

222-188

CLAIMS TRIBUNAL

دیوان دادرى دعاوى ایران - ایالات متحدہ

۲۲۲-۱۸۸

ORIGINAL DOCUMENTS IN SAFE

188

Case No. 222Date of filing: 27 OCT 86

** AWARD - Type of Award on Agreed Terms
- Date of Award 24 OCT 86
4 pages in English 4 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: _____

- Date _____
_____ pages in English _____ pages in Farsi

IRAN-UNITED STATES CLAIMS TRIBUNAL

دیوان داری دعاوی ایران - ایالات متحدہ

CASE NO. 222

CHAMBER ONE

AWARD NO. 262-222-1

188

THE BOEING COMPANY and its
subsidiaries,
LOGISTICS SUPPORT CORPORATION,
BOEING TECHNOLOGY INTERNATIONAL
INCORPORATED, BOEING CONSTRUCTION
EQUIPMENT COMPANY,

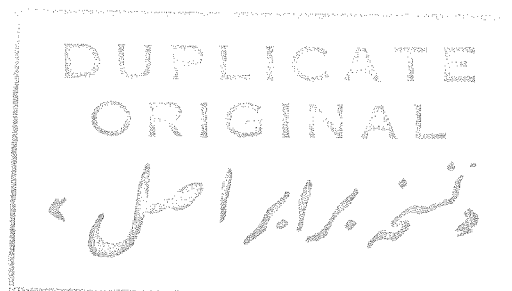
Claimants,

and

THE GOVERNMENT OF THE ISLAMIC
REPUBLIC OF IRAN,
THE IRANIAN AIR FORCE,

Respondents.

IRAN UNITED STATES CLAIMS TRIBUNAL		دادگاه داری دعاوی ایران - ایالات متحدہ	
ثبت شد - FILED			
Date	27 OCT 1986	شماره	
	۱۳۶۵ / ۸ / ۵		
No.	222	شماره	



AWARD ON AGREED TERMS

On 6 October 1986 a Joint Request was filed with the Tribunal, signed by a representative of, on the one hand, THE BOEING COMPANY, LOGISTICS SUPPORT CORPORATION, their subsidiaries and affiliates, and on the other hand, the Agent of the GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN, a representative of the MINISTRY OF DEFENCE OF THE ISLAMIC REPUBLIC OF IRAN, and a representative of the AIR FORCE OF THE ISLAMIC REPUBLIC OF IRAN.

Attached to the Joint Request was a Settlement Agreement dated 6 October 1986, between, on the one hand, the ISLAMIC REPUBLIC OF IRAN and the AIR FORCE OF THE ISLAMIC REPUBLIC OF IRAN, "which for the purpose of this Agreement represent themselves, their ministries, agencies, affiliates and subsidiaries, and wholly-owned corporations, companies, and business enterprises and their subsidiaries (whether or not named in the Statement of Claim or Defence No.222),... referred to collectively as 'Respondents'", and on the other hand, THE BOEING COMPANY and LOGISTICS SUPPORT CORPORATION "which for the purpose of this Agreement represent themselves, their subsidiaries, parents and affiliates (whether or not named in the Statement of Claim or Defense No.222)... referred to collectively as 'Claimants'". The Settlement Agreement was signed by the same persons on behalf of the same entities as the Joint Request. Copies of the Joint Request and Settlement Agreement are annexed hereto.

The Settlement Agreement provides for certain reciprocal obligation by the Parties, including the payment of the sum of US \$31,500,000.00 to the Claimants by the Respondents. The Joint Request states that the "Settlement Agreement constitutes a full and final settlement of the parties' claims, counterclaims, debts, causes of action and demands, whether asserted or unasserted, known or unknown, as provided in Articles 1 and 2 of the Settlement Agreement."

Pursuant to the Settlement Agreement, the Parties to the Joint Request request the Tribunal to:

- "(1) Record the Settlement Agreement as an Arbitral Award on Agreed Terms in the amount of Thirty-One Million Five Hundred Thousand Dollars (\$31,500,000.00) to be paid from the Security Account to the Federal Reserve Bank of the United States for the account and benefit of The Boeing Company on its own behalf and on behalf of other Claimants.
- (2) Receive the conditional license unblocking the account blocked by License 1477A of the United States Department of Treasury, as referred to in Article 3.4 of the Settlement Agreement;
- (3) Receive the documents described in Article 3.3 of the Settlement Agreement;
- (4) Upon receipt of the license referred to in Article 3.4 and all of the documents referred to in Article 3.3 of the Settlement Agreement, issue a Notification to Escrow Agent of Tribunal Award for the payment of Thirty-One Million Five Hundred Thousand Dollars (\$31,500,000.00) from the Security Account to the Federal Reserve Bank of the United States for the account and benefit of the Boeing Company on its own behalf and on behalf of other Claimants.
- (5) Upon issuance of the Notification to Escrow Agent of Tribunal Award by the President of the Tribunal as described in (4) above, deliver to Claimants the documents described in Article 3.3 (e) and (f) and the license described in Article 3.4 of the Settlement Agreement and deliver to Respondents the documents described in Article 3.3 (a) through (d) of the Settlement Agreement.
- (6) Upon delivery of the documents referred to in (5) above, dismiss with prejudice all claims and counter-claims and terminate all proceedings in Case No. 222."

The Tribunal accepts the Settlement Agreement in accordance with Article 34, paragraph 1, of the Tribunal Rules.

Based on the foregoing,

The Settlement Agreement is hereby recorded as an Award on Agreed Terms binding upon the Parties. Consequently, the Respondents the ISLAMIC REPUBLIC OF IRAN and THE AIR FORCE

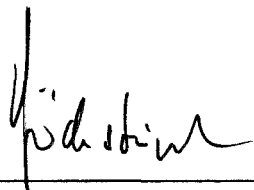
OF THE ISLAMIC REPUBLIC OF IRAN are obligated to pay the Claimant THE BOEING COMPANY the amount of Thirty-One Million Five Hundred Thousand United States Dollars (US \$31,500,000.00) which obligation shall be satisfied by payment out of the Security Account established pursuant to paragraph 7 of the Declaration of the Government of the Democratic and Popular Republic of Algeria dated 19 January 1981.

This Award will be submitted to the President of the Tribunal for notification to the Escrow Agent on receipt by the Tribunal of the licence referred to in Article 3.4 and of all the documents referred to in Article 3.3, paragraphs (a) through (f) of the Settlement Agreement.

Upon issuance of the Notification to the Escrow Agent by the President of the Tribunal, the Tribunal will deliver to the Claimants the documents described in Article 3.3(e) and (f) and the licence described in Article 3.4 of the Settlement

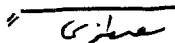
Agreement and deliver to the Respondents the documents described in Article 3.3(a) through (d) of the Settlement Agreement.

Dated, The Hague,
24 October 1986

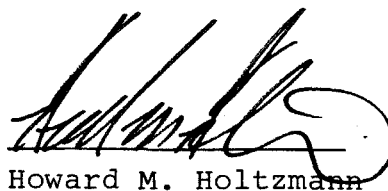


Karl-Heinz Böckstiegel
Chairman
Chamber One

In the name of God



Mohsen Mostafavi


Howard M. Holtzmann

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IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داری و داری ایران - ایالات متحده
ثبت شد - FILED	
Date	6 OCT 1986 1365 / 7 / 14
No.	222

In the Name of God
Before the Iran-United States Claims Tribunal
Case No. 222
Chamber One

JCINT REQUEST FOR ARBITRAL AWARD ON AGREED TERMS

Pursuant to Article 34 of the Tribunal Rules of Procedure, The Boeing Company and Logistics Support Corporation, for themselves and on behalf of their parents, affiliates and subsidiaries, whether or not named in the Statement of Claim No. 222, (hereinafter collectively called "Claimants") and the Islamic Republic of Iran and the Air Force of the Islamic Republic of Iran and their ministries, agencies, affiliates and subsidiaries, and wholly owned corporations, companies and business enterprises and their subsidiaries, whether or not named in the Statement of Claim No. 222, (hereinafter collectively called "Respondents") jointly request that the Iran-United States Claims Tribunal (the "Tribunal") issue an Arbitral Award on Agreed Terms that will record and give effect to the Settlement Agreement reached by the Parties and terminate Case No. 222.

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On October 6, 1986, Claimants and Respondents entered into a Settlement Agreement, a copy of which is attached hereto, providing that in consideration of agreements, covenants, undertakings, transfers, assignments, waivers, dismissals, withdrawals and other transactions contemplated by the Settlement Agreement, and upon the satisfaction of conditions specified in the Settlement Agreement, Claimants shall be paid Thirty-One Million Five Hundred Thousand United States Dollars (U.S.\$31,500,000.00). This Settlement Agreement constitutes a full and final settlement of the parties' claims, counterclaims, debts, causes of action and demands, whether asserted or unasserted, known or unknown, as provided in Articles 1 and 2 of the Settlement Agreement. Therefore, the parties request the Tribunal to :

- (1) Record the Settlement Agreement as an Arbitral Award on Agreed Terms in the amount of Thirty-One Million Five Hundred Thousand Dollars (\$31,500,000.00) to be paid from the Security Account to the Federal Reserve Bank of the United States for the account and benefit of The Boeing Company on its own behalf and on behalf of other Claimants.
- (2) Receive the conditional license unblocking the account blocked by License 1477A of the United States Department of Treasury, as referred to in Article 3.4 of the Settlement Agreement;
- (3) Receive the documents described in Article 3.3 of the Settlement Agreement;
- (4) Upon receipt of the license referred to in Article 3.4 and all of the documents referred to in Article 3.3 of the Settlement Agreement, issue a Notification to Escrow Agent of Tribunal Award for the payment of Thirty-One Million Five Hundred Thousand Dollars (\$31,500,000.00) from the Security Account to the Federal Reserve Bank of the United States for the account and benefit of the Boeing Company on its own behalf and on behalf of other Claimants.
- (5) Upon issuance of the Notification to Escrow Agent of Tribunal Award by the President of the Tribunal as described in (4) above, deliver to Claimants the documents described in Article 3.3 (e) and (f) and the license described in Article 3.4 of the Settlement Agreement and deliver to Respondents the documents described in Article 3.3 (a) through (d) of the Settlement Agreement.

- (6) Upon delivery of the documents referred to in (5) above, dismiss with prejudice all claims and counterclaims and terminate all proceedings in Case No. 222.

Agent of the Islamic Republic of Iran

for By Mohammad K. Sheykh

Date 50, 318

Ministry of Defense of Islamic Republic of Iran

By C. Gh. GERAMI

Date 6/10/86

Air Force of the Islamic Republic of Iran

By [Signature]

Date 40, 5/14

The Boeing Company, Logistics Support Corporation, their subsidiaries and affiliates

By [Signature]

Date October 6, 1986

In the Name of God
Before the Iran-United States Claims Tribunal
Case No. 222
Chamber One

SETTLEMENT AGREEMENT

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داری دعاوی ایران-ایالات متحده
ثبت شد - FILED	
Date	6 OCT 1986 ۱۳۶۵ / ۷ / ۱۴
No.	222

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This Settlement Agreement is made this 6th day of October, 1986, by and between :

(1) The Islamic Republic of Iran (hereinafter "Iran") and the Air Force of the Islamic Republic of Iran, which for the purpose of this Agreement represent themselves, their ministries, agencies, affiliates and subsidiaries, and wholly-owned corporations, companies, and business enterprises and their subsidiaries (whether or not named in the Statement of Claim or Defense No. 222); and

(2) The Boeing Company (hereinafter "Boeing"), a corporation organized and existing under the laws of the State of Delaware, U.S.A., and Logistics Support Corporation (hereinafter "LSC"), a corporation organized and existing under the laws of the State of Delaware, U.S.A., which for the purpose of this Agreement represent themselves, their subsidiaries, parents and affiliates (whether or not named in the Statement of Claim or Defense No. 222).

For the purpose of this Agreement, the Parties in subparagraph (1) above are referred to collectively as "Respondents," and the Parties in subparagraph (2) above are referred to collectively as "Claimants."

WHEREAS, pursuant to lengthy negotiations held between them since 1979, Claimants and Respondents wish to settle, release and discharge for all time all their claims arising out of contracts, events or transactions prior to the date of this Agreement, asserted or unasserted, referred to in their claims, counterclaims, statements of defense and judgments in all adjudicative or arbitral forums, tribunals or courts, including but not limited to Iranian, United States and German courts and the Iran-U.S. Claims Tribunal ("the Tribunal"). Therefore, Claimants and Respondents agree as follows:

Article 1: Claimants' Obligations

Claimants' obligations under this Settlement Agreement are:

1.1 To vacate the order of attachment in the action pending in Regional Court, 22nd Civil Chamber in Frankfurt am Main, Federal Republic of Germany ("the German Action) and to withdraw the German Action.

1.2 To terminate, dismiss with prejudice and withdraw all their claims, counterclaims and actions against Respondents in the Tribunal, including without limitation all claims and counterclaims set forth in Claimants' Statement of Claim in Case 222, or in any other court, forum or judicial or arbitral body and to acknowledge and execute a satisfaction in full of the judgment of the United States District Court for the Western District of Washington, Action No. C79-591C, dated November 1, 1983, as modified by Modification to Final Judgment, dated January 7, 1986.

1.3 To release Respondents from all claims, counterclaims, debts, causes of action and demands, whether asserted or unasserted, known or unknown, arising from, or relating in any way to, any of the contracts, transactions or events raised or alleged by Claimants' claims in the United States

or German court actions between Claimants and Respondents or by Claimants' claims in their Statement of Claim in Case 222 in the Tribunal.

1.4 To file with the Tribunal an executed copy of this Settlement Agreement and a Joint Request with Respondents for an Award on Agreed Terms and a request to dismiss with prejudice all claims and counterclaims in Case 222 pending before the Tribunal.

1.5 To dismiss with prejudice their counterclaims against Respondents for contribution and indemnity pending in Action No. C79-591C and Action No. C79-1231C in the United States District Court for the Western District of Washington.

1.6 To file with the Tribunal a statement advising it as follows:

"Certain employees of Claimants asserted claims in the Tribunal against Iran in the name of said employees individually. These claims have been denominated "small claims" and are being pursued on the employees' behalf by the United States. These claims were never authorized or approved by Claimants. Rather, Claimants fulfilled their contractual obligations to these employees and paid these employees any compensation due them from their employers. To Claimants' knowledge, there was no direct contractual relationship between these employees and the Islamic Republic of Iran or its agencies."

Article 2: Respondents' Obligations

Respondents' obligations under this Settlement Agreement are:

2.1 To pay \$31,500,000 to Claimants out of the Tribunal's Security Account established pursuant to Paragraph 7 of the Declaration of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981.

2.2 To (1) relinquish all right or entitlement to the account blocked by License 1477A issued by the Office of Foreign Assets Control of the United States Treasury Department, and any accrued interest thereon, (2) acknowledge that Boeing is forever entitled to those funds, without any encumbrance, and (3) request per Attachment 1 the unconditional unblocking and release to Claimants of those funds.

2.3 To dismiss with prejudice their petition for certiorari pending before the United States Supreme Court, Docket No. 85-1623.

2.4 To file with the Tribunal an executed copy of this Settlement Agreement and a Joint Request with Claimants for an Award on Agreed Terms and a request to terminate and dismiss with prejudice all claims and counterclaims in Case 222 pending before the Tribunal.

2.5 To terminate and withdraw their appeal of the order of attachment in the German Action referred to in Article 1.1 above.

2.6 To terminate, dismiss with prejudice and withdraw all claims, counterclaims and actions against Claimants in the Tribunal, including without limitation all claims and counterclaims set forth in Respondents' two Statements of Defense in Case 222, or in any other court, forum or judicial or arbitral body.

2.7 To release Claimants from all claims, counterclaims, debts, causes of action and demands, whether asserted or

unasserted, known or unknown, arising from, or relating in any way to, any of the contracts, transactions or events raised or alleged by Respondents' claims in the United States or German court actions between Claimants and Respondents or by Respondents' claims or counterclaims in their Statements of Defense in Case 222 in the Tribunal.

Article 3: Implementation

3.1 Claimants and Respondents agree to submit, on the date hereof, this Settlement Agreement and a Joint Request for Arbitral Award on Agreed Terms, as approved by Respondents' authorities, to the Tribunal. If for any reason this does not occur, this agreement shall become null and void and neither Respondents nor Claimants may rely upon, cite or publish the Settlement Agreement's terms. The Joint Request for Arbitral Award on Agreed Terms will request immediate consideration and approval of this Settlement Agreement and the issuance of an Award on Agreed Terms.

3.2 If, for any reason, the Tribunal fails to make an Award on Agreed Terms consistent with the terms of this Settlement Agreement within forty (40) days from the submission of the Settlement Agreement and Joint Request for Arbitral Award on Agreed Terms to the Tribunal, this Settlement Agreement may be declared null and void by either Party if the Parties do not agree on an extension of its term. If, for any reason, the Tribunal declines to issue an Award on Agreed Terms to implement this Settlement Agreement, this agreement shall become null and void, and neither Respondents nor Claimants may rely upon, cite or publish the Settlement Agreement's terms.

3.3 As promptly as possible, but in no event later than fifteen (15) days from the date of this Settlement Agreement:

- (a) Claimants shall lodge with the Tribunal an appropriate and required document withdrawing and dismissing the German Action and vacating the attachment order issued in that Action.
- (b) Claimants shall lodge with the Tribunal their motion to dismiss with prejudice their counter-claims against Respondents for contribution and indemnity that are pending in Action No. C79-591C and Action No. C79-1231C in the United States District Court for the Western District of Washington
- (c) Claimants shall lodge with the Tribunal an executed satisfaction of judgment stating that the judgment in their favor against Respondents issued by the United States District Court for the Western District of Washington in Action No. C79-591C and Action No. C79-1231C has been satisfied in its entirety.
- (d) Claimants shall lodge with the Tribunal the statement described in Article 1.6 above.
- (e) Respondents shall lodge with the Tribunal an appropriate and required document terminating and withdrawing their appeal in the German Action.
- (f) Respondents shall lodge with the Tribunal their request to dismiss with prejudice their petition for certiorari pending before the United States Supreme Court under Docket No. 85-1623.

All documents described in Article 3.3 (a) through (f) shall be approved as to form and content by Claimants and Respondents before the documents are submitted to the Tribunal.

3.4 Claimants agree to promptly submit a copy of this Settlement Agreement and Attachment 1 hereto to the appropriate agencies of the United States government and to request from those agencies, based on the terms of this Settlement Agreement and Respondents' consent as expressed herein and in Attachment 1, the issuance of a conditional license from the Office of Foreign Assets Control of the Treasury Department to supersede license No. IR-1477A. The requested license shall provide that the account blocked by license IR-1477A shall be unblocked and that Boeing shall have the full, free and unrestricted use of the funds represented by the blocked account and that the license will become effective only upon its release by the Tribunal to Boeing in accordance with Article 3.5 of this Settlement Agreement. The requested license, if issued, shall be submitted to the Tribunal through the United States' agent. If, for any reason, the United States government fails or refuses to issue the requested license within twenty (20) days from the date of this Settlement Agreement and Attachment 1 as provided for by this Article, the Settlement Agreement shall become null and void.

3.5 Upon receipt by the Tribunal of the license referred to in Article 3.4 above and all of the documents described in Article 3.3, the Tribunal shall cause Thirty-One Million Five Hundred Thousand United States Dollars (\$31,500,000.00) to be paid to The Boeing Company on its own behalf and on behalf of other Claimants from the Security Account. Upon issuance of the Notification to Escrow Agent of the Tribunal Award by the President of the Tribunal, the Tribunal shall deliver to the Claimants the requested license referred to in Article 3.4 and the documents referred to in Article 3.3 (e) and (f) and shall deliver to Respondents the documents referred to in Article 3.3 (a) through (d).

Article 4: General Provisions

4.1 In the dismissals of claims and pending actions under this Settlement Agreement, the parties shall bear their own costs and shall waive any and all claims for costs (including attorneys' fees) arising out of or related to the arbitration, prosecution or defense of the claims or counterclaims asserted before the Tribunal and United States courts. Respondents shall pay one-half and Claimants shall pay one-half of all court fees in the proceedings at the District Court in Frankfurt am Main, File No. 2/220266/85 and the proceedings at the Court of Appeal in Frankfurt, File No. 1U155/86, and Claimants and Respondents shall inform those courts of this cost sharing agreement. Claimants and Respondents shall bear their own attorneys fees in those proceedings.

4.2 It is agreed that the Settlement Agreement is made in the spirit of out-of-court private settlement of disputes and that it shall be null and void if the several obligations created herein (unless modified by agreement of the Parties) are not met. Claimants and Respondents further agree that they shall not use, or cause any other person to use, this Settlement Agreement in the prosecution or defense of any other cases before the Tribunal or before any other forum, except that the Parties may use the Settlement Agreement for the sole purpose of implementing its terms and to bar further litigation inconsistent with its terms.

4.3 The time periods set forth in Article 3 may be extended by written consent of Claimants and Respondents. In the absence of such extensions, the failure to submit documents within the time periods set forth in Article 3 shall render this Settlement Agreement null and void.

4.4 This Settlement Agreement is for the sole purpose of settling the dispute between the Parties thereto. Nothing in this Settlement Agreement shall be relied upon or construed as to affect any position of the Respondents concerning the jurisdiction or merits of other cases before the Tribunal.

Notwithstanding the above, the Government of the Islamic Republic of Iran hereby agrees to withdraw, and not to further pursue, its claims for any monetary damages allegedly resulting from the asserted violation by the U.S. of the Algiers Declarations in connection with the litigation between the Parties to this Settlement Agreement.

4.5 The releases set forth in Articles 1 and 2 and 4.4 shall be self-executing upon the distribution of the documents by the Tribunal per Article 3.5.

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

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

4.8 This Settlement Agreement has been written and signed in both English and Farsi and each text shall have the same equal validity.

Agent of the
Islamic Republic of Iran
for

By Mohammad K. Eshragh

Date

90 - 7 - 12

Ministry of Defence of
Islamic Republic of Iran

لین

By Col. GERANI

Date

6 / OCT / 86

Air Force of the Islamic
Republic of Iran

By

Date

90, 7, 12

The Boeing Company
Logistics Support Corporation,
their subsidiaries and
affiliates

By

Date

October 6, 1986

ATTACHMENT 1

Director
Office of Foreign Assets Control
United States Department of Treasury
Washington, D.C.

In accordance with the terms of the enclosed Settlement Agreement reached on October , 1986 by the Islamic Republic of Iran, the Air Force of the Islamic Republic of Iran, et al and The Boeing Company et al, the Islamic Republic of Iran, et.al., through their respective designated representatives, has authorized Boeing to request, and Boeing hereby requests the Office of Foreign Assets Control to issue a license that will supersede license No. IR-1477A. Boeing requests that the new license contain the following provisions:

1. On the effective date of this license,
 - A. License No. IR-1477A shall be revoked in its entirety, including the provisions of any earlier licenses incorporated by reference in license No. IR-1477A.
 - B. the blocked account on Boeing's books in the amount of \$31,233,000.00 established by license No. IR-1477A shall be unblocked, and Boeing shall have an unconditional right to the \$31,233,000.00 in the blocked account and the full, free and unfettered right to use those funds; and
 - c. neither the Islamic Republic of Iran, the Air

Force of the Islamic Republic of Iran nor any Iranian entity shall be deemed, for the purpose of the Iranian Assets Control Regulations or for any other purpose, to have any interest, disputed or otherwise, in the \$31,233,000.00 in the blocked account.

2. This license will become effective only when it is released to Boeing by the Iran-United States Claims Tribunal in accordance with Article 3.5 of the Settlement Agreement. If this license is not released to Boeing in accordance with this paragraph, then the license shall be null and void and have no effect whatsoever, and license IR-1477A shall remain in effect.

Boeing requests that the Office of Foreign Assets Control submit the new license to the Iran-United States Claims Tribunal through the United States' Tribunal Agent. This request, which is made solely for the purpose of properly carrying out the terms of the Settlement Agreement, shall not otherwise affect the position of the Islamic Republic of Iran.

Agent of the ^{لج}
Islamic Republic of Iran

By [Signature]

Date 80-11-15

The Boeing Company
Logistics Support Corporation,
their subsidiaries and
affiliates

By [Signature]

Date October 6, 1986

Ministry of Defence of
Islamic Republic of Iran

By COL. GERANI

Date 6 OCT 1986

Air Force of the Islamic
Republic of Iran

By [Signature]

Date: 48, 11, 15