

Final Report on the Iran Claims Program

1. Introduction and Background

As reported in the Commission's Annual Report to Congress for 1990 (1990 Ann. Rep. 5), the United States concluded an agreement with the Government of Iran on May 13, 1990, providing for the lump-sum settlement of claims of United States nationals against Iran of under \$250,000 per claim (the "small claims"), which had been pending against Iran at the Iran U.S. Claims Tribunal ("the Tribunal") at The Hague, Netherlands. *Settlement Agreement in Claims of Less Than \$250,000, Case No. 86 and Case No. B38* (the "Settlement Agreement"). The claimants had filed these claims through the Department of State following the signing of the Algiers Accords by the United States and Iran on January 19, 1981.

In addition to the unresolved small claims, the agreement covered a block of small claims that the claimants had withdrawn from the Tribunal, a second block that the Tribunal had dismissed for lack of jurisdiction, and a third block that had been filed with the Department of State too late to meet the filing deadline at The Hague of January 19, 1982 (the "late-filed" claims). Also included were certain claims of the United States based on loans that had been made to the Imperial Government of Iran by the U.S. Agency for International Development (AID). Under the terms of the agreement, Iran assented to the transfer of \$105 million to the United States in en bloc settlement of all of these categories of claims. The United States and Iran submitted the Settlement Agreement to the Tribunal for approval. It was approved and became effective on June 22, 1990. Iran-U.S. Claims Tribunal Award No. 483.

On June 28, 1990, the Department of State formally transferred responsibility for the small claims to the Commission, as provided in the Settlement Agreement, and began transferring the files pertaining to the claims from The Hague to Washington. In addition, the Department issued a final determination dividing the settlement fund between the small claims and the AID loan claims, allocating \$50 million to the former and \$55 million to the latter.

To ensure that the Commission would be able to implement an agreement settling the small claims, Congress had enacted legislation in 1985 giving the Commission standby jurisdiction to adjudicate the claims once an agreement was reached. Pub.L. 99-93, approved August 16, 1985, 99 Stat. 437 (50 U.S.C. 1701 note) (the "Iran Claims Act"). That jurisdiction became effective once the Settlement Agreement was approved by the Tribunal.

The Commission's regulations provide for the adjudication of each of the claims via the issuance of a Proposed Decision, which then becomes final within thirty days if no objection is received. In the Iran program, if a Final Decision entitled the claimant to an award, the Commission certified it to the Secretary of the Treasury for payment.

Claimants initially received payment of the principal amount awarded (that is, excluding interest) or \$10,000, whichever was less. In 1992, as authorized under subsection 8 (c)(2) of the International Claims Settlement Act of 1949 (ICSA), as amended (22 U.S.C. 1627 (c)(2)), the Department of Treasury distributed a second interim payment to eligible awardees equivalent to 7 percent of the unpaid principal amounts of their awards in excess of \$10,000.00. In March 1994 the Department of the

Treasury began making payments to cover the full principal amount of awards issued by the Commission. Payment of interest awards was deferred until after the claims program was completed on February 24, 1995.

2. Program Completion

The Commission completed adjudication of virtually all of the claims against Iran by December 1994. Only a small number of claims remained for final disposition in 1995. The Commission held three meetings in January and February, to render decisions and orders to resolve the few outstanding matters. At the last of those meetings, on February 24, the Commission voted to officially close the Iran Claims Program. The Chair then sent a letter to the Secretary of the Treasury informing him of the Commission's action.

In all, the Commission issued 1,066 awards to 1,075 claimants totaling \$41,570,936.31 in principal and \$44,984,859.31 in interest. A total of 578 claims were dismissed, either at the request of claimants or because, despite the Commission's best efforts, the claimants could not be located. The remaining group of 1,422 claims were denied.

Through investment in Treasury securities, the compensation fund (initially \$50 million) had grown to \$57,822, 758.78 by the end of the claims program. However, since the aggregate total of the principal and interest awards amounted to over \$86 million, the Treasury Department was unable to pay the interest awards in full. Instead, interest awards were paid on a pro rata basis, amounting to 34.9602595 percent of each claimant's interest award.¹ By May 1995, the payment process had been substantially completed.

3. Highlights of Program

Probably the most significant aspect of the Iran Claims Program lay in the variety of types of claims that the Commission was required to adjudicate in the course of the program. Representative decisions on these various types of claims are reprinted in the Commission's Annual Reports for 1991 through 1994. While the Commission's previous programs generally have involved property expropriation claims, a substantial number of the claims against Iran were for breaches of contract and other commercial disputes involving the Iranian government and its "controlled entities." As a result, the Commission further developed its expertise in commercial law, including the law governing sales of goods under irrevocable letters of credit and other provisions of the Uniform Commercial Code. In addition, a number of claims were for balances due for shipments of products to Iran by sea, which required application of principles of admiralty and maritime law.

The program also presented a number of unusual, if not unique, types of claims and issues. These arose from the extraordinary nature of the relationship between the United States and Iran prior to 1979, the events and circumstances that precipitated the claims, and the comprehensive reach of the

¹ Under the ICSA, the Treasury Department was required to pay all principal amounts awarded before paying any part of an award of interest. The percentage reflects the actual pro rata payments after deduction of 1-1/2 percent from the fund to defray administrative expenses of the government in adjudicating and paying the claims.

1981 Algiers Accords and the 1990 Settlement Agreement. Some of these were matters of first impression not only for the Commission but also for the law of international claims in general. In all respects, the legal analysis, interpretation and exposition produced by the Commission in the course of the Iran Claims Program should enhance the developing jurisprudence in the field of international claims arbitration and settlement.

4. Related Litigation

As noted in subsection 2 above, the settlement funds remaining in the Treasury after payment of the claimants' principal awards covered approximately 35 percent of the Commission's interest awards. Taking into account the fact that the Commission's interest awards were calculated using a 10 percent per annum simple interest rate (with actual payments at an effective rate of over 3 percent simple interest per annum), the level of the pro rata payments made in the Iran Claims Program compares quite favorably to those in other programs.

Nevertheless, in April 1995 a group of some nineteen claimants (later increased to 22) filed suit in the United States Court of Federal Claims, alleging that the 1990 Settlement Agreement constituted a "taking" of their claims without just compensation, in violation of the Fifth Amendment to the Constitution, and seeking payment of the unpaid portion of their awards out of taxpayer funds. *Walter-Abraham Youri et al. v. United States*, No. 95-299. As of the end of 1995, the case had not yet been set for trial.