

IN SAFE

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Case No. 246

Date of filing: 23 JUL 85

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

** DECISION - Date of Decision 23 JUL 85
4 pages in English 3 pages in Farsi

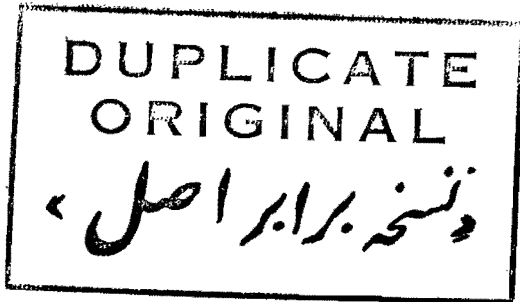
** CONCURRING OPINION of _____
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** SEPARATE OPINION of _____
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** DISSENTING OPINION of _____
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CASE NO. 246

CHAMBER TWO

DECISION NO. DEC. 38 -246-2

UNIVERSAL ENTERPRISES, LTD.

Claimant,

and

NATIONAL IRANIAN OIL COMPANY,

THE ISLAMIC REPUBLIC OF IRAN,

Respondents.

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه دآوری دعاوی ایران - ایالات متحدہ
ثبت شد - FILED	
Date	23 JUL 1985 تاریخ
	۱۳۶۴ / ۵ / ۱
No.	246 شماره

DECISION

1. The Statement of Claim in this case, which was filed on 13 January 1982, stated that "Claimant, Universal Enterprises, Ltd. ("UEL") is a corporation organized and existing under the laws of the Cayman Islands." The Statement of Claim also stated that "UEL's capital stock is more than 50% owned by individuals who are United States citizens", but it did not identify any such owners. Thus, but for the fact that the Cayman Islands were not part of the United States, the claim purported to be a direct claim by Universal Enterprises, Ltd. under Article VII, paragraph 1(b) of the Claims Settlement Declaration, rather than an indirect claim by U.S. nationals through ownership of capital stock or other proprietary interests in juridical persons under Article VII, paragraph 2. Despite the reference to the Cayman Islands, the Tribunal registry mistakenly accepted the claim for filing.

2. In its Statement of Defense filed on 25 July 1983, the Respondent National Iranian Oil Company ("NIOC") took exception to the Claim on the ground, inter alia, that the Claimant was not incorporated in the United States but allegedly in the Cayman Islands, although the contract between UEL and OSCO stated the Channel Islands as place of incorporation of the Claimant, and therefore was not eligible to file a claim under the Declaration.

3. In its Reply, filed on 30 September 1983, the Claimant identified Mr. James C. Larsen as the sole owner of UEL since the date of its incorporation and submitted evidence of his United States nationality. The Claimant then stated: "The Tribunal is respectfully requested to accept this clarification of the identity of the claimant and regard the claim as a claim of James C. Larsen on behalf of UEL." Thus, while styled a "clarification" rather than an "amendment," the Reply sought to change the name of the Claimant from UEL to that of Larsen.

4. At the Pre-Hearing Conference held on 14 March 1985, the Tribunal informed the Parties that it would decide as a preliminary matter the issue as to the identity of the Claimant in this case.

5. Having considered all the documents filed by the Parties and having listened to their further views as expressed during the Pre-Hearing Conference, the Tribunal decides as follows:

a. Given the fact that none of the documents filed with the Tribunal prior to 19 January 1982, which was the final deadline under the Declaration for the filing of claims, indicated that the Claims in this case were indirect claims of United States national owners of the corporation

or identified the owner or owners, the belated effort in 1983 to change the nature of the claim and to name Mr. Larsen as the Claimant cannot properly be considered a permissible "clarification" of the type permitted by the Full Tribunal in the AMF case,¹ but rather must be considered an attempt to file a new claim after the deadline established by the Declaration, which is not legally possible.² In the context of the Statement of Claim here filed, the Claimant's "clarification" in attempting to substitute Mr. James C. Larsen for UEL, which both introduces as the sole Claimant a national not identified in the Statement of Claim and changes the jurisdictional basis of the Claim from a direct to an indirect claim, constitutes a new claim filed after the deadline provided for in Article III, paragraph 4, of the Claims Settlement Declaration and Administrative Directive No. 1.

b. As both Parties have acknowledged that the Tribunal has no jurisdiction over a claim by Universal Enterprises, Ltd., which is not a United States national as

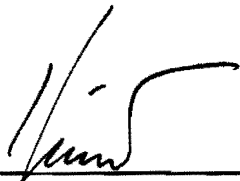
¹ In Re Refusal to File Claim of AMF Overseas Corp., Decision No. 17-Ref 20-FT (8 Dec. 1982), reprinted in 1 Iran-U.S. C.T.R. 392.

² See In Re Refusal to Accept the Claim of Raymond Int'l (U.K.) Ltd., Decision No. 18-Ref 21-FT (8 Dec. 1982), reprinted in 1 Iran-U.S. C.T.R. 394. Cf. Cases where the Tribunal has permitted the addition of parties (both claimant and respondents) to pending claims: American Int'l Group, Inc. and Islamic Republic of Iran, Award No. 93-2-3 at 9 (19 Dec. 1983), reprinted in 4 Iran-U.S. C.T.R. 96, 101; Kimberly-Clark Corp. and Bank Markazi Iran, Award No. 46-57-2 at 9 (25 May 1983), reprinted in 2 Iran-U.S. C.T.R. 334, 338; and Harnischfeger Corp. and Ministry of Roads and Transportation, Award No. 175-180-3 at 7-8, 14 (26 Apr. 1985).

defined in Article VII, paragraph 1(b) of the Declaration, the necessary consequence of this Decision is that the claim must be dismissed for lack of jurisdiction. Accordingly, the Co-Registrars are hereby instructed to strike this claim from the Register.

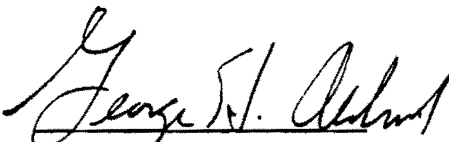
Dated, The Hague,

23 July 1985



Robert Briner
Chairman

In the Name of God



George H. Aldrich

Hamid Bahrami-Ahmadi