

Case No. 280

CHAMBER TWO

AWARD NO 100-280-2

MORGAN EQUIPMENT CO.,

Claimant,

and

THE ISLAMIC REPUBLIC OF IRAN,
THE MINISTRY OF ROADS AND
TRANSPORTATION; THE IRANIAN NAVY,

Respondents.

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه دآوری دعاوی ایران - ایالات متحدہ
ثبت شد - FILED	
Date	۱۳۶۲ / ۱۰ / ۶
27 DEC 1983	
No.	280
شماره	

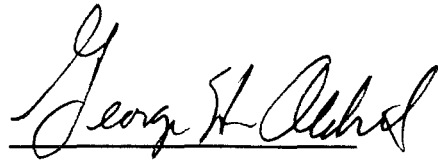
DISSENTING OPINION OF GEORGE H. ALDRICH

I dissent only with respect to the dismissal of the claim against the Iranian Navy. While I agree that the Claimant failed to prove that Brown and Root was acting as agent of the Navy, I would uphold the claim on the ground of unjust enrichment. The purchase orders that are the basis of this claim state that Brown and Root has no liability to the Claimant except to the extent Iranian Navy funds are made available. Thus, the holding in this case leaves the Claimant without a remedy unless and until Brown and Root obtains funds from the Navy, and I note that, for reasons I do not know, the Navy has not yet filed a Statement of Defense to Brown and Root's claim. In this situation, where title to equipment has been transferred to the Navy and the

equipment has not been paid for, I believe the Navy has been unjustly enriched. Title to equipment is of value, whether the equipment has been exported to Iran or remains in Texas. If the Claimant prevailed in the present case, Brown and Root's claim against the Navy would be reduced to that extent. The Navy owns the equipment, and it should pay for it. If, as the majority in the present case appears to assume, the Navy might assert that it has already paid Brown and Root for this equipment, it can counterclaim to that effect in Case No. 432, but it is inequitable for the Claimant in the present case to be left in the interim with no payment, no title to the equipment and no legal remedy.

Dated, The Hague

27 December 1983

A handwritten signature in cursive script, reading "George H. Aldrich". The signature is written in dark ink and is positioned above the printed name.

George H. Aldrich