Award in Case No. 255 (176-255-3) of 26 April 1985

Arbitrators: Nils Mangård (chairman), Richard M. Mosk, Parviz Ansari Moin (dissenting)

Parties:
- Respondents: Tehran Redevelopment Corp., The Government of The Islamic Republic of Iran

Subject matters:
- jurisdiction of the Tribunal; controlled entity (Art. VII(3) of the Claims Settlement Declaration)
- law governing assignments of contractual rights
- validity of an assignment of contractual rights (Iranian law; contractual prohibition on assignment)
- validity and enforceability of oral agreement; definiteness of contractural terms
- quantum meruit
- failure to object to invoices for a lengthy period
- effect of termination on damage remedy
- proper exchange rate for awarding damages
- increase in costs for inflation
- the Government as a respondent

FACTS

On 2 July 1975, DIC and Underhill, both United States corporations, and a Swiss company called Starrett and Eken S.A. ("Starrett") entered into a contract with the Tehran Redevelopment Corp. ("TRC") to provide technical assistance and management in connection with the construction of the concrete superstructures for eight buildings of a housing project in Iran. These eight buildings comprised Phase I of the 33-building project. DIC, Underhill and Starrett were treated separately throughout the contract and were each assigned separate obligations and a specific percentage remuneration.

DIC, Underhill and Starrett were subsequently engaged by TRC to perform similar work on the successive phases of the Ekbatan project. Contracts for Phase II and Phase I A, covering additional buildings were signed on 1 October 1976. Their provisions were substantially the same as the contract for Phase I. Claimants contend that a fourth agreement was orally entered into on or before 9 September 1977 relating to Phase III of the project, while Respondents denied the existence of such an agreement. Asserting that certain payments under these agreements had not been made, Claimants and Starrett sent TRC notices of default on 28 June 1978. These notices
provided for termination of the contracts if no payments were made. Claimants brought this Claim for the outstanding payments, which they alleged amounted to US $3,110,626. They also sought US $3,321,53 as the amount they would have earned in the absence of certain alleged breaches by Respondents, and payment for extra work performed, plus interest and costs. TRC asserted counterclaims that sought, inter alia, reimbursement of payments previously made, damages for defective performance and delay, and return of certain documents. All of the counterclaims were dismissed on the merits.

EXTRACT

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