

37

IRAN - UNITED STATES CLAIMS TRIBUNAL

دادگاه داری دعوی ایران - ایالات متحده



CASE NO. 93

CHAMBER TWO

AWARD NO JTM 16-93-2

FORD AEROSPACE & COMMUNICATIONS
CORPORATION,

Claimant,

- and -

THE GOVERNMENT OF IRAN AND
BANK MARKAZI, IRAN,

Respondents.

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داری دعوی ایران - ایالات متحده
فیت شد - FILED	
Date	۱۳۶۲ / ۲ / ۲۷
27 APR 1983	
93	۹۳

INTERIM AWARD

DUPLICATE
ORIGINAL
نسخه برابر اصل

On 18 November 1981 Ford Aerospace filed a claim before the Tribunal against the Government of Iran and Bank Markazi, seeking the payment of sums owing to it, under one contract (No. 126) dated 14 December 1977 and another contract (No.130) dated 15 January 1978.

On 4 May 1982, the Government of Iran filed a Statement of Defence, denying the jurisdiction of the Tribunal and asserting a Counterclaim of \$16,657,141 "in respect of the two contracts" and other damages.

On 18 January 1983 Ford Aerospace received notice that the Government of Iran had filed suit against it in the General Court of Tehran in Iran on 6 December 1982, alleging breach of contracts 126 and 130 and seeking payment of \$16,657,141 plus damages, in respect of these two contracts. Ford Aerospace was informed that it was expected to appear before the General Court of Tehran on 1 May 1983.

On 7 February 1983, Ford Aerospace asked this Tribunal to order the dismissal or stay of proceedings in Iranian Courts. An order from the Tribunal was issued on 7 February 1983 requesting that the Respondent file a reply to that motion by 10 April 1983.

On 11 April 1983 the Government of Iran, without giving any reply, asked that Case 93 be transferred to Chamber One.

It appears from the copy of the summons received by Ford Aerospace, that the claim filed against it by the Government of Iran before the General Court of Tehran, is identical to the Counterclaim previously filed with the Tribunal in this case.

However, it is provided in paragraph 2 of Article VII of the Claims Settlement Declaration that "claims referred to the Arbitral Tribunal shall, as of the date of filing of such claims with the Tribunal, be considered excluded from the jurisdiction of the Courts of Iran, or of the United States, or any other court. The subject matter of the Counterclaim

is thus excluded from the jurisdiction of the Courts of Iran from the date the Counterclaim was filed with this Tribunal unless and until this Tribunal decides that it has no jurisdiction over it.

Accordingly the request for a stay of proceedings in Iran must be granted as an interim measure, even though this Tribunal has not yet decided whether it has jurisdiction, in this case.

For the foregoing reasons,

THE TRIBUNAL AWARDS AS FOLLOWS:

The Government of the Islamic Republic of Iran is requested to seek a stay of the proceedings before the General Court of Tehran, pending termination of the proceedings before the Iran-United States Claims Tribunal.

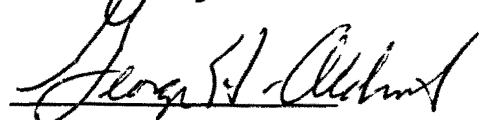
Dated, The Hague
27 April 1983



Pierre Bellet
Chairman
Chamber Two



Shafie Shafeiei
Dissenting



George H. Aldrich