

ORIGINAL DOCUMENTS IN SAFE

Case No. 430

Date of filing 6 June 1983

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AWARD. Date of Award 6 June 1983

5 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.

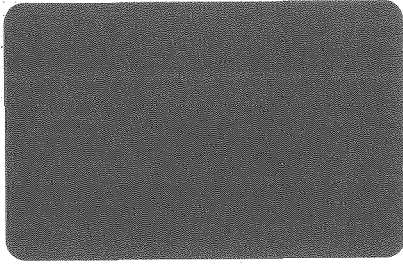
OTHER; Nature of document: _____

Date _____ pages in English. _____ pages in Farsi.

430-37
۴۳۰-۳۷

IRAN-UNITED STATES CLAIMS TRIBUNAL

دیوان دآوری دعاری ایران - ایالات متحدہ



CASE NO. 430

CHAMBER ONE

AWARD NO. ITM 20 -430-1

ROCKWELL INTERNATIONAL
SYSTEMS, INC.,

Claimant,

and

THE GOVERNMENT OF THE ISLAMIC
REPUBLIC OF IRAN, MINISTRY OF
DEFENCE,

Respondent.

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه دآوری دعاری ایران - ایالات متحدہ
ثبت شد - FILED	
No. 430	شماره
Date	تاریخ
۱۳۶۲ / ۳ / ۱۹	۱۹
6 JUN 1983	

INTERIM AWARD

DUPLICATE
ORIGINAL
نسخه برابر اصل

On 15 January 1982 the Claimant, Rockwell International Systems, Inc., ("Rockwell") filed with the Tribunal a claim against the Government of Iran. The claim is alleged to arise out of two contracts between Rockwell and the Government of Iran, known as Contract Nos. 119 and 120 and signed on 7 August 1977 and 3 September 1977, respectively. Rockwell contends that it has performed all of its obligations under the said contracts, except those excused by force majeure, and that the contracts have been terminated by the Respondent without any fault or negligence of Rockwell. On the basis of these allegations Rockwell seeks an award in an amount of approximately \$17 million for services rendered, together with interest and costs. Rockwell also seeks the release of certain bank guarantees which the contracts required Rockwell to issue as security for the proper performance of the contracts and advance payments made by the Respondent.

In May 1982 the Ministry of Defence filed a claim against Rockwell with the Public Court of Tehran in which it seeks to recover damages for the alleged breaches by Rockwell of the same contracts.

In a request filed with the Tribunal on 2 May 1983 Rockwell alleged that it had been ordered to appear before the Public Court of Tehran on 7 May 1983 and asked the Tribunal inter alia to order the Government of Iran to stay the litigation in Iran against Rockwell until the proceedings in the case before the Tribunal had been completed.

Following requests for extension of time by the Respondent, the Tribunal has decided that the Statement of Defence in the instant case shall be filed by 15 August 1983.

On 5 May 1983 the Tribunal rendered an Interim Award No. ITM-17-430-1 in which the Tribunal stated that it found it appropriate immediately to request the Government of Iran to move for a stay of the proceedings before the Public Court of Tehran until such time as the Tribunal could receive the views of the Respondent with respect to the Claimant's request. The Tribunal therefore invited the Government of Iran to file by 30 May 1983 a Reply to Rockwell's request of 2 May 1983, and further requested the Government of Iran to move

for a stay of the proceedings before the Public Court of Tehran until 8 June 1983.

The Ministry of Defence of the Islamic Republic of Iran filed on 2 June 1983 a Reply to Rockwell's request.

In its Reply the Ministry contends that the two contracts at issue in this instant case contain a clause which confers exclusive jurisdiction on the competent courts of Iran and that consequently the claim is excluded from the Tribunal's jurisdiction by virtue of Article II, paragraph 1, of the Claims Settlement Declaration which excludes "claims arising under a binding contract between the parties, specifically providing that any disputes thereunder shall be within the sole jurisdiction of the competent Iranian Courts, in response to the Majlis position".

The Ministry further alleges that the issues in the case before the Tribunal "are different in terms of subject-matter and cause" from the action pending before the Public Court of Tehran, and that the interim relief sought by the Claimant falls outside the scope of the discretion conferred upon the Tribunal by Article 26 of the Tribunal Rules to take interim measures.

Lastly, the Ministry contends that this Tribunal with an ad hoc jurisdiction, cannot order the stay or suspension of proceedings in a municipal forum with inherent and general jurisdiction, and further that the laws of Iran do not permit the Government to comply with the Tribunal's request to move for stay of proceedings before the Public Court of Tehran.

In the light of the determination by the Full Tribunal in its Interim Awards Nos. ITL 6-159-FT and ITL 7-254-FT, filed on 5 November 1982, that the Tribunal has jurisdiction over a claim based on a contract containing a forum selection clause similar to the above mentioned clause, it would appear that the Tribunal has jurisdiction over Rockwell's claim in the instant case.

Further, it appears from the copy of the summons received by Rockwell and the description of the issues in the Reply, that the Claim filed against it by the Government of Iran before the Public Court of Tehran involves the same legal and factual issues as Rockwell's claim before the Tribunal.

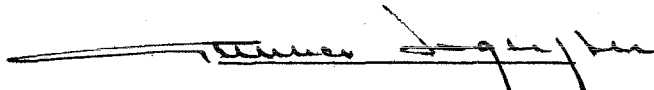
As to the contention that the Tribunal does not have power to grant the interim relief sought by Rockwell, the Tribunal notes that the Full Tribunal concluded in its Interim Award No. ITM 13-388-FT in the Case E-Systems, Inc. v. The Government of the Islamic Republic of Iran, case No. 388, that the Algiers Declarations leave the Government of Iran free in principle to initiate claims before Iranian Courts even where the claim would have been admissible as a counterclaim before the Tribunal. However, in that Interim Award it is also stated that the Tribunal has an inherent power to issue such orders as may be necessary to conserve the respective rights of the parties and to ensure that its jurisdiction and authority are made fully effective. It is also stated that any award to be rendered in the case by the Tribunal, which was established by inter-governmental agreement, will prevail over any decision inconsistent with it rendered by Iranian or United States courts.

The consistent practice of the Tribunal indicates, that this inherent power is in no way restricted by the language in Article 26 of the Tribunal Rules. Further, the Government of Iran and the Government of the United States have agreed in the Algiers Declarations to confer upon this Tribunal jurisdiction over certain claims. It follows that both governments are under an international obligation to comply with any decisions rendered by the Tribunal pursuant to this agreement.

For the foregoing reasons,

the Tribunal requests the Government of the Islamic Republic of Iran to take all appropriate measures to ensure that the proceedings before the Public Court of Tehran be stayed, pending determination of the proceedings in the present case before the Iran-United States Claims Tribunal.

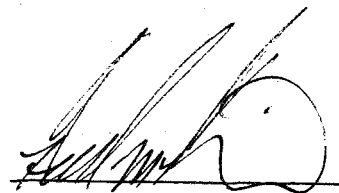
The Hague,
6 June 1983



Gunnar Lagergren
Chairman



Mahmoud M. Kashani
(Dissenting Opinion)



Howard M. Holtzmann