

THE IRAN-UNITED STATES CLAIMS TRIBUNAL

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Background Information

1. Introduction

The Iran-United States Claims Tribunal came into existence as one of the measures taken to resolve the crisis in relations between the Islamic Republic of Iran and the United States of America arising out of the detention of 52 United States nationals at the United States Embassy in Tehran.

The two governments requested the Government of the Democratic and Popular Republic of Algeria to serve as an intermediary in seeking a mutually acceptable solution. Accordingly, it consulted extensively with the governments as to the commitments which each was willing to make in order to resolve the crisis within the framework of the four points stated in the Resolution of 2 November 1980 of the Islamic Consultative Assembly of Iran.¹

1 On 12 September 1980, the Leader of the Revolution listed four conditions for bringing about the release of the hostages: a) return to Iran of the wealth of the former Shah; b) cancellation of the US claims against Iran; c) lifting by the United States of the freeze on Iranian assets; d) guarantees by the United States that it would not interfere in the internal affairs of Iran. On 20 November 1980, the United States confirmed the acceptance of these four conditions "as a basis for resolution of the crisis".

On the basis of formal adherences received from Iran and the United States, the Government of Algeria made two declarations² on 19 January 1981: a) The Declaration of the Government of the Democratic and Popular Republic of Algeria (General Declaration); and b) The Declaration of the Government of the Democratic and Popular Republic of Algeria concerning the Settlement of Claims by the Government of the United States of America and the Government of the Islamic Republic of Iran (Claims Settlement Declaration).

The General Declaration records the central commitments of the parties. In exchange for Iran's bringing about the release of the hostages, the United States would, within the framework of and pursuant to the Algiers Declarations, restore the financial position of Iran, in so far as possible, to that which existed prior to 14 November 1979 - the date of the President's freeze order. Restoration of the financial position of Iran was, however, no longer a mere matter of revoking the order freezing assets. Following Iran's announcement that it would withdraw its assets from the United States and President Carter's order freezing Iran's assets, some 450 claims had been filed in US courts and a substantial portion of Iran's frozen assets had been attached in judicial proceedings. As restoration of the financial position of Iran involved the transfer of assets, and as the transfer of assets now required, in addition to the lifting of the freeze order, that judicial attachment be nullified and court proceedings brought to an end, it became necessary, as part of the settlement resolving the crisis, to provide alternative means for the adjudication of pending commercial claims by US nationals against Iran and its state enterprises. Accordingly, the General Declaration (General Principle B), provided, *inter alia*, that the United States "agrees to terminate all legal proceedings in the United States courts involving claims of United States persons and institutions against

2 The details of the obligations of the two governments and their instrumentalities, as well as the other central banks with roles in the settlement, are set out in other written undertakings and agreements which deal with the implementation of the declarations: - Undertakings of the Government of the United States of America and the Government of the Islamic Republic of Iran with respect to the Declaration of the Government of the Democratic and Popular Republic of Algeria; - Escrow Agreements; - Technical Arrangement between Banque Centrale d'Algérie as Escrow Agent and the Governor and Company of the Bank of England and the Federal Reserve Bank of New York as fiscal agent of the United States.

Iran and its state enterprises, to nullify all attachments and judgments obtained therein, to prohibit all further litigation based on such claims, and to bring about the termination of such claims through binding arbitration”.

The Claims Settlement Declaration establishes the Iran-United States Claims Tribunal as the mechanism for bringing about “binding third-party arbitration” (Article I), and declares that: “Claims referred to the arbitration 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 of any other court” (Article VII(2)).

With a view to implementing these provisions, the President of the United States issued Executive Order No. 12294 which required courts in the United States to suspend prosecution of all claims over which the Tribunal had jurisdiction. Following challenges to the President’s action by claimants in several courts, the US Supreme Court in *Dames and Moore v. Reagan* concluded that the President of the United States had the authority to dissolve pre-judgment attachments and transfer Iranian assets out of the country, as well as to suspend claims pending in US courts.

The financial arrangements for implementing the Algiers Declarations were contained in several interrelated “technical” agreements among the central banks of the United States, Iran, Algeria, the United Kingdom and the Netherlands. It is convenient to group these in two series of agreements. One series provided for the transfer of amounts totaling some 7.955 billions US dollars held by the Federal Reserve Bank of New York (“the FED”), and in overseas branches of US banks, to an escrow account held by the Banque Centrale d’Algérie in the Bank of England. Immediately upon transfer of these funds, Iran would bring about release of the hostages. When the aircraft carrying the hostages left Iran, the Banque Centrale d’Algérie was obliged to transfer back to the FED 3.667 billion dollars for payment of agreed debts to certain banks, retaining 1.418 billion in the escrow account for payment of amounts claimed but disputed by US or Iranian banks, and transferring the balance, some 2.87 billion dollars, to Iran. The second series of “technical” agreement provided for the transfer to the escrow account of the Banque Centrale d’Algérie, within 6 months of the signing of the agreement, of deposits in US branches of US banks.

A portion of this was to be transferred to Iran, and the remainder, amounting to 1 billion dollars, was to be placed in a special Security Account held in escrow by the Banque Centrale d'Algerie in the Settlement Bank of the Netherlands and earmarked for payment of awards to US claimants made by the Iran-United States Claims Tribunal. Iran agreed to replenish the account so as to maintain a minimum of 500 million dollars in the Security Account against satisfaction of all such awards made in proceedings before the Tribunal.

2. Appointment of members

Article III(1) and (2) of the Claims Settlement Declaration provide as follows:

“1. The Tribunal shall consist of nine members or such larger multiple of three as Iran and the United States may agree are necessary to conduct its business expeditiously. Within ninety days after the entry into force of this agreement, each government shall appoint one-third of the members. Within thirty days after their appointment, the members so appointed shall by mutual agreement select the remaining third of the members and appoint one of the remaining third President of the Tribunal. Claims may be decided by the full Tribunal or by a panel of three members of the Tribunal as the President shall determine. Each such panel shall be composed by the President and shall consist of one member appointed by each of the three methods set forth above.

2. Members of the Tribunal shall be appointed and the Tribunal shall conduct its business in accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL) except to the extent modified by the parties or by the Tribunal to ensure that this agreement can be carried out. The UNCITRAL rules for appointing members of three-member tribunals shall apply *mutatis mutandis* to the appointment of the Tribunal.”

The declarations having entered into force on 19 January 1981, the provisions of Article III(1) of the Claims Settlement Declaration appeared

to prescribe 19 April 1981 as the terminal date for appointment by each government of its "one-third of the members" of a Tribunal of nine, and 19 May 1981 as the terminal date by which "the members so appointed" were to "by mutual agreement select the remaining third of the members and appoint one of the remaining third President of the Tribunal".

The members appointed by Iran, Mr. Mahmoud Kashani, Mr. Shafie Shafeiei and Mr. Seyyed Hossein Enayat, the members appointed by the United States, Mr. Howard M. Holtzmann, Mr. George H. Aldrich and Mr. Richard M. Mosk, the Agent of Iran, Mr. Mohammed Karim Eshragh and the Agent of the United States of America, Mr. Arthur W. Rovine, met for the first time at the Peace Palace on 18 May 1981. Despite lengthy discussions, mutual agreement could not be reached on selection of the "remaining third of the members", and the Agents thereupon twice agreed to postpone the deadline for that purpose, while discussions continued at the Peace Palace utilizing facilities and assistance made available by the Secretary-General of the Permanent Court of Arbitration, Mr. Jacob Varekamp. On 8 June 1981 mutual agreement was reached among the government-appointed members on the selection of Mr. Gunnar Karl Adnreas Lagergren (Sweden), Mr. Pierre Bellet (France) and Mr. Nils Mangård (Sweden) as "the remaining third of the members" ("third-country members") of a Tribunal of nine and on the appointment of Mr. Gunnar Lagergren as President of the Tribunal. The Tribunal issued its first press release, listing its members, on 9 June 1981. On 1 July 1981 the Iran-United States Claims Tribunal held its first meeting in the Peace Palace. It was the only meeting to be open to invited members of the public and the press. Statements were made by the President, the Agent of the Government of the Islamic Republic of Iran, the Agent of the United States of America and by the Secretary-General of the Permanent Court of Arbitration.

Over the years of the Tribunal's existence, members in each category have resigned and new members have been appointed. In addition to these appointments, which are specifically provided for in the Tribunal Rules, the two governments have occasionally appointed members of the Tribunal on an *ad hoc* basis, for specified purposes, by agreement concluded through exchanges of letters.

3. Representation of the two governments

Pursuant to Article VI of the Claims Settlement Declaration. Agents have been designated by the Islamic Republic of Iran and the United States of America to represent each of them at the seat of the Tribunal and to receive notices or other communications in connection with proceedings before the Tribunal.

4. Organization of work

The Claims Settlement Declaration provides that "claims may be decided by the Full Tribunal or by a panel of three members of the Tribunal as the President shall determine". Each such panel is composed by the President, and consists of one member appointed by each of the three prescribed methods of appointment, *i.e.*, there must be one member appointed by each government, and one third-country member who acts as Chairman.

4.1 The Full Tribunal

The Full Tribunal meets in judicial and administrative sessions. In its judicial function it decides disputes between the two governments relating to the interpretation or performance of the Algiers Declarations. It also has jurisdiction to resolve important issues of principle referred to it by one of the Chambers in order to avoid conflicting decisions between them. Determinations by the Full Tribunal have taken the form of orders, awards (including interlocutory awards, interim awards and partial awards), and decisions, all of which are filed, served on the parties and, subject to Article 32 of the Tribunal Rules, made available to the public.

By 30 June 1987 the Full Tribunal had also held 106 meetings in administrative session. Conclusions reached in administrative session are recorded in serially numbered Minutes. Important subjects dealt with by the Full Tribunal in administrative session include the adoption of the Tribunal Rules of Procedures (see Annex IV); adoption of successive annual budgets of the Tribunal; the procedures to be followed in the filing

of claims with the Registry (Administrative Directives Nos. 1-4) and the definitive versions of the Staff Rules and the Financial Regulations.

4.2. The Chambers

Presidential Order No. 1 (19 October 1981) set forth the original composition of the three Chambers, as previously determined by the President by lot during the Tribunal's 8th meeting, as follows:

| <i>Chamber 1</i> | <i>Chamber 2</i> | <i>Chamber 3</i> |
|-----------------------------|--------------------------|---------------------------|
| Mr. Lagergren (Chairman) | Mr. Bellet (Chairman) | Mr. Mangård (Chairman) |
| Mr. Kashani | Mr. Shafeiei | Mr. Enayat |
| Mr. Holtzmann | Mr. Aldrich | Mr. Mosk |

The composition of the Chambers as at 30 June 1987 was:

| <i>Chamber 1</i> | <i>Chamber 2</i> | <i>Chamber 3</i> |
|-------------------------------|--------------------------|---------------------------|
| Mr. Böckstiegel (Chairman) | Mr. Briner (Chairman) | Mr. Virally (Chairman) |
| Mr. Mostafavi | Mr. Bahrami | Mr. Anzari |
| Mr. Holtzmann | Mr. Aldrich | Mr. Brower |

Members of the Tribunal who have resigned, continue to serve as members of the Tribunal pursuant to Article 13(5) of the Tribunal Rules for the purpose of completing cases in which they have participated.

Pursuant to a decision of the Full Tribunal at its 10th meeting, all claims filed with the Tribunal were initially allocated to Chambers by lot.

The rules to apply thereafter to any re-allocation of judicial work among the Chambers, and as between the Chambers and the Full Tribunal, are set forth in Presidential Order No. 1 as amended by Presidential Orders Nos. 8, 9 and 10.

As far as the approximately 2800 claims of less than \$ 250,000 ("CLTD") are concerned, a proposal by the Secretary-General of the Tribunal to deal with these on the basis of some system of categorization had led to the distribution of 18 "representative" or test cases to the Chambers for early adjudication. In view of the divergent positions of the two governments on the treatment of the CLTD, the Tribunal later assigned batches of 50 CLTD to the Chambers by lot, and in March 1987 the remainder of these claims was also assigned by lot. Statistics showing progress in the arbitration of cases are contained in paragraph 10, below.

The procedures adopted by the Chambers and the Full Tribunal in deciding cases are governed by the UNCITRAL Arbitration Rules, as modified. Generally, the parties each file two rounds of written submissions, followed by documentary evidence and evidence in rebuttal. In more complex cases, the Tribunal may hold a pre-hearing conference after the written pleadings are filed, in order to clarify procedural issues and assist in the determination of an appropriate schedule for further proceedings leading up to the hearing. Deliberations, which are conducted in private and in strict secrecy, follow as soon as conveniently possible after the hearing. In accordance with the Tribunal Rules, the award contains the reasons on which it is based and may be accompanied by one or more dissenting or concurring opinions (Article 32(3)).

In addition to deciding contested cases, the Tribunal is empowered to record settlement entered into between the parties, in which event it will render an Award on Agreed Terms upon their joint request (Article 34(1)). It is interesting to note in this context that parties have made extensive use of the Tribunal's premises and facilities in conducting negotiations in pending cases, and numerous settlements have resulted.

5. Supporting services and administration

Each member of the Tribunal is assisted in the performance of his responsibilities by one or more legal assistants who, *inter alia*, carry out research and prepare studies as directed. The organization of each Chamber's

workload on a day-to-day basis is entrusted to a legally qualified Chamber Clerk.

A number of other staff provide support and administrative services including, in particular, a Registry, which serves as the official channel of communication between the parties and the Tribunal, and a language department providing the translation and interpretation services necessary to give effect to an agreement between the Agents of the two governments that both English and Farsi would be "official languages" of the Tribunal.

The Tribunal's chief administrative officer is the Secretary-General, who has over-all responsibility for the work of the Secretariat. He is assisted by a Deputy Secretary-General.

The annual budget of the Tribunal, maintained at 4-6 million dollars is, under the Claims Settlement Declaration (CSD Article IV(3)) to be borne equally by the two governments, and as a matter of practice, is met through quarterly contributions.

6. Powers and functions of the President

Acting pursuant to Article III of the Claims Settlement Declaration, the President makes provision for the orderly performance of the Tribunal's functions through "Presidential Orders". Presidential Orders provide, in general, for the appropriate allocation of judicial tasks as between the Chambers and the Full Tribunal, for the maintenance of balance in the case-load allocated to each Chamber, and for ensuring that the arbitral process functions smoothly and efficiently and is not interrupted through the occasional absence of individual arbitrators or by necessary holiday periods.

Thus, for periods during which members of the Tribunal or a Chamber are unavailable, the President may designate a particular Chamber, or the Chairman thereof, to deal with any requests for interim measures and any other urgent matters that might arise in cases before the Full Tribunal or another Chamber. Other Presidential Orders have made fresh designations

of members to Chambers following resignation and replacement or members; effected *ad hoc* substitution of one Chamber Chairman by another, and one party-appointed member of a Chamber by another member appointed by that party, generally as a consequence of temporary absence or indisposition of the usual member; assigned *ad hoc* members of the Tribunal to Chambers; and designated a third-country member of the Tribunal "to carry out functions performed by the President of the Tribunal in administrative matters" until a definitive appointment was made to the vacant office of the President. The President has also given directions providing for the disposition of certain of the claims of less than \$ 250,000. Presidential Orders have suspended proceedings to a greater (No. 27 of 5 September 1984) or more limited (No. 28 of 13 September 1984) extent; varied the range of matters to be dealt with by that Chamber (No. 33 of 6 December 1984); and dissolved it (No. 37 of 30 January 1985).

7. Status, immunities and privileges of the Tribunal

Soon after the representatives of the two governments arrived in The Hague in connection with the establishment of the Tribunal, they began negotiations with the Ministry of Foreign Affairs of the Netherlands with a view to concluding one or more agreements covering the status, privileges and immunities of the Tribunal, its members and its staff. Although successive draft texts were prepared by the Ministry, no agreement was reached, and the issue of eventual formal agreement on these matters remains pendings.

At the commencement of the Tribunal's work on 1 July 1981, certain rooms of the Peace Palace, and a small staff were placed at the disposal of the Tribunal through the courtesy of the Permanent Court of Arbitration and the Carnegie Foundation. It was clear, however, that the character and scope of the Tribunal's work would require the early rental of separate premises, the recruitment of personnel and the purchase and hire of equipment, all of which would involve the Tribunal in a variety of legal transactions and commitments. Moreover, it seemed appropriate for the arbitrators, as foreign nationals with unique judicial responsibilities placed upon them by intergovernmental agreement, and the members of the

Tribunal's staff to be accorded a special diplomatic status that would facilitate the performance of their tasks.

Pending the conclusion of one or more intergovernmental agreements dealing in detail with these matters, the Tribunal, through the courtesy of the Minister of Foreign Affairs, the Minister of Finance and the Minister of Justice of the Netherlands, the Secretaries-General of their Ministries, and their staffs, was able to obtain clarification through correspondence of the essentials of the status, privileges and immunities of the Tribunal, its members, and its staff.

The Tribunal's immunity and related matters were discussed in judgments rendered by a County Court and, on appeal, by a District Court of the Netherlands in an action brought against the Tribunal by one of its former employees. The District Court having held against the employee, a further appeal was lodged with the *Hoge Raad* (Supreme Court of the Netherlands). Having heard the appeal on 18 October 1985, and taken into consideration the opinion of the Attorney General on the issues involved, the Supreme Court gave judgment for the Tribunal.³

8. The Tribunal's awards and local law

In accordance with a decision of the Tribunal on 3 May 1982, awards of the Tribunal are deposited at the office of the Registrar of the District Court of The Hague.

Based on an interpretation of the provisions of the Netherlands Code of Civil Procedure as conferring a measure of jurisdiction on the District Court of The Hague with respect to proceedings before the Tribunal, and awards rendered by it, applications were filed in that Court aimed at setting aside awards of the Tribunal in nine cases. Subsequently, counsel for the applicant requested that these cases be struck from the roll. Counsel for the respondents having consented, the District Court ordered on 25 September and 20 November 1984 that they be removed from its roll.

3 The judgment is reported in the original Dutch language in: NJ 1986, No. 438. For notes on these judgments, see *ibid.* pp. 1699-1702, and 15 NYIL 1984, pp. 429-432.

Draft legislation concerning the applicability of Netherlands arbitration law to the awards of the Tribunal remains under consideration by Parliament. As at 30 September 1986 the bill had not become law. If the bill as drafted at present is approved by Parliament, it would have the effect of making the Tribunal, insofar as it is engaged in the hearing of civil disputes "subject to Dutch law on arbitration as if it were a civil arbitral body having its seat on Dutch territory . . . The judicial proceedings of the Tribunal and the awards it makes in discharging this part of its task are in principle governed by Articles 620 *et seq.* of the Code of Civil Procedure". However, challenges to the Tribunal's awards would be permitted only in the "exceptional cases" specified in the law.⁴

9. Filing of claims

Rules and procedures

Pending the adoption of rules for the conduct of its business as provided in Article III(2) of the Claims Settlement Declaration, the Tribunal set forth the requirements for the submission of claims pursuant to Article II(1) of that Declaration in Administrative Directives made available to interested parties through the Agents of the two governments. Several provisions of those Administrative Directives were of direct relevance to the functions and authority of the Registrar, thus Administrative Directive No. 1 (4 July 1981) specified the contents of Statements of Claim; the languages to be used (Farsi and English); and the number of copies (12 copies in each language) to be submitted. Article 8 stated:

"[T]he tribunal will promptly deliver copies to the Agents of the two governments. The Agent of the government against which the claim is made (the "Respondent") has the responsibility of promptly delivering a copy of the Statement of Claim to the Respondent. Claimants are not required to deliver their Statements of Claim to the Respondent's

4 It may be noted that the Netherlands Government has meanwhile enacted a new arbitration law of general application. The new (1986) Arbitration Act will form Book IV of the Netherlands Code of Civil Procedure (Articles 1020-1076) and has entered into force on 1 December 1986.

habitual residence, place of business or mailing address. The Statement of Claim is deemed to have been received by the Respondent when physically delivered to the Tribunal for forwarding to the Respondent in accordance with the above-described procedure.”

Administrative Directive No. 2 (19 September 1981), Article 2(b) stated:

“[T]he Tribunal Rules will modify Article 2 of the UNCITRAL Arbitration Rules by adding the following paragraph: The Registrar may refuse to accept any document which is not received within the required time period or which does not comply with the Claims Settlement Declaration or with Tribunal Rules. Any such refusal by the Registrar is, upon objection by an arbitrating party concerned within thirty days of notification of refusal, subject to review by the arbitral tribunal”.⁵

Article 2(c) contained instructions for the Registry on such matters as issue of receipts for documents and the number of copies of documents to be submitted for filing.

The functions of the Registrar and his staff were further clarified, prior to the commencement of filing, by “Provisional instructions to Staff concerning receipt of documents” approved by the Tribunal on 19 October 1981. With the aim of avoiding or minimizing a rush of claimants to file claims on the Registry's first day of business (20 October 1981), the Tribunal included the following provision in Administrative Directive No. 2:

5 A total of 56 refusals were made by the Registrar pursuant to Article 2(5) of the Tribunal Rules. 42 objections to refusal were filed, and assigned by lot to 13 Chambers for review. Of those, decisions have been filed in 13 claims upholding the refusal by the Registrar, and decisions have been filed in 9 claims overruling the refusal by the Registrar. The latter decisions resulted in the claims concerned being filed by the Registrar. As at 30 June 1987 20 objections to refusal involving 278 claims were pending in the Chambers to which they were assigned. Decisions by the Tribunal on the pending objections to refusal may increase the aggregate number of claims filed.

“Effect of Date of Filing Statement of Claim

- (a) The Tribunal Rules will modify 18 of the UNCITRAL Arbitration Rules by adding the following paragraph:

No priority for the scheduling of hearings or the making of awards shall be based on the date of filing the Statement of Claim.

- (b) The Tribunal Rules will include the following Note to Article 18:

All Statements of Claim with respect to matters as to which the Tribunal has jurisdiction pursuant to paragraphs 1 and 2 of Article II of the Claims Settlement Declaration which are filed between 20 October and 19 November 1981, will be deemed to have been filed simultaneously as of 20 October 1981. All such claims filed between 20 November 1981 and 19 December 1981 will be deemed to have been filed simultaneously as of 20 November 1981. All such claims filed between 20 December 1981 and 19 January 1982 will be deemed to have been filed simultaneously as of 20 December 1981”.

The Registry opened to receive Statements of Claim on 20 October 1981 at 09:00 hours. While 19 January 1982 was the last day for filing of claims pursuant to Article II of the Claims Settlement Declaration, this terminal date did not apply to procedures contemplated under paragraphs 16 and 17 of the General Declaration involving questions or disputes concerning interpretation or implementation of the Declarations (A-Cases).

10. Statistics

Claims filed

In total 3816 cases submitted for filing between 20 October 1981 and 19 January 1982 were filed. Between 19 October 1981 and 30 June 1987 22 A-Cases were filed. The total number of cases filed between 19 October 1981 and 30 June 1987 may be classified as follows:

| | |
|-------------|--------------------------------|
| 22 | A-Cases ⁶ |
| 69 | B-Cases ⁷ |
| 965 | Large Cases ⁸ |
| <u>2782</u> | Claims of less than \$ 250,000 |
| 3838 | |

Statistics up to and including 31 December 1994

1. *Award and other decisions filed*

A. *Awards:*

| | |
|-----------|--------------------------------|
| 287 | Awards |
| 27 | Partial Awards |
| 232 | Awards on Agreed Terms |
| <u>16</u> | Partial Awards on Agreed Terms |
| 562 | |

B. *Interlocutory and interim awards:*

| | |
|----------|---|
| 52 | Interlocutory Awards |
| 27 | Interim Awards |
| <u>2</u> | Combined Interim and Interlocutory Awards |
| 81 | |

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- 6 Disputes referred to in Article II(3) of the Claims Settlement Declaration as to the interpretation or performance of the General Declaration as specified in paragraphs 16-17 of the General Declaration; as well as questions concerning the interpretation or application of the Claims Settlement Declaration referred to in Article VI(4) of that declaration have a serial number with the prefix A.
- 7 Claims based on Article II(2) of the Claims Settlement Declaration (official claims of the one government against the other) have a serial number with the prefix B.
- 8 Article III(3) Claims Settlement Declaration states: "3. Claims of nationals of the United States and Iran that are within the scope of this agreement shall be presented to the Tribunal either by claimants themselves or, in the case of claims of less than \$ 250,000 by the government of such national."

C. Terminations (by order or decision):

| | |
|------------|--------------------------------|
| 14 | A-Cases |
| 18 | B-Cases |
| 514 | Large Cases |
| <u>330</u> | Claims of less than \$ 250,000 |
| 816 | |

*D. Decisions 112 in 132 cases**II. Total number of cases finalized by award, decision or order*

| | |
|-------------|--------------------------------|
| 15 | A-Cases |
| 70 | B-Cases |
| 916 | Large Cases |
| <u>2884</u> | Claims of less than \$ 250,000 |
| 3885 | |

III. Notifications

Notifications issued to the Escrow Agent: 364

The total amount awarded to US parties and notified to the Escrow Agent on 31 December 1994.

The total amount awarded to United States Parties and notified to the Escrow Agent to date: US\$ 2,088,127,534.46 and the US Dollar equivalent of £303,196.00, DM 297,051.00 and Rls. 97,132,598 (excluding any interest to be calculated by the Escrow Agent). Of that amount, US\$ 1,641,648,745.76 and the US Dollar equivalent of £303,196.00 and DM 297,051.00 was by Awards on Agreed Terms and Partial Awards on Agreed Terms.

Note: A Total amount (excluding any interest to be calculated) of US\$ 883,447,411.71 and the US Dollar equivalent of Rls. 7,977,343 was awarded or ordered to be paid to Iran and Iranian parties but was not notified to the Escrow Agent as it was not payable from the Security Account. This amount includes the amounts of US\$ 454,390,207.71, US\$

37,900,00.00, US\$ 16,148,022.29 and US\$ 134,128.56, as awarded in Award No. 306-A15 (I:G) -FT, and an amount of US\$ 344,835,970.27 and the US Dollar equivalent of Rls. 423,911 were awarded by Awards on Agreed Terms.

The Award did not specify in exact figures the amount awarded but awarded the amount in Dollar Account No. 1 in excess of US\$ 63,000,000.00 plus interest. Subsequently in a letter from the Agent of the United States, filed 20 April 1988, an amount of US\$ 454,390,207.71 was mentioned as the amount transferred to Bank Markazi Jomhourī Islami Iran on 13 May 1987 and an amount of US\$ 37,900,000.00 as the amount transferred to Bank Markazi on 15 April 1988. In a letter from the Agent of the United States, filed 21 May 1992 (Doc. No. 1088), an amount of US\$ 16,148,022.29 is mentioned as the total of the amounts transferred between 15 April 1988 and 19 February 1992. On 19 February 1992, the final balance of Dollar Account No. 1 was paid by the Federal Reserve Bank of New York to Bank Markazi which was US\$ 134,128.56 as stated also in the letter from the Agent of the Islamic Republic of Iran, filed on 12 May 1992 (Doc. No. 1086).

IV. Oral Proceedings

| | |
|-----|--|
| 165 | Pre-hearing Conference |
| 279 | Hearings |
| 8 | Combined Pre-Hearing and Hearing Conferences |
| 452 | |

11. Awards and other decisions made available to the public

Article 32(5) of the Tribunal Rules states:

“All awards and other decisions shall be made available to the public, except that upon the request of one or more arbitrating parties, the arbitral tribunal may determine that it will not make the entire award or other decision public, but will make public only portions thereof from which the identity of the parties, other identifying facts and trade or military secrets have been deleted”.

The Registry is responsible for supplying the public⁹ on request with copies of awards¹⁰ and other decisions, in accordance with the foregoing rule, and it makes a small charge for doing so.

12. Enforcement of Tribunal award

An award involving payment to a US claimant is notified by the President of the Tribunal to the holder of the Security Account, the Central Bank of Algeria, under agreed routine procedures. On the order of the Algerian Central Bank, payment is made by the Settlement Bank of the Netherlands, at which the Security Account is maintained, to the Federal Reserve Bank of New York, and through it, to the claimant. There is no corresponding fund or stipulated procedure for the payment of amounts awarded to Iran or its nationals.¹¹

In case A21 Iran requested that the Tribunal declare the US Government committed promptly to satisfy any award rendered in favour of "Iran" and against nationals of the United States. In its decision the Tribunal refused that request, but held nevertheless that (1) entering into a treaty carries with it the obligation to fulfill the object and purpose of that treaty; (2) both governments were obligated to treat the Tribunal's awards as valid and enforceable in their respective national jurisdictions; (3) it was incumbent on each government to provide by legislation or other appropriate measures, some procedure or mechanism whereby enforcement might be obtained with-in its jurisdiction and to ensure that the successful party had access to it; and (4) that if no such procedure were made available, or if recourse to it were to result in refusal or undue delay to implement the award, the government concerned would be in violation of its obligations under the Algiers Declarations.

9 The Tribunal's awards and decisions are published in their entirety in: The Iran-United States Claims Tribunal Reports (hereinafter: Iran-US CTR) by Grotius Publications of Cambridge, England.

10 An index to the issues addressed by the Tribunal serving as an unofficial guide to the pronouncements by the Tribunal and its members is annexed each year to the Secretary-General's Annual Report. A consolidated version of these indexes is also available upon request.

11 See *supra* paragraph 10 Statistics, III, for amounts awarded as at 31 March 1987.