

ORIGINAL DOCUMENTS IN SAFE

Case No. 382

Date of filing 10 Aug 1983

☒ I.T.M.
AWARD. Date of Award 10 Aug 1983

6 pages in English. pages in Farsi.

 DECISION. Date of Decision

 pages in English. pages in Farsi.

 ORDER. Date of Order

 pages in English. pages in Farsi.

 CONCURRING OPINION of

Date pages in English. pages in Farsi.

 DISSENTING OPINION of

Date pages in English. pages in Farsi.

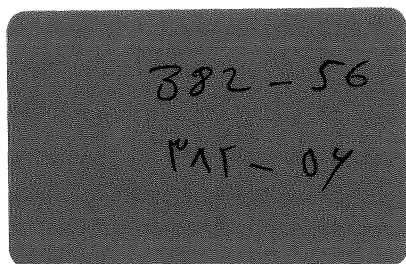
 OTHER; Nature of document:

Date pages in English. pages in Farsi.

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IRAN-UNITED STATES CLAIMS TRIBUNAL

دیوان داوری دعاوی ایران - ایالات متحدہ



CHAMBER THREE

CASE NO. 382

AWARD NO. ITM 25-382-3

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داری دعاوی ایران - ایالات متحدہ
ثبت شد - FILED	
Date	۱۳۶۲ / ۵ / ۱۹
10 AUG 1983	
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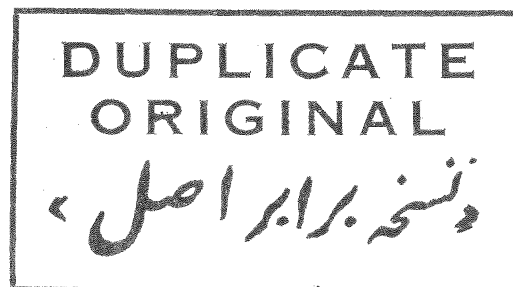
BEHRING INTERNATIONAL, INC.,

Claimant,

and

ISLAMIC REPUBLIC IRANIAN AIR FORCE,
IRAN AIRCRAFT INDUSTRIES and THE
GOVERNMENT OF IRAN,

Respondents.



INTERIM AWARD

On 18 January 1982, the Claimant, BEHRING INTERNATIONAL, INC., filed a Statement of Claim against the Respondents ISLAMIC REPUBLIC IRANIAN AIR FORCE, IRAN AIRCRAFT INDUSTRIES and THE GOVERNMENT OF IRAN, seeking recovery of warehouse and storage costs in connection with certain property belonging to the Respondents. On 2 December 1982, THE MINISTRY OF DEFENSE OF THE ISLAMIC REPUBLIC OF IRAN ("Ministry of Defense") filed a Statement of Defence on behalf of the above named Respondents including a Statement of Counterclaim and a Request for Interim Award for the conservation of the goods stored in the Claimant's warehouse.

On 15 February 1983, the Claimant filed a Reply to the Statements of Defence and Counterclaim, including a response to the Request for Interim Award. On 1 March 1983, the Deputy Agent of the Islamic Republic of Iran, on behalf of the Respondents, requested that proceedings with regard to the Request for Interim Award be expedited.

By an Order dated 18 March 1983, the Tribunal requested the Claimant to file an inventory of the materials of the Respondents stored in the Claimant's warehouse.

On 31 March 1983, the Claimant filed a Supplemental Reply to Respondent's Request for Interim Award and supporting submission. On 18 April 1983, the Respondents filed a Supplement to their Statement of Counterclaim stating an additional counterclaim.

On 29 April 1983, the Claimant filed a Reply to the Supplement to the Statement of Counterclaim and a Cross-petition for Interim Measures of Protection. In its Cross-petition, the Claimant requested, inter alia, that the ordered inventory be conducted by the Respondents solely or in conjunction with the Claimant.

By an Order dated 11 May 1983, the Tribunal vacated its Order of 18 March 1983 and requested the Respondents to file a Reply to the Claimant's submissions of 31 March and 29 April 1983. The time for filing the Reply was set for 20 June 1983 and subsequently extended to 20 July 1983.

On 7 July 1983, the Claimant filed a notice of its intention to sell the goods held in the warehouse and to deposit the proceeds in a blocked account pending further authorization by the United States Department of Treasury. The notice is in the form of a "Notice of Sale of Assets" under a license issued on 23 May 1983 by the United States Department of Treasury, a copy of which license was attached to the Notice. The license requires, in paragraph 1(c), that the Claimant provide to the Tribunal 30 days' advance notice of the sale. The Notice states that the sale is scheduled to take place on 15 August 1983.

On 20 July 1983, the Respondents filed their Reply to the Claimant's submissions of 31 March and 29 April 1983.

On 4 August 1983, the Ministry of Defense filed a Request for Interim Order (1) ordering the Claimant to refrain from auctioning the goods at issue pending a final decision of the Tribunal; (2) nullifying the license for the sale of the goods or, in the alternative, staying the license pending the rendering of awards in Case Nos. A-15, A-11 and B-11; and (3) ordering the Claimant to deliver the goods at issue to the Ministry of Defense.

In its 4 August 1983 Request, the Ministry of Defense alleges that the proposed sale is contrary to the Tribunal's Orders of 18 March and 11 May 1983 and would render moot the subject-matters of both the claims and the counterclaims. The Ministry also alleges that the validity of the license for the sale of the goods is an issue which is a subject-matter of the claims filed in Case Nos. A-15, A-11 and B-11. In addition, the Ministry contends that the Security Account established pursuant to the Algiers Declaration provides the Claimant with adequate security for the payment of any award rendered with regard to its claim. Finally, the Ministry maintains that Iran will suffer irreparable harm if the sale proceeds because the goods at issue are irreplaceable.

Reasons for the Award

The Tribunal considers that the Parties should be afforded an opportunity to more fully present and argue their contentions. However, in view of the fact that the proposed sale is scheduled to proceed on 15 August 1983, the Tribunal finds it appropriate immediately to request that the Claimant take measures to assure that the proposed sale is not carried out until the Parties have had such opportunity and until the Tribunal can render its decision on the Request of the Ministry of Defense.

For these reasons, and pursuant to Article 26 of the Tribunal Rules, the Tribunal, as constituted for purposes of this matter pursuant to Presidential Order No. 12,

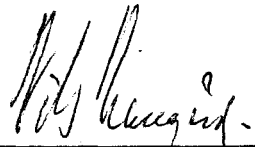
(1) requests the Claimant to take whatever measures are necessary to assure that the sale of assets scheduled for 15 August 1983 is not carried out;

(2) invites the Parties to file by 15 September 1983 any further written submissions they may wish to make in relation to the 2 December 1982 and 4 August 1983 Requests of the Ministry of Defense, including also the question of which party should bear any costs incurred by the Claimant as a result of not carrying out the sale of assets on 15 August 1983;

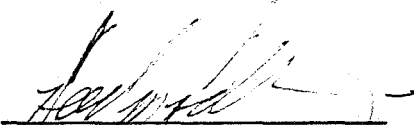
(3) orders that a Hearing be held at 9:30 a.m. on 27 September 1983 at Parkweg 13, The Hague, at which Hearing the Parties will have an opportunity to present oral arguments on the issues referred to in paragraph 2 above;

(4) orders that a Pre-hearing Conference on all other issues presented in the case be held on 27 September 1983 immediately following the above mentioned Hearing.

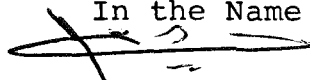
Dated, The Hague
10 August, 1983



Nils Mangård
Chairman
Chamber Three



Howard M. Holtzmann

In the Name of God,


Shafie Shafeiei