

381-235

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

دیوان داوری دعاوی ایران - ایالات متحدہ

CASE NO. 381

CHAMBER ONE

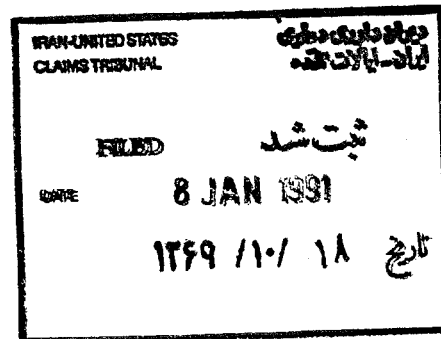
AWARD NO. 501-381-1

UITERWYK CORPORATION,
JAN C. UITERWYK,
MARIA UITERWYK,
ROBERT UITERWYK,
HENDRIK UITERWYK,
Claimants,

and

THE GOVERNMENT OF THE ISLAMIC
REPUBLIC OF IRAN,
THE MINISTRY OF ROADS AND
TRANSPORTATION,
PORTS AND SHIPPING ORGANIZATION,
IRAN EXPRESS LINES,
SEA-MAN-PAK,

Respondents.

FINAL AWARD

1. In a Partial Award in this Case issued on 6 July 1988, the Tribunal determined, inter alia, that the Claimant UITERWYK CORPORATION ("Uiterwyk") was entitled to U.S.\$4,513,156.86, an amount representing the replacement value of shipping containers that it had leased on behalf of Iran Express Lines ("IEL") and that remained in Iran after 29 February 1980. See Uiterwyk Corporation et al. and Government of the Islamic Republic of Iran, Award No. 375-381-1 (6 July 1988), reprinted in 19 Iran-U.S. C.T.R. 107. However, the Tribunal only awarded Uiterwyk U.S.\$2,948,619.50 of that amount at that time, retaining jurisdiction over U.S.\$1,564,537.36. The Tribunal noted that six of the owners of certain containers at issue in this Case had filed claims directly against Iranian entities, and that those claims were still pending before the Tribunal at the time the Partial Award was issued. Id., para. 98, 19 Iran-U.S. C.T.R. 135. In order to avoid the possibility that IEL would be required to compensate both Uiterwyk and the owners of the containers for their replacement value, the Tribunal delayed decision and retained jurisdiction over that portion of the claim.

2. The six claims identified as possibly involving an overlap with Uiterwyk are: Case No. 445, Mitra Leasing Corporation and Star Line Iran Company, et al.; Case No. 260, SeaCo Inc. and Islamic Republic of Iran, et al.; Case No. 490, Itel Corporation and Government of the Islamic Republic of Iran, et al.; Case No. 500, Xtra Inc. and Government of the Islamic Republic of Iran, et al.; Case 451, CTI Container Leasing Corporation and Star Line Iran Company, et al.; and Case No. 452, Transamerica ICS Inc. (formerly Integrated Container Service Co. Inc.) and Star Line Iran Company, et al.

3. In a letter to the President of the Tribunal dated 15 August 1989, the attorneys for Uiterwyk informed the Tribunal that the "Claimants in Cases Nos. 260, 445, 451, 452, 490, and 500 reached settlement with Uiterwyk and

withdrew their claims for the replacement value of these containers against the Iranian Respondents in these cases." The letter went on to state that "[s]ince these Claimants have withdrawn their claims, there are no longer competing claims for these containers and the sums awarded but withheld should now be released to Uiterwyk." The Agent of the Government of the Islamic Republic of Iran submitted a letter filed 16 February 1990 which opposed the termination of this case and the release of the withheld amount to Uiterwyk. On 12 July 1990 Uiterwyk filed a "Further Motion to Conclude Resolution of Award No. 375-381-1," to which the Agent of the Government of the Islamic Republic of Iran responded in a letter filed on 5 September 1990.

4. By Orders issued in each of the above cases, the Tribunal either has permitted the respective Claimants to withdraw those parts of their claims relating to the replacement value of any containers which were at issue in this Case, see Order filed 8 January 1991 in Mitra Leasing Corporation and Star Line Iran Company, et al., Case No. 445, Chamber One; Order filed 8 January 1991 in Itel Corporation and Government of the Islamic Republic of Iran, et al., Case No. 490, Chamber One; and Order filed 8 January 1991 in SeaCo Inc. and Islamic Republic of Iran, et al., Case No. 260, Chamber One, or has acknowledged that there is no overlap between the containers at issue in the Claim and those involved in this case, see Order filed 8 January 1991 in Transamerica ICS, Inc. and Star Line Iran Company, Case No. 452, Chamber One; and Order filed on 5 February 1990 in CTI Container Leasing Corporation and Star Line Iran Company, Case No. 451, Chamber Two, or has approved the Claimant's complete withdrawal of its Claim, see Order filed 8 January 1991 in Xtra Inc. and Government of the Islamic Republic of Iran, et al., Case No. 500, Chamber One. Thus, there no longer exists any reason for the Tribunal to retain jurisdiction over the amounts it previously determined were owing to Uiterwyk for the replacement value of the containers at issue.

5. The Tribunal has previously determined that the Claimants are entitled to an award of interest on the amounts representing the replacement value of the containers left in Iran, at the average rate of interest paid on six-month certificates of deposit in the United States, from the date of 29 February 1980. See id., paras. 171, 177, 19 Iran-U.S. C.T.R. 155, 156. See also Decision and Correction to Partial Award filed 22 November 1988, para. 4, 19 Iran-U.S. C.T.R. 171, 172. Consequently, Claimants are entitled to an award of interest at this same rate on the amount of U.S.\$1,564,537.36 awarded by this Final Award.

AWARD

6. For the foregoing reasons,

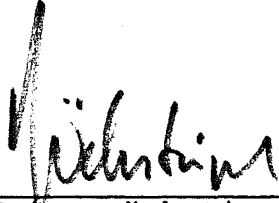
THE TRIBUNAL AWARDS AS FOLLOWS:

1) The Respondent IRAN EXPRESS LINES is obligated to pay the Claimant UITERWYK CORPORATION the amount of one million five hundred sixty-four thousand five hundred thirty-seven United States Dollars and thirty-six cents (U.S.\$1,564,537.36) plus interest on this amount at 9.75 percent per annum from 29 February 1980 up to and including

the date on which the Escrow Agent instructs the Depository Bank to effect payment out of the Security Account.

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

Dated, The Hague
8 January 1991



Karl-Heinz Böckstiegel
Chairman
Chamber One

In the name of God

Mohsen Mostafavi


Howard M. Holtzmann