

CASE NO. A28
FULL TRIBUNAL
DECISION NO. DEC 130-A28-FT

THE UNITED STATES OF AMERICA and
THE FEDERAL RESERVE BANK OF NEW YORK,
Claimants,
and
THE ISLAMIC REPUBLIC OF IRAN and
BANK MARKAZI IRAN,
Respondents.

IRAN-UNITED STATES CLAIMS TRIBUNAL	دیوان داورى دعوى ایران - ایالات متحد
FILED	ثبت شد
19 DEC 2000	
۱۳۷۹ / ۹ / ۲۹	تاریخ

CONCURRING OPINION

1. While I concur fully in this Decision, I write separately to emphasize several points that I believe should be kept in mind by both Parties. When the Tribunal determines, as in the present Decision, that one Party to the Algiers Declarations is in breach of an obligation established by these Declarations, an appropriate remedy must be provided. When the other Party has incurred a loss that can be quantified and compensated by monetary damages, an award of such damages is clearly appropriate. In the present Case, the United States has incurred no losses that can be so quantified and compensated, but the breach – the failure of compliance – continues. In these circumstances, the Tribunal has a duty to make clear the nature of the breach and the duty of the Party in breach to comply with its treaty obligation, regardless of any inconvenience such compliance might entail.

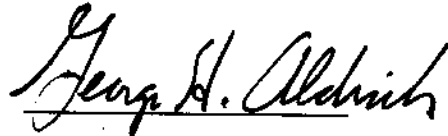
2. In my view, in the present Decision, the Tribunal performs that duty effectively by explaining clearly Iran's obligation to replenish the Security Account, by determining that Iran has been in breach of that obligation since late 1992, and by stating that it expects Iran to comply with that obligation. It would not have added any additional weight to this Decision to have phrased the remedy as one that "requests" or "orders" compliance. While the Tribunal has broad powers to fashion remedies, it does not have the powers of domestic

courts to enforce them. Nevertheless, Iran is obligated by the Algiers Declarations, by international law, and by the present Decision to comply with its replenishment obligation, and the Tribunal correctly expects it to do so.

3. While I was prepared also to grant the additional relief requested by the United States, I recognize both its unprecedented nature and the implication it might convey of a lack of confidence about Iran's compliance with this Decision and its treaty obligation.

Dated, The Hague

19 December 2000



George H. Aldrich