

A27-35

ORIGINAL DOCUMENTS IN SAFECase No. A27Date of filing: 5,6,1998

** AWARD - Type of Award _____
- Date of Award _____
_____ pages in English _____ pages in Farsi

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

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

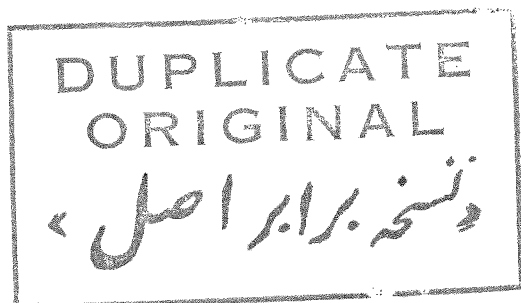
** SEPARATE OPINION of Mr Aghahossienian and Mr Noori
- Date 5 June 98
3 pages in English 2 pages in Farsi

** DISSENTING OPINION of _____
- Date _____
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** OTHER; Nature of document: _____

- Date _____
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IN THE NAME OF GOD

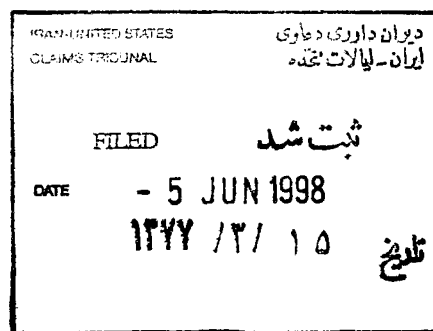


CASE NO. A27

FULL TRIBUNAL

AWARD NO. 586-A27-FT

THE ISLAMIC REPUBLIC OF IRAN,
 Claimant,
 and
 THE UNITED STATES OF AMERICA,
 Respondent.



 SEPARATE OPINION OF ASSADOLLAH NOORI AND MOHSEN AGHAHOSSEINI

* Having concurred in principle with the conclusions in the present Award, we write separately to express ourselves on two points of some significance.

1. In line with a long-established precedent of this Tribunal, we would have preferred the application of a 10% rate of interest for the post-violation period. Such has been the awarded rate of interest in all disputes between the two Governments¹ and, indeed, the rate of interest applied in this very Award for the pre-violation period. The Award opts for a

¹ See e.g. Telecommunications Company of Iran and The United States of America, Award No. 457-B55-1 (19 Dec. 1989), reprinted in 23 Iran-U.S. C.T.R. 320, 337.

5% rate of interest for the post-violation period, namely, the period running from 24 November 1992 up to and including the date of payment. This chosen rate is evidently based on the so-called Sylvania² formula; a formula which, in the precedent of the Tribunal, is routinely applied in private disputes, and which is, therefore, both inadequate and inappropriate here.

2. Inappropriate is also the decision in the Award not to grant to Iran the costs it incurred for its enforcement efforts before the United States Court of Appeals. Those costs should have been awarded not only because they are the direct results of a breach of international law by the United States, but additionally for a more important consideration.

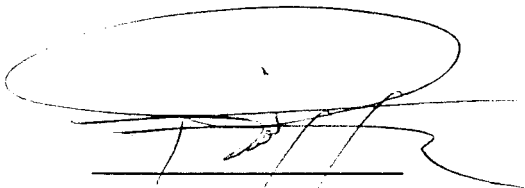
As the Award notes, some twenty-four cost awards rendered so far by this Tribunal in favor of Iran have remained unenforced. Since these are of relatively small amounts, and since the expenses of resorting to the United States courts for enforcement are relatively high, Iran would have no financially sound reason to incur such expenses unless it is assured that, should the United States courts once again violate the terms of the Algerian Declarations, Iran's expenses would be compensated by this Tribunal.

The Award's refusal to redress the costs incurred before the United States Court of Appeals deprives Iran of that single incentive. The end result vis-à-vis those cost awards, as well as any other to be awarded in future, is not difficult to envisage. Where a judgment debtor is unwilling to abide, as those in the said twenty-four awards have been, there would be no prudent means of enforcement. And this, of course, is an outcome utterly abhorrent not only to the

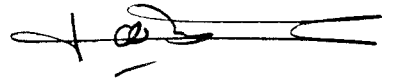
² Sylvania Technical Systems, Inc. and The Government of the Islamic Republic of Iran, Award No. 180-64-1 (27 June 1985), reprinted in 8 Iran U.S. C.T.R. 298, 320-22.

expressed wish of the two Government Parties to the Algerian
Declarations, but to law and fairness in general.

Dated, The Hague
5 June 1998



Assadollah Noori



Mohsen Aghahosseini