



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Payment by Federal Aviation Administration
of Award to Iran made by Iran-United States
Claims Tribunal

File: B-230244

Date: March 28, 1988

DIGEST

Award issued by the Iran-United States Claims Tribunal (Tribunal) against the Federal Aviation Administration (FAA) for \$5,499.68, plus interest, on a claim for services the Iran National Airlines Company furnished to the FAA under two invoices dated June 3, 1979 should be certified for payment. The Tribunal was established in accordance with the international agreement between Iran and the United States that settled the crisis resulting from the 1979 seizure of the United States Embassy in Teheran. Under this agreement, the decisions and awards of the Tribunal against either government are final and binding and legally enforceable.

DECISION

This decision is in response to a request from David C. Thomas, authorized certifying officer, Federal Aviation Administration (FAA), for an advance decision from our Office as to the propriety of his certifying payment to the Government of Iran of an award made by the Iran-United States Claims Tribunal (Tribunal) in the amount of \$5,499.68, plus interest. For the reasons set forth below, we conclude that the award represents a valid claim against the FAA that should be certified for payment in accordance with its terms.

BACKGROUND

The Tribunal that made the award was established in accordance with the so-called "Algiers Accords," whereby the United States and Iran agreed on January 19, 1981, to adhere to two formal declarations issued on that date by the

Government of Algeria to settle the international crisis that was precipitated by the seizure of the United States Embassy in Teheran in November 1979 and the detention of American diplomatic personnel as hostages.

The second of the two declarations, entitled "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), provides for the establishment of an "International Arbitral Tribunal" to decide outstanding claims either government or its citizens had against the other government, provided such claim was submitted to the Tribunal within 1 year of the date of the agreement. Specifically, paragraph 2 of Article II of the Claims Settlement Declaration reads as follows:

"The Tribunal shall also have jurisdiction over official claims of the United States and Iran against each other arising out of contractual arrangements between them for the purchase and sale of goods and services."

Moreover, under Article IV of the Claims Settlement Declaration, the decisions and awards of the Tribunal are "final and binding" and are "enforceable against either government in the courts of any nation in accordance with its laws."

On January 15, 1982, Iran National Airlines Company (Iran Air) filed a claim with the Tribunal for services rendered to various agencies of the United States between 1977 and 1979. On November 30, 1987, the Tribunal awarded Iran Air a total of \$8,757,31, plus interest, \$5,499.68 of which was determined to be attributable to the FAA on two invoices, dated June 3, 1979. In addition to the principal amount, the award provided for the payment of 10 percent simple interest "from the date 30 days after the date of each invoice up to and including the date" of payment.

Subsequently, on December 22, 1987, the State Department requested the FAA to pay its share of this claim, plus interest, in accordance with the terms of the Tribunal's award. The officer responsible for certifying the claim for payment refused to do so without a favorable decision from our Office.

ANALYSIS

On January 19, 1981, President Carter signed a formal statement of adherence which provided that the declarations

issued on that date by the Government of Algeria constituted international agreements that were legally binding on the United States. On the same day, President Carter issued Executive Orders 12276 through 12285 to implement the Accords. 46 Fed. Reg. 7913-7932. On February 24, 1981, President Reagan issued Executive Order 12294, which ratified the Accords and the cited executive orders that had been issued by President Carter. 46 Fed. Reg. 14111. Section 4 of Executive Order 12294 provides that,

" . . . A determination by the Tribunal that a claimant shall have recovery on a claim in a specified amount shall operate as a final resolution and discharge of the claim for all purposes upon payment to the claimant of the full amount of the award, including any interest awarded by the Tribunal."

The courts of the United States, including the Supreme Court, have recognized that these Accords are valid international agreements that are binding on the United States. See Dames & Moore v. Regan, 453 U.S. 654 (1981); Gulf Ports Crating Company v. Ministry of Roads, etc., 674 F.2d 318 (5th Cir. 1982); and Behring International, Inc. v. Imperial Iranian Air Force, 699 F.2d 657 (3rd Cir. 1983). Thus, awards that the Tribunal makes on claims that are within its jurisdiction are legal and must be paid in accordance with their terms.

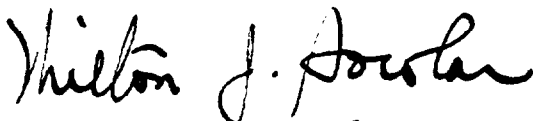
In our view, the Tribunal clearly had jurisdiction over the claims at issue here.^{1/} First, the claim was filed with the Tribunal by Iran Air, an agency of the Government of Iran,^{2/} on January 15, 1982, which was within the 1-year period specified in the Accords for the filing of such claims. Second, in accordance with Article II, paragraph 2, of the Claims Settlement Declaration, we agree with the Tribunal's determination that this claim arose out of a "contractual

1/ While we concur in the Tribunal's determination regarding its jurisdiction in this case, we note that under Article VI, paragraph 4 of the Claims Settlement Declaration, the Tribunal has exclusive authority to decide any question "concerning the interpretation or application of the declaration and its provisions."

2/ Article VII of the Claims Settlement Declaration defines Iran as including "any agency, instrumentality, or entity controlled by the Government of Iran. . . ." The parties to the claim did not dispute the Tribunal's determination that Iran Air falls within this definition.

arrangement" between the two governments for the purchase and sale of services.

Accordingly, the Tribunal's award in this case against the FAA of \$5,499.68, plus 10 percent interest, to be computed from 30 days after the date of the two FAA invoices (dated June 3, 1979), until the date of payment, is legal and valid and should be promptly certified for payment.

for 
Comptroller General
of the United States