank Tejarat,

Respondents.

IRAN-UNITED STATES CLAIMS TRIBUNAL	دیوان داورى دناوى ایران - ایالات متحده
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Case No. 421
Chamber One

JOINT REQUEST FOR ARBITRAL AWARD ON AGREED TERMS

Pursuant to Article 34 of the Tribunal Rules, TAI, Inc., (Claimant), on the one part, and the Government of the Islamic Republic of Iran, Ministry of Posts, Telegraph and Telephone, Ministry of Defense, National Iranian Oil Company and Bank Tejarat, (Respondents), on the other part, jointly request that the Tribunal issue an Arbitral Award on Agreed Terms that will record and give effect to the Settlement Agreement reached among them, a copy of which is attached hereto.

On October 19, 1992 the Parties have entered into such Settlement Agreement settling all claims and counterclaims now existing or capable of arising in connection with Case No. 421, and any other matters related thereto.

The undersigned hereby request the Tribunal to record the Settlement Agreement as an Arbitral Award on Agreed Terms, direct the payment of five hundred thousand United States dollars (U.S.\$500,000) to Claimant out of the Security Account, deliver to Claimant from the Tribunal's Registry the letter of Bank Tejarat described in Article XII of the Settlement Agreement, and terminate Case No. 421 in its entirety and with prejudice.

Respectfully submitted,

Ministry of Posts, Telegraph
and Telephone of the Islamic
Republic of Iran.

By H. Shahat

Date-----

TAI, Inc.,

By James M. Bolly

Date-----

Ministry of Defense of the
Islamic Republic of Iran

By-----

Date-----

National Iranian Oil
Company

By-----

Date-----

Bank Tejarat of Iran

By-----

Date-----

Islamic Republic of Iran

By-----

Date-----

SETTLEMENT AGREEMENT IN CASE NO. 421, CHAMBER ONE

This Settlement Agreement is made this 19. day of October, 1993 by and between TAI, Inc. , a Delaware Corporation having a place of business at 6250 LBJ Freeway, Dallas, Texas 75240, USA ("Claimant"), on the one part, and Ministry of Posts, Telegraph and Telephone of the Islamic Republic of Iran (PTT), Ministry of Defense of the Islamic Republic of Iran (MOD), the National Iranian Oil Company (NIOC), Bank Tejarat Iran and the Government of the Islamic Republic of Iran ("Respondents"), on the other part. Claimant and Respondents are hereinafter called as the Parties. For the purposes of this Settlement Agreement the Parties represent themselves and their subsidiaries, parents, successors, predecessors, instrumentalities, agencies, affiliates, and their respective present and former officers, directors, employees, agents and shareholders whether or not named in the pleadings filed by the Parties in Case No. 421, Chamber One ("the Case").

Whereas, Claimant has raised certain claims as contemplated in its Statement of Claim and other of Claimant's submissions filed with the Iran-United States Claims Tribunal ("the Tribunal"), under the Case against Respondents; and

Whereas, Respondents in responding to the Statement of Claim have filed their Statements of Defense and Counterclaims; and

Whereas, the Parties desire to resolve and to make full, complete, and final settlement of all their claims, counterclaims and disputes existing or capable of arising between them related to Case No. 421 and the claims and counterclaims filed therein:

Now, therefore, in consideration of and under the conditions set forth below, the Parties agree as follows:

ARTICLE I

The purpose and intent of this Settlement Agreement is to settle, dismiss and terminate forever and with prejudice all claims, counterclaims, disputes and differences and matters directly or indirectly raised or capable of being raised in the Case, arising out of the relationships, transactions, contracts or events in any manner related to the subject matter of the Statements of Claim, Statements of Defense and Counterclaims, and other submissions by the Parties in the Case (the "Released Claims").

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ARTICLE II

In consideration of the full and final settlement of all disputes, differences, claims, counterclaims, and matters directly or indirectly raised or capable of being raised in the Case, arising out of the relationships, transactions, contracts or events in any manner related to the subject matter of the Statement of Claim, Statements of Defense and Counterclaims, and other submissions by the Parties in the Case, and in consideration of the covenants, promises, transfers, waivers, withdrawals, and other agreements set forth herein, Claimant shall be paid the sum of five hundred thousand United States dollars (U.S.\$ 500,000) (the "Settlement Amount") out of the Security Account established pursuant to Paragraph 7 of the Declaration of the Democratic and Popular Republic of Algeria of January 19, 1981.

ARTICLE III

Claimant for itself and on behalf of E-Systems, Inc., and their respective present and former officers, directors, shareholders, employees, agents, representatives, parents, subsidiaries, affiliates and successors hereby release, and forever discharge Respondents from and against the Released Claims asserted or could have been asserted in connection with the subject matter of the Case.

ARTICLE IV

Respondents hereby release, and forever discharge Claimant and E-Systems, Inc., and their respective present and former officers, directors, shareholders, employees, agents, representatives, parents, subsidiaries, affiliates and successors from and against the Released Claims asserted or could have been asserted in connection with the subject matter of the Case.

ARTICLE V

Claimant shall indemnify and hold harmless Respondents against any claim, counterclaim, action or proceeding which Claimant may now or in the future raise, assert, initiate or take against any or all of Respondents relating to, or arising out of, or capable of arising out of the contracts, transactions, relationships, rights, or occurrences, and any events that are the subject matter of the Case, except the obligations undertaken in this Agreement.

ARTICLE VI

Respondents shall indemnify and hold harmless Claimant against

any claim, counterclaim, action or proceeding which any or all of Respondents may now or in the future raise, assert, initiate or take against Claimant, relating to or arising out of, or capable of arising out of the contracts, transactions, relationships, rights or occurrences and any events that are the subject matter of the Case, except the obligations undertaken in this Agreement.

ARTICLE VII

Upon issuance of the Arbitral Award on Agreed Terms and payment of the Settlement Amount, Claimant shall transfer unconditionally and irrevocably to Respondents all its rights, titles, benefits and interests claimed in the Case, including but not limited to the balance of its Accounts Nos. 60014 and 70446 in Bank Tejarat Iran, except only Claimant's rights, titles, benefits and interests arising under this Agreement.

ARTICLE VIII

(i) Upon issuance of the Award on Agreed Terms, and payment of the Settlement Amount, Claimant shall cause, without delay and with prejudice, all proceedings against Respondents in all courts, fora or any authorities or administrative bodies to be dismissed, withdrawn and terminated, and shall be barred from instituting and/or continuing with any proceedings before the Iran-United States Claims Tribunal or any other fora, authorities, or administrative bodies, whatsoever, including but not limited to any courts in the United States of America or the Islamic Republic of Iran in connection with disputes, differences, claims and any matters which are the subject matter in the Case. Claimant shall file in the respective courts in the United States all documents, orders and releases that are necessary to implement this provision.

(ii) Upon issuance of the Award on Agreed Terms, and payment of the Settlement Amount, Respondents shall cause, without delay and with prejudice, all proceedings against Claimant, in all courts, fora or any authorities or administrative bodies to be dismissed, withdrawn and terminated and shall be barred from instituting and/or continuing with any proceedings before the Iran-U.S. Claims Tribunal or any other fora, authorities, or administrative bodies, whatsoever, including but not limited to any courts in the United States of America or the Islamic Republic of Iran in connection with disputes, differences, claims and any matters which are the subject matter of the Case.

ARTICLE IX

Upon issuance of the Award on Agreed Terms and payment of the Settlement Amount, the Parties shall waive any and all claims

for costs, including attorneys' fees, arising out of or related in any way to the arbitration, prosecution, or defense of any claim or counterclaim before any forum, including the Iran-United States Claims Tribunal, with respect to the Case.

ARTICLE X

Upon issuance of the Award on Agreed Terms, and payment of the Settlement Amount, the obligations, declarations, releases, waivers, withdrawals, and dismissals, referred to in this Settlement Agreement shall become self-executing. After issuance of the Award on Agreed Terms by the Tribunal and payment of the Settlement Amount, no further documents need to be executed in implementing the provisions of this Agreement.

ARTICLE XI

The Parties agree to submit this Settlement Agreement to the Tribunal within sixty days from the date of the Claimant's signature of this Agreement together with a joint motion requesting it to record and give effect to the provisions of this Settlement Agreement as an Arbitral Award on Agreed Terms, provided however that, this Agreement be approved and ratified by Iranian authorities as provided in Article XIV herein. If this Settlement Agreement is not submitted within the said sixty day period, or as otherwise agreed by the Parties, then, it shall automatically become null and void, and the Parties, without prejudicing their respective rights will be placed in the same position as they were prior to the date of this Settlement Agreement.

ARTICLE XII

Within sixty days of the issuance of the Arbitral Award on Agreed Terms:

(a) PTT shall deliver to the Tribunal Registry a letter from Bank Tejarat in the form attached herewith.

(b) The Tribunal shall order the Tribunal's Registry to deliver the Letter of Bank Tejarat to Claimant described in the preceding paragraph.

ARTICLE XIII

This Settlement Agreement is for the sole purpose of settling the Released Claims. Nothing in this Settlement Agreement shall be relied upon or construed as relevant to or to affect in any way any argument or position that Claimant or Respondents have raised or may raise concerning the jurisdiction or the merits of this Case or other cases, whether before the Tribunal or any other forum or fora. This Settlement Agreement shall not

constitute a legal precedent for any person or party, and shall not be used except for the sole purpose of giving effect to its terms, and shall not prejudice or affect other rights of the Parties or the rights of any other person in other cases before the Tribunal or elsewhere.

ARTICLE XIV

The Parties acknowledge that this Settlement Agreement is to be approved and ratified by the Iranian authorities within the period specified in Article XI herein. Signing of this Agreement by the Agent of the Islamic Republic of Iran to the Tribunal shall represent that such approval and ratification have been obtained. Should for any reasons whatsoever they choose not to approve this Settlement Agreement, then it shall become null and void, and in that event no party to this Settlement Agreement may rely upon, cite or publish its terms or any statements made in the course of settlement discussions.

ARTICLE XV

For the purpose of construction and interpretation of the Settlement Agreement the entire agreement shall be read and construed as a whole without giving any specific effect to any article separately.

ARTICLE XVI

The representatives of the Parties hereto expressly declare that they are duly empowered to sign this Agreement.

ARTICLE XVII

This Agreement (in four originals) has been written and signed in both languages of Persian and English and each text shall have the same and equal validity.

Ministry of Posts, Telegraph
and Telephone of the Islamic
Republic of Iran.

By H. Shabab

Date-----

TAI, Inc.,

James M. Golding

By-----

Date 22.9.1993

Ministry of Defense of the
Islamic Republic of Iran

By ~~Signature~~-----

Date ~~10/27/1993~~-----

National Iranian Oil
Company

By ~~Signature~~-----

Date-----

Bank Tejarat of Iran

By ~~Signature~~-----

Date-----

Islamic Republic of Iran

By ~~Signature~~-----

Date ~~15-11-93~~-----

(BANK TEJARAT)

Date:

TAL, Inc.
C/O Harold Haffman
Gardere & Wynne
Suite 3000
1601 Elm Street,
Dallas, TX 75201

Gentlemen:

In consideration of the settlement of all claims and counterclaims in Case No.421, pending before the Iran-United States Claims Tribunal at the Hague, The Netherlands, Bank Tejarat, a banking institution with its headquarters located at Tehran, Iran, for itself and as successor to "BANK IRANIAN"(sometimes refer to as Iranians' Bank) and successor to any other incorporated banks located in the Islamic Republic of Iran, hereby releases all claims to or under any letters of credit issued by any such banks for the purpose of guaranteeing the obligations of TAI, Inc. and for the benefit of the Ministry of Posts, Telegraph and Telephone in Case No. 421, including, without limitation, all claims to or under the following described letters of credit:

First National City Bank- Houston - No. 150.
First National City Bank- Houston - No.152.
First National City Bank- Houston- No. 298.
First National City Bank- Houston- No.299.
First National City Bank in Dallas- No. 44130.

Bank Tejarat agrees that it will not present any such letters of credit for payment to the issuing bank, and that neither it nor any predecessor or successor institution will claim any benefits thereunder whatsoever. Bank Tejarat hereby agrees to indemnify TAI, Inc. and its guarantors and indemnitors in connection with any such letters of credit, against any loss that might be incurred by them or any of them as a result of breach of this agreement.

Date _____ 1993

Bank Tejarat

By: _____