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** DECISION - Date of Decision _____
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** CONCURRING OPINION of _____
 - Date _____
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** SEPARATE OPINION of _____
 - Date _____
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** DISSENTING OPINION of _____
 - Date _____
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IRAN-UNITED STATES CLAIMS TRIBUNAL

دیوان داورى دعاوى ایران - ایالات متحده
CASE NO. 447

CHAMBER THREE

AWARD NO.450-447-3

DUPLICATE
ORIGINAL
نسخه برابر اصل

DAVID HAROUNIAN,
Claimant,

and

THE GOVERNMENT OF THE
ISLAMIC REPUBLIC OF IRAN,
Respondent.

IRAN-UNITED STATES CLAIMS TRIBUNAL
دیوان داورى دعاوى ایران - ایالات متحده
FILED ثبت شد
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1368 / 9 / 6

AWARD

I. THE PROCEEDINGS

1. On 18 January 1982 DAVID HAROUNIAN (the "Claimant") filed a Statement of Claim against THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN ("Iran") claiming U.S.\$1,100,000 for the alleged expropriation of his interests in a brick manufacturing plant and in real property in Iran in 1979. Iran submitted its Statement of Defense on 25 October 1982.

2. On 6 April 1984 the Full Tribunal issued a decision in Case No. A18, Decision No. DEC 32-A18-FT, p. 25, reprinted in 5 Iran-U.S. C.T.R. 251, 265, in which it determined "that it has jurisdiction over claims against Iran by dual Iran-United States nationals when the dominant and effective nationality of the claimant during the relevant period from the date the claim arose until 19 January 1981 was that of the United States."

3. On 28 June 1985 the Tribunal requested the Claimant to submit all written evidence he wished the Tribunal to consider in determining his dominant and effective nationality. The Claimant filed his memorial and evidence concerning his dominant and effective nationality on 30 September 1985. The Tribunal thereafter invited Iran to file "all evidence that it wishes the Tribunal to consider on the issue of Claimant's nationality." After granting three extensions of the original deadline, the Tribunal on 6 February 1987 denied Iran's fourth request for extension and informed the Parties that it intended to proceed with its deliberations on the issue of jurisdiction in this Case as soon as its schedule permitted on the basis of the evidence then before the Tribunal, pursuant to Article 28, paragraph 3, of the Tribunal Rules.

4. On 28 June 1988 Iran submitted a letter requesting the Tribunal to dismiss the Claimant's claim for lack of evidence or, in the alternative, to order the Claimant to

submit additional evidence, including a copy of his Iranian identity card and information relating to his place of birth, places and dates of residence, educational background, occupational background, visits to Iran, property owned in Iran, and acquisition of United States nationality. By its Order of 21 July 1988, the Tribunal indicated it would address Iran's request when it deliberated the Claimant's dominant and effective nationality.

5. On 8 November 1988 Iran submitted a memorial on the issue of the Claimant's nationality, asserting that he has failed to produce evidence of his alleged United States nationality.

II. FACTUAL BACKGROUND

6. The Claimant alleges that he came to the United States from Iran in January 1959. He further alleges that after receiving permanent resident status in the United States he became a naturalized citizen on 19 December 1967 at the United States District Court for the Eastern District of New York.

7. The Claimant states that he was educated in the United States and graduated from an American university. The Claimant further asserts that he married an American citizen in the United States and that they have two children, both born in the United States. He claims to have maintained a residence in a suburb of New York since approximately 1963 and to have conducted his business in New York City. Additionally, he states that he was drafted by the United States Selective Service System in 1965.

8. He alleges that his only contact with Iran is through the ownership of real estate and stocks.

9. The only documentary submissions on which the Claimant relies are copies of pages from three United States passports issued to persons other than the Claimant and two documents evidencing the Claimant's marriage. No evidence concerning the Claimant's United States nationality has been submitted.

III. THE TRIBUNAL'S DECISION

10. In accordance with the various criteria set forth by the Full Tribunal in Case No. A18, supra, the Tribunal must first determine on the basis of the evidence whether the Claimant was, during the period from the date on which his claim arose until the date of the Claims Settlement Declaration, 19 January 1981, a national of the United States or of Iran or of both countries.

11. It was the particular burden of the Claimant to substantiate his claim with supporting evidence of his United States nationality during the relevant period. Although the Tribunal provided the Claimant with adequate opportunities to submit such evidence, the Claimant did not produce any, nor did he make reference to any such evidence in his possession. On the basis of the evidence before it, the Tribunal concludes that the Claimant has failed to establish his United States nationality as required by Article VII, paragraph 1, of the Claims Settlement Declaration. Consequently, his claim is dismissed for lack of jurisdiction.

IV. AWARD

12. In view of the foregoing,

THE TRIBUNAL AWARDS AS FOLLOWS:

- a. The Claim of DAVID HAROUNIAN against THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN is dismissed for lack of jurisdiction.
- b. Each Party shall bear its own costs of arbitration.

Dated, The Hague

27 November 1989



Gaetano Arangio-Ruiz
Chairman
Chamber Three

In The Name of God



Richard C. Allison



Parviz Ansari Moin