

833-106

۸۳۳-۱۰۶

STATES CLAIMS TRIBUNAL

دیوان دادرى دعاوى ایران - ایالات متحد

106

ORIGINAL DOCUMENTS IN SAFECase No. 833Date of filing: 29.4.86

** AWARD - Type of Award Award on Agreed Terms
 - Date of Award 29.4.86
4 pages in English 3 pages in Farsi

** DECISION - Date of Decision _____
 _____ pages in English _____ pages in Farsi

** CONCURRING OPINION of _____
 - Date _____
 _____ pages in English _____ pages in Farsi

** SEPARATE OPINION of _____
 - Date _____
 _____ pages in English _____ pages in Farsi

** DISSENTING OPINION of _____
 - Date _____
 _____ pages in English _____ pages in Farsi

** OTHER; Nature of document: _____

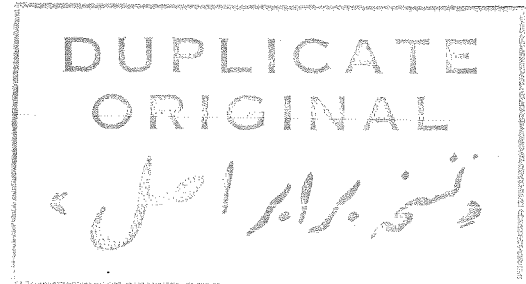
 - Date _____
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IRAN UNITED STATES CLAIMS TRIBUNAL		دیوان داوری دعاوی ایران - ایالات متحدہ	
ثبت شد - FILED			
Date	29 APR 1986	تاریخ	۱۳۶۵ / ۲ / ۹
No.	833	شماره	

CASE NO. 833

CHAMBER TWO

AWARD NO. 227 - 833-2



BORG WARNER CORPORATION and
BORG WARNER CHEMICAL U.K. Ltd,
Claimants,

and

PLASTIC SHOMAL COMPANY,
PLASCOKAR INDUSTRIAL CORPORATION
and THE ISLAMIC REPUBLIC OF IRAN,
Respondents.

AWARD ON AGREED TERMS

1. BORG WARNER CORPORATION ("B.W.") and BORG WARNER CHEMICAL U.K. Ltd. ("B.W.C."), (hereinafter collectively referred to as "Claimants") and SANAYE PLASTIC SHOMAL COMPANY ("S.S.P."), PLASCOKAR INDUSTRIAL CORPORATION ("P.I.C.") (hereinafter collectively referred to as "Respondents") have entered into a Settlement Agreement dated 14 February 1986 and filed on 15 April 1986 resolving the matters in dispute between them. Under the terms of the Settlement Agreement, Claimants and Respondents have agreed, inter alia, that the Respondents shall pay B.W. the amount of U.S.\$ 240,000; that the Claimants shall submit to the Tribunal all of their original drafts, the subject matter of Case No. 833, which are to be delivered to the Agent of the Islamic Republic of Iran; and that the Claimants and the Respondents shall thereupon release and discharge forever all Claims and Counterclaims as against one another that were raised or could have been raised in connection with this Case. The Claimants and the Respondents have agreed further that the Claimants shall indemnify the Government of the Islamic Republic of Iran and Iranian entities and instrumentalities against any claims that may be raised by the Claimants or third persons in connection with the Statement of Claim in this Case and covered by the Settlement Agreement.

2. On 15 April 1986, the Parties filed a Joint Request signed by representatives of the Claimants on the one hand and of the Respondents and the Agent of the Islamic Republic of Iran on the other, for an Arbitral Award on Agreed Terms to be rendered, recording and giving effect to the Settlement Agreement pursuant to Article 34(1) of the Tribunal Rules. Copies of the Joint Request and the Settlement Agreement are attached hereto.

3. The Tribunal has satisfied itself that it has jurisdiction in this matter within the terms of the Claims Settlement Declaration.

4. The Tribunal accepts the Settlement Agreement in accordance with Article 34 of the Tribunal Rules.

5. For the foregoing reasons,

THE TRIBUNAL AWARDS AS FOLLOWS:

a) The Settlement Agreement filed with the Joint Request is hereby recorded as an Award on Agreed Terms, binding on the Parties in full settlement of the entire Case. Consequently, the Respondents SANAYE PLASTIC SHOMAL COMPANY and PLASCOKAR INDUSTRIAL CORPORATION shall jointly pay the Claimant BORG WARNER CORPORATION the amount of Two Hundred and Forty Thousand United States Dollars (U.S.\$ 240,000) which obligation shall be satisfied by payment out of the Security Account established pursuant to Paragraph 7 of the Declaration of the Democratic and Popular Republic of Algeria of 19 January 1981.

b) This Award is hereby submitted to the President of the Tribunal for the purpose of notification to the Escrow Agent.

c) The Co-Registrars are hereby instructed to deliver to the Agent of the Islamic Republic of Iran all of the

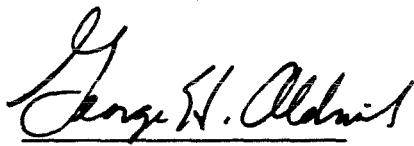
Claimants original drafts, which have been the subject matter of this Case, deposited by the Claimants with the Tribunal's Registry on 22 April 1986.

Dated, The Hague

29 April 1986

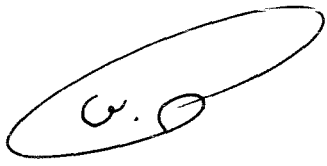


Robert Briner
Chairman



George H. Aldrich

In the name of God,



Hamid Bahrami-Ahmadi

IN THE NAME OF GOD

Before
Iran-U.S. Claims Tribunal

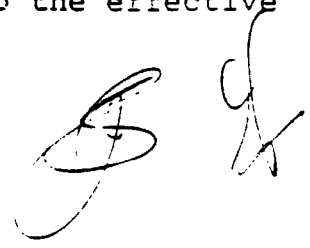
Claim No. 833
Chamber Two

IRAN UNITED STATES CLAIMS TRIBUNAL	ادگاه دادرسی دعاوی ایران - ایالات متحده
ثبت شد - FILED	
Date	15 APR 1986 تاریخ ۱۳۶۵ / ۱۱ / ۲۶
No.	833 شماره

JOINT REQUEST FOR ARBITRATION AWARD ON AGREED TERMS

Pursuant to Article 34 of the Tribunal Rules of procedure, Borg Warner Corp. (B.W.) a Corporation organized and existing under the laws of the State of Delaware and Borg Warner Chemical, U.K. Ltd (B.W.C.) a corporation organized and existing under the laws of U.K. for themselves and on behalf of their parents, affiliates and subsidiaries, whether or not named in the Statement of Claim No. 833 (hereinafter collectively called "Claimants"), and Sanaye Plastic Shomal Co., (S.S.P.) and Plasco Kar Industrial Corp. (PIC) and their parents, affiliates and subsidiaries (hereinafter called "Respondents"), jointly request that the Iran-U.S. Claims Tribunal ("The Tribunal") issue an arbitral award on agreed terms that will record and give effect to the Settlement Agreement reached by the parties.

On 14th February 1986 the aforesaid parties entered into a Settlement Agreement, a copy of which is attached hereto, providing that Claimants will be paid the amount of two hundred forty thousand U.S. dollars (\$240,000) (hereinafter the "Settlement Amount"), in complete, full and final settlement of all disputes, differences, claims and counter-claims now existing or capable of arising, between them and the Islamic Republic of Iran and Iranian entities, instrumentalities and organizations in connection with Case No. 833 or any events occurring prior to the effective date of this Settlement Agreement.

The undersigned request the Tribunal to record the Settlement Agreement as an Arbitral Award on Agreed Terms, with payment to be made to Borg Warner Corp. out of the Security Account.

Respectfully submitted,

(W) -

Agent of the Government of the
Islamic Republic of Iran to the
Iran-U.S. Claims Tribunal.

Borg Warner Chemical (BWC),
U.K. Ltd.

By Mohammad Keshvagh

By [Signature]

Date [Signature]

Date 14 Feb 1986

Sanaye Plastic-e-Shomal Co

By Hossein Ali Cherkez Temzani

[Signature] DADASHZADEH

Plasco Kar Industrial Corp.

By [Signature]

Borg Warner Corp (B.W.)

By [Signature]

Date 14/2/86

IN THE NAME OF GOD

IRAN-U.S. CLAIMS TRIBUNAL

IRAN UNITED STATES CLAIMS TRIBUNAL		دائرة داری و معاری ایران - ایالات متحده
ثبت شد - FILED		
Date	15 APR 1986 ۱۳۶۵ / ۱ / ۲۶	تاریخ
No.	833	شماره

SETTLEMENT AGREEMENT

This Settlement Agreement made this 14th day of February 1986 by and between the Sanaye Plastic Shomal Company (SSP) and Plascokar Industrial Corporation (PIC) hereinafter collectively called "SSP & PIC", organized and existing under the laws of Iran, on one part and Borg Warner Corporation (B.W.) a company organized and existing under the laws of the State of Delaware, USA and Borg Warner Chemical U.K. Ltd (BWC) a company organized and existing under the laws of the UK hereinafter collectively called "Borg, Warner" on the other part, which for the purpose of this Settlement Agreement represent themselves and their subsidiaries, parents and affiliates, whether or not named in the Statement of Claim and other documents filed by the Claimants in Case No. 833.

WHEREAS, Borg Warner has raised certain claims in connection with certain contracts, agreements or other relationships it had with SSP & PIC in the Statement of Claim filed with the Iran-U.S. Claims Tribunal ("the Tribunal"), under Case No. 833 (hereinafter called "the Statement of Claim").

WHEREAS, SSP & PIC in responding to the Statement of Claim, have filed their Statements of Defence and

WHEREAS, Borg Warner and SSP & PIC have agreed to settle all their claims, disputes, differences outstanding between them and against the Islamic Republic of Iran, "Iran" Iranian

[Handwritten signature]

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entities, organizations, institutions and in general all claims contained in the Statement of Claim and subsequent submissions and the Statement of Defence filed with the Tribunal in the manner as contemplated herein.

Now, therefore, Borg Warner and SSP & PIC agree as follows:

ARTICLE 1

The scope and subject matter of this Settlement Agreement is:

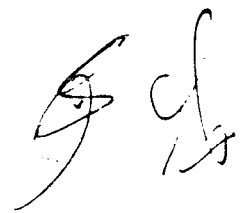
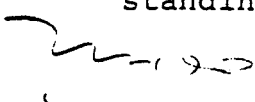
To settle and dismiss, forever, all disputes, differences, claims, counterclaims, and matters directly or indirectly raised or capable of arising out of the relationships, transactions, contracts and events related to and subject matters of the Statement of Claim against SSP and PIC, their agents, parents, affiliates and subsidiary companies and/or against Iran, Iranian entities, organizations, institutions and instrumentalities, including all Respondents in Case No. 833.

ARTICLE 2

Borg Warner and SSP & PIC agree to submit, this Settlement Agreement, on or before April 15, 1986, to be recorded as an Arbitral Award on Agreed Terms. If this Settlement Agreement is not submitted by such date, or within such additional time as the Parties may agree in writing or by telex, this Agreement shall automatically terminate and no longer be effective.

ARTICLE 3

In full, complete and final settlement of all outstanding disputes, differences, claims pertaining to

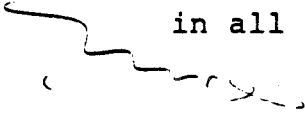


and arising out of the transactions, events, and relationship related to the Statement of Claim, which are the subject matter of this Settlement Agreement, and in consideration of the covenants, premises, transfers, withdrawals and other agreements contained herein, the sum of tow hundred forty thousand US dollars (US \$240,000) shall be paid to Borg Warner Corporation "BW" ("the Settlement Amount") comprising of

1. One hundred forty five thousand dollars to be paid by SSP.
2. Ninety-five thousand dollars by PIC.

Borg Warner and SSP & PIC agreed that the Settlement Amount shall be paid to Borg Warner out of the SEcurity Account established pursuant to paragraph 7 of the Declaration of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981. SSP & PIC will pay to Bank Markazi Iran the Rial equivalent of the Settlement Amount and will obtain Bank Markazi Iran's approval for the payment thereof to be made to Borg Warner Corporation ("BW") out of the Security Account. Submission of this Settlement Agreement to the Tribunal means that such approval has been obtained.

ARTICLE 4

- (1) Upon the issuance of the Award on Agreed Terms, Borg Warner shall cause, without delay and with prejudice, all proceedings brought by Borg Warner against SSP & PIC its subsidiaries, affiliates, assigns, transferees, successors, agents and their parent companies and/or against Iran, Iranian entities, organizations, instrumentalities, institutions, and/or against all persons named as Respondent in the Statement of Claim; in all courts, forums or any authorities or
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administrative bodies to be dismissed, withdrawn and terminated and shall be barred from instituting and/or continuing with any proceedings before the Iran-U.S. Claims Tribunal or any other forum, authorities or administrative bodies, whatsoever, including but not limited to any court in the United States of America or the Islamic Republic of Iran in relation to disputes, differences, claims or counterclaims related to the Statement of Claim or any events occurring prior to the effective date of this Settlement Agreement.

- (2) Upon the issuance of the Award on Agreed Terms, SSP & PIC and Iran shall cause, without delay and with prejudice, all proceedings against Borg Warner its subsidiaries, affiliates, assigns, transferees, successors, agents and its parent companies (should there be any) in all courts, forums, or any authorities or administrative bodies to be dismissed, withdrawn and terminated, and shall be barred from instituting and/or continuing with any proceedings before the Iran-U.S. Claims Tribunal or any other forums authorities or administrative bodies whatsoever, including but not limited to any court in the United States of America or the Islamic Republic of Iran in relation to disputes, differences, or counterclaims related to the Statement of Claim or any events occurring prior to the effective date of this Settlement Agreement.

ARTICLE 5

Borg Warner shall indemnify and hold harmless SSP & PIC, its parents, subsidiaries, affiliates, assigns, transferees, successors, agents and its parent companies (the "Indemnified Respondents") and Iran, Iranian entities, organizations, instrumentalities and institutions against any claim which Borg Warner, its subsidiaries, affiliates, assigns, transferees,

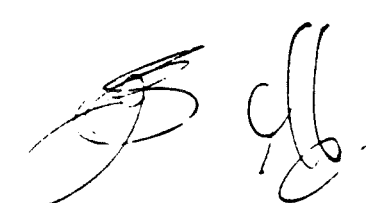
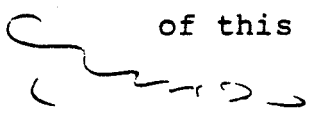
successors, agents, its parent companies, and its parent's subsidiaries, affiliates, assigns, transferees, successors and agents or third persons may raise or take against the Indemnified Respondents, Iran, Iranian entities, organizations, instrumentalities, and/or against all persons named as Respondent in the Statement of Claim, in connection with and under the same cause or causes of action contained in the Statement of Claim and/or matters which are within the scope and subject matter of this Settlement Agreement.

ARTICLE 6

Borg-Warner hereby undertakes that together with this Settlement Agreement, it shall submit to the Tribunal all of its original drafts, which have been the subject matters of Case No. 833 to be delivered upon the issuance of the Award on Agreed Terms to the Agent of the Islamic Republic of Iran. The issuance of the Award on Agreed Terms by the Tribunal shall be dependent upon the fulfillment by Borg-Warner of this obligation.

ARTICLE 7

Upon the issuance of the Award on Agreed Terms, Borg Warner and Respondents shall waive any and all claims for costs (including attorney's fees) arising out of or related to the arbitration, prosecution or defence of the claims asserted before the Iran-U.S. Claims Tribunal, United States courts or elsewhere with respect to matters involved in the Statements of Claim, and or matters which are the scope and subject matters of this Settlement Agreement.



ARTICLE 8

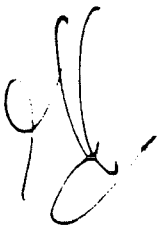
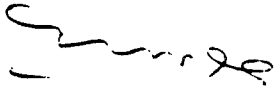
This Settlement Agreement is for the sole purpose of settling the dispute at issue in Case No. 833. Nothing in this Settlement Agreement shall be relied upon or construed as relevant to or to affect in any way any argument Respondents or the Islamic Republic of Iran, its agencies, instrumentalities, entities has raised, or may raise, concerning the jurisdiction or the merits of other cases whether before the Tribunal or any other forum.

ARTICLE 9

Unless otherwise agreed upon between the Parties hereto, this Settlement Agreement shall become completely null and void if not approved by the SSP & PIC and Iran authorities and not filed with the Tribunal on or before April 15, 1986, and, in that event, no Party to this Settlement Agreement may rely upon, cite or publish its terms, or any statements made in the course of settlement discussions.

ARTICLE 10

For the purpose of construction and interpretation of the Settlement Agreement the entire agreement shall be



read and construed as a whole without giving any specific effect to any article separately.

Article 11.

The representatives of the Parties hereto hereby expressly declare that they are duly empowered to sign this Agreement.

Article 12.

This Agreement (in four originals) has been written and signed in both languages of Farsi and English and each text shall have the same equal validity.

Sanye Plastic Shomal
Corp. (SSP)

By

H. A. GEMRAZ
TEHRAN

Plasco Kar Industrial
Corporation.

By

Date

Borg Warner Corporation (BW)

By

Borg Warner Chemical Ltd U.K.

By

Date

14 Feb 86