Iranian Journal of International and Comparative Law
Volume 2, Issue 2, 2024

Evidence and Burden of Proof in the Jurisprudence of the Iran-United States Claims Tribunal and Its Impact on Case B-1

Reza Arab Chadegani

PhD in International Law, University of Tehran, Iran;
Researcher at Strategic Studies Center of IRI Army, Iran. | rezaarabchadegani@gmail.com

Article Info

Article type:
Research Article

Article history:
Received
15 November 2024

Received in revised form
25 December 2024

Accepted
31 December 2024

Published online
31 December 2024

https://ijicl.qom.ac.ir/article_3221.html

Keywords:
Iran-United States Claims Tribunal, Evidence, Burden of Proof, Proof of Evidence, Case B-1.

ABSTRACT

In the case of "Iran's Foreign Military Sales" (Case B-1), which encompasses six claims and a counterclaim, proceedings have continued for over four decades. A focal point in the process of filing numerous applications and the rulings issued in this case has consistently been the issue of evidence and the burden of proof. This qualitative research aims to address the fundamental question of the approaches taken by the Iran-United States Claims Tribunal regarding evidence and the burden of proof, as well as the implications of these approaches on the adjudication of Case B-1. The findings indicate that the Tribunal, in each case, has adhered not only to general legal principles - such as 'actori incumbit onus probandi' -but also to the unique circumstances and specific conditions of each case, such as the accessibility of evidence, in determining the allocation of the burden of proof. As the parties strive to substantiate the credibility of their evidence before the Tribunal using general principles of international law, which are potentially recognized as applicable law by the Tribunal, they also seek to undermine the credibility of the opposing party's evidence through various arguments. It is essential for Iran to enhance its precision in referencing the submitted documents and to clarify the technical dimensions, as well as to ensure compliance with the Tribunal's standards in future rulings, in order to achieve its objectives in other ongoing cases.

Cite this article: Arab Chadegani, R., (2024). Evidence and Burden of Proof in the Jurisprudence of the Iran-United States Claims Tribunal and Its Impact on Case B-1, *Iranian Journal of International and Comparative Law*, 2(2), pp: 58-75.

10.22091/ijicl.2025.11895.1117
Publisher: University of Qom

Table of Contents

Introduction

In the wake of significant economic disputes between Iran and the United States prior to the fall of the Pahlavi regime, both governments established a legal framework, referred to as the Iran-United States Claims Tribunal (I.U.S.C.T., the Tribunal), in The Hague under the Algiers Accords[1] to resolve a substantial portion of their existing legal disputes.[2] Evidenced by the number of cases it has adjudicated and the noteworthy precedents established in its rulings, over four decades since its establishment, the Tribunal has emerged as one of the most significant arbitration bodies in history,. It is noteworthy that by the time the opportunity for filing briefs in the Tribunal concluded, a total of 6,250 cases had been registered. However, following the Tribunal's decision to decline jurisdiction over claims brought by the Iranian government against U.S. nationals and the subsequent dismissal of 2,300 cases, 3,952 cases remained for adjudication, the majority of which have produced rulings, with only a few currently under progress.[3]

One of the influential factors in the arbitral process of various claims is the issue of evidence and the burden of proof, which has been given attention akin to any other legal dispute within the Tribunal. It may be said that the question of the burden of proof in relation to claims 2 and 3 is among the most impactful issues affecting the final outcome of the cases. This matter has been extensively discussed in all briefs submitted by the parties and has consumed significant time during hearings addressing broader issues of the cases. Considering the arguments presented by the parties and the Tribunal's precedents in other cases that have been adjudicated or resolved in various ways, it appears that the Tribunal, in each case, adheres to general legal principles concerning evidence and the burden of proof, including the principle that the burden of proof lies with the claimant, while also taking into account the special circumstances of each case such as access to evidence when determining shifts in the burden of proof.

Accordingly, this research, relying on a descriptive-analytical methodology and utilizing library resources, seeks to answer the fundamental question: What is the role of evidence and

1 These statements include two public statements and a dispute resolution statement dated January 19, 1981 (29 Dey 1359 in the Persian calendar), along with several other attached documents, which brought an end to the 444-day hostage crisis of the staff of the U.S. Embassy in Tehran.

2 Gibson, Christopher S. and Drahozal, Christopher R., 'Iran-United States Claims Tribunal Precedent in Investor-State Arbitration' (2006) 23 Journal of International Arbitration 521, 521.

3 Arab Chadegani, Reza, 'Governing Law and Its Impact on the Foreign Military Sales (FMS) Case in the Iran-United States Claims Tribunal' (2019) 50(4) Quarterly Journal of Public Law Studies 1643, 1644.

the burden of proof in the jurisprudence of the Iran-United States Claims Tribunal, and how does it affects on the adjudication of case B-1? The insufficient attention to the details and nature of cases presented in this Tribunal within domestic legal literature and the Tribunal's procedural rules, which compel it to issue substantiated rulings, makes addressing the issue of evidence and the burden of proof in these cases imperative. Furthermore, emphasizing this topic can elucidate various aspects of evidence and proof, potentially facilitating the provision of substantiated arguments in the ongoing adjudication of other open cases before the Tribunal. This article will first briefly examine case B-1 before the Tribunal, the status of cases 2 and 3, and the general issues concerning evidence and the burden of proof, before specifically addressing the matters raised in the Tribunal's disputes. Finally, it will explore the challenges faced by the parties in the ongoing proceedings of this case.

1. Case B-1 Before the Iran-United States Claims Tribunal

Following the establishment of the Tribunal as part of the mechanisms for resolving disputes outlined in the Algiers Accords, the process of registering claims within the Tribunal's jurisdiction commenced.[1] Article 2 of the Accords limits claims to those raised by nationals of the United States against Iran, claims by Iranian nationals against the United States, and any counterclaims arising from contracts, transactions, or events upon which a claim is based,[2] as well as formal claims by both governments against each other.

In this context, the Government of Iran submitted its main application regarding the Letter of Agreements (LOA) for Foreign Military Sales (FMS), which included a statement of the nature of the dispute, the basis for the Tribunal's jurisdiction, and a request for compensation on November 18, 1981,[3] along with a supplemental brief and initial response to the counterclaim of the United States on January 28, 1982.[4] This case represents the largest contentious issue between the two governments in terms of volume and value brought before the Tribunal.

From the perspective of the Iranian government, the dispute and the subject of this application stem from agreements made between the two governments in the early 1960s for the provision of military equipment, spare parts, and services by the United States government, culminating in 2,679 "Letter of Offer and Acceptance (LOA)." Additionally, this application includes a claim for five million dollars paid by the Iranian government to the United States in November 1979 for the purchase of spare parts for military and transport aircraft, which the United States failed to deliver as per its obligations.[5]

This case has been raised in six parts with the following claims for compensation:

- **Claim 1:** The sum of 5 million U.S. dollars paid to the U.S.G. in November 1979

1 The Secretariat of the Tribunal has a specific method for registering documents and submissions from the parties in each case. According to the Tribunal's procedure, each document in a case is assigned a unique number (Document No.) that is tracked from the beginning to the end of the proceedings. To prevent errors, the name of each case is noted alongside its corresponding document number. The following will outline all the documents registered in Case B-1 according to the aforementioned Tribunal method.

2 I.U.S.C.T., Case B1, Doc. 1949, Counterclaim, Interlocutory Award No. ITL 83-B1-FT, 9 September 2004, pp. 116-134.

3 I.U.S.C.T., Case B1, Doc. 1, Statement of Claim of Ministry of National Defense.

4 I.U.S.C.T., Case B1, Doc. 127, Supplement No. 2 to Statement of Claim of Ministry of National Defense.

5 I.U.S.C.T., Case B1, Doc. 1:1-2.

(after the victory of the Islamic Revolution in Iran) for the provision of military spare parts and the failure of the U.S.G. to honor its commitment. , totaling $7.2 million.

- **Claim 2:** Excess amount of Iranian money unduly held by the U.S.G. (approximately $1.8 billion).
- **Claim 3:** The non-delivered military items and equipment due for delivery. (approximately $1.4 billion).
- **Claim 4:** The unjustified retention of Iranian military equipment sent to U.S. for conducting particular services. ($200 million).
- **Claim 5:** The U.S.G. failure to amend the design defects C'xisting in some of the sold. items, ($340 million).
- **Claim 6:** The losses and damages incurred because of the U.S.G. wrongful commissions and ommissions. ($5 billion).

The total amount claimed, including interest requested in Iran's application, amounts to $10,893,500,000 (ten billion, eight hundred ninety-three million, five hundred thousand dollars).[1]

In the proceedings related to Case B-1, the Tribunal has issued its awards on three claims to date. The award on Claim 1, confirming the payment of $7,800,000 as principal and interest due to Iran, was issued on December 6, 1989.[2] The award on Claim 4, confirming the receipt of $578,000,000 by Iran as principal for the value of items transferred to the United States along with applicable interest, was issued on December 2, 1991, as a settlement Agreement.[3] The award on Claim 5 rejected Iran's application on June 16, 1988.[4]

Proceedings on Claims 2, 3, and 6 are ongoing, with Claims 2 and 3 being centrally processed due to their related subject matter. The stages for the exchange of briefs and preliminary hearings regarding selected contract have concluded, and the proceedings continue. As for Claim 6, no independent application has yet been registered by Iran with the Tribunal, and the parties continue to seek extensions regarding this claim.[5]

It is essential to note that on February 3, 1979, during the final days of the Pahlavi regime under Ministeration of Bakhtiar, a memorandum of understanding (MOU) was signed between senior military representatives of the Iranian government and a representative of the United States Department of Defense. This agreement concerned the reduction and cancellation of certain military orders from Iran, particularly highly sensitive items, in exchange for the full and equitable reimbursement of payments made, along with the remaining balance of Iran's

1 I.U.S.C.T., Case B1, Doc. 1:15-19.
2 I.U.S.C.T., Case B1, Doc. 817 (Claim No. 1), Joint Request for Arbitral Award on Agreed Terms, p. 1.
3 I.U.S.C.T., Case B1, Doc. 860 (Claim 4), Full Tribunal; Partial Award on Agreed Terms, No. 525-B1-FT (2 December 1991), p. 1.
4 I.U.S.C.T., Case B1, Doc. 593 (Claim No. 5), Full Tribunal; Award No. 370-B1-FT (16 June 1988), p. 20.
5 Arab Chedegani, Op. Cit. (2019) 1646.

trust fund,[1] valued at approximately one billion dollars. This would be facilitated through a process of sale and transfer to the United States government or third-party states.[2]

The complex financial process for the resale and transfer of Iranian-owned items was initiated immediately by the United States government; however, the status of other cases was suspended due to the revolutionary conditions in Iran. With the takeover of the U.S. Embassy, virtually all other activities were halted.[3] Following the conclusion of the Algiers Accords and the receipt of invoices issued by the United States, it became evident that a substantial portion of the funds paid by Iran had been disbursed as cancellation fees to domestic contractors in the United States, rendering them non-recoverable. These amounts were also included as part of Iran's claims in cases 2 and 3.

2. Proceedings Regarding Claims 2 and 3

In light of the United States' assertion in its initial pleading that the subjects of claims 2 and 3 are identical, the Tribunal ordered the consolidation of the two claims and directed that they be addressed countemperaneously and continuously. Generally, claims 2 and 3 pertain to disputes arising from the 2,679 FMS LOAs between Iran and the United States that were concluded from the inception of the program until the occurrence of the Islamic Revolution. However, since only 1,126 of these agreements were in effect at the time of the Revolution, the Tribunal has focused its proceedings on these specific agreements.[4]

Given the extensive topics raised in claims 2 and 3, the Tribunal established methods to facilitate the final arbitration of all issues presented in these claims and required both parties to submit explanatory pleadings regarding the contested costs. The Tribunal mandated that the parties file separate pleadings and relevant evidence for the adjudication of 130 selected cases[5] from Iran.[6]

Thus far, the Iranian government has articulated its positions and presented its supporting evidence for the 130 selected FMS agreement cases in two instances: in 1990 and 2002. The United States government has done so in 1993 and 2012. Both states have also submitted detailed pleadings regarding cancellation costs[7] and other issues[8] before the Tribunal.[9] Hearings for 25

1 In the United States Foreign Military Sales program, according to its domestic law, each government is required to open an account at the Federal Reserve and the U.S. Treasury, known as the government's escrow account. All expenses for that government's military purchases are deposited independently into this account and then used accordingly. This account also serves as the holding place for advance payments of each sales agreement, as well as other funds received from the buyer as a guarantee to cover potential cancellation costs. Notably, the remaining balance of Iran's escrow account, amounting to approximately $400 billion, along with interest of about $1.3 billion, was returned to Iran following the Joint Comprehensive Plan of Action (JCPOA).

2 United Nations Secretariat, Document No. 18582 (1980).

3 I.U.S.C.T., Case B1, Doc. 1556 (Claim No. 2 & 3), Part I: Brief, Volume II of II, Rebuttal of the United States Concerning Responsibility for Termination Costs.

4 I.U.S.C.T., Case B1, Doc. 199 (Claim No. 4), Full Tribunal, Order.

5 These 130 selected cases each pertain to an independent sales agreement that has become notable in the proceedings of individual cases.

6 I.U.S.C.T., Case B1, Doc. 664 (Claim No. 2 & 3), Full Tribunal, Order, pp. 1-2.

7 The costs of cancellation are part of the claims presented in Claims 2 and 3, arising from various payments made from Iran's escrow account regarding the canceled sales agreements.

8 In categorizing the claims in Claims 2 and 3, the Tribunal identified several issues, such as the remaining balance of the escrow account, the impact of directives from the President of the United States on the fulfillment of obligations, and the principles of the memoranda of understanding, and has established independent proceedings for these matters.

9 Arab Chedegani, Op. Cit. (2019) 1646.

selected cases from the 130 individual cases were held in 2018, and since then, the Tribunal has been issuing rulings on the matters raised by the parties.

3. Evidence in Claims 2 and 3

It appears that the Tribunal has thus far established a comprehensive set of legal principles concerning the burden of proof, evidentiary grounds, and the standards of proof. Given that the Tribunal's procedural rules are based on the UNCITRAL rules and have not been altered by the parties, it has reasoned that its rules generally reflect principles accepted in international arbitration.[1] Therefore, in ensuring the sufficiency of evidence in disputes, akin to any other Tribunal, the Tribunal not only considers its own prior decisions but also pays attention to the procedures of other international arbitration Tribunals, treaties, and the opinions of international law scholars to prevent extralegal or ultra vires behaviors and claims.[2]

In this case, considering that Iran's claims are determined independently in each case based on its accounting center's report, the categorization based on the military organizations involved may prove beneficial for referencing each case and classifying the evidence presented by both parties. Consequently, Iran categorized its pleadings and claims into four main categories: army, Air Forces, Navy and Iranian Helicopters Support and Reconstruction Company (IHSRC) claims, thereby enabling a clearer presentation and elaboration of its consistent evidence within each category. Below, the evidence cited by Iran will be displayed in a consolidated table:

Row	Document Title	Description of Contents
1	History List of Case (HLC)	Includes reports HI133 and HI14 from the Iranian Air Force support and supply systems.
2	Case Statistical Report (CSR)	Includes readiness reports from one of the subdivisions of the Air Force supply system.
3	Procurement History	A computerized collection of readiness information, order status, and receipt of items related to the IHSRC.
4	SRC	Cards that record the history of an item from the moment of order to its entry and storage in the Navy warehouse.
5	AF Cards	Cards that track the history of ordered items until receipt in the warehouse.
6	Navy Packing List	
7	Memorandums	
8	Due-In Cards	Inventory control cards used in the Ground Forces, documenting status from order to warehouse entry and inventory.

The documents submitted by the United States, unlike those presented by Iran, have a uniform structure and formatting concerning all the forces involved in the FMS cases. The United States utilized a set of systems based on the support structure for the FMS program, which relied on the support systems of each of the three military branches prior to 1975. In 1976, the expansion of the FMS program led the United States to establish a central body for overseeing FMS operations, known as the Security Assistance Accounting Center (SAAC).

1 I I.U.S.C.T. Report, Vol. 11, (DEC. 45-A20-FT) (10 July 1986), p. 274, para. 10.
2 I.U.S.C.T. Report, Vol. 4, CMI International v Ministry of Roads and Transport of the Islamic Republic of Iran, AWD 99-245-2 (27 December 1983), pp. 267-268.

This center assumed all financial responsibilities related to FMS, and since then, all documents pertaining to FMS programs have been centralized and produced at this center. The table below illustrates the variety of documents recorded by the United States in Claims 2 and 3.

Row	Document Title	Description of Contents
1	H051	Final tracking of the status of an item for support and readiness operations in the U.S. Air Force from the 1960s to the 1980s.
2	CISIL[1]	Final tracking of the status of an item for auditing and accounting in the U.S. Ground Forces from 1976 to 1998.
3	MISIL[2]	Final tracking of the status of an item for auditing and accounting in the U.S. Navy since 1978.
4	MILSTRIP Punch Cards	Punched cards based on a special military coding system for transmission in a specific network, with 80 columns for essential item information in a limited space with a standardized sequence.[3]
5	ILC[4]	Along with quarterly statements, this serves as a detailed status report of items and services sent to the recipient.
6	DD1348-1	A sample government warehouse release form from the U.S. prepared in six copies and sent with the shipment to the buyer.
7	DD-250	A sample contractor warehouse release form sent with the shipment and bill of lading to the buyer, also considered an invoice.
8	H028	Standard service cost forms used for auditing and accounting in the U.S. Air Force.
9	H075	Standard item cost forms used for auditing and accounting in the U.S. Air Force.
10	DD645	A report issued quarterly by the Security Assistance Accounting Center (SAAC) based on the latest available costs and remaining balances of previous invoices for each case.
11	Delivery Listing	A report that includes all information related to items delivered in each periodic invoice and forecasts future requirements for each specific case.
12	SF1080	Standard billing form for payments in U.S. government agencies for services rendered.
13	SF1034	Standard billing form for payments to private contractors for services rendered.
14	NC 140	Standard request form for special work and services for the U.S. Navy with a special number for entry into the billing issuance system and document SF1080.
15	NC2119	Standard request form for special work and services for the U.S. Navy with a special number for entry into the billing issuance system and document SF1080.
16	GBL	Standard bill of lading for goods transported by the U.S. government, including information about the shipment such as weight, carrier container number, origin, and destination.
17	CBL	Standard bill of lading for goods transported by contractors, including information about the shipment such as weight, carrier container number, origin, and destination.

The above summary was intended to familiarize the audience with the type of evidence recorded in a concise manner. Given the examination of Claims 2 and 3 in Case B-1 before the Tribunal, it does not seem appropriate to provide specialized commentary on their rejection

1 Central Inventory System for International Logistics (CISIL).
2 Management Information System for International Logistics (MISIL).
3 These cards can be referred to as documents due to their external shape, and as transactions because of the information contained within them.
4 International Logistics Center International Program Extracts of Transmittals of Supply and Shipment Status Information between Iran and the United States

or acceptance. Additionally, detailing these documents would require a comprehensive study, potentially encompassing several volumes, which have been registered by the parties as appendices to various submissions in this case or presented during hearings. Therefore, the following discussion will only address the Tribunal's procedures in a general manner, outside the context of the case, and purely abstractly.

4. General Rules of Burden of Proof

One of the key points regarding the burden of proof is that while states have the freedom to choose the type and format of evidence to substantiate their claims before a tribunals, there are also limitations in this regard.[1] Generally, the burden of proof lis on the complianant, Establishing a right depends on proving a fact for which the claimant must provide evidence. However, it should be noted that creating a clear boundary between the claimant and the respondent concerning the burden of proof is not straightforward, and during litigation, the burden may shift multiple times between the claimant and the respondent.[2]

Article 24 of the UNCITRAL Rules, which has been reiterated unchanged as Article 24 of the Tribunals's procedural rules and used in all cases,[3] expresses a general legal principle regarding the allocation of the burden of proof, stating:

1. Each party is responsible for proving the facts it relies upon in support of its claim or defense.
2. If the arbitral Tribunal deems it necessary, it may require one party to submit, within a period determined by the Tribunal, a summary of the documents and other evidence it intends to present in support of the facts relevant to the subject matter of the claim or defense to the arbitral Tribunal and to the other party.
3. The arbitral Tribunal may request parties to provide documents, appendices, and other evidence at any time during the arbitration process, within a timeframe set by the Tribunal.

The International Court of Justice (ICJ, the Court) has repeatedly uses the general principle of *onus probandi*, a concept clearly reflected in the Court's jurisprudence. According to the Court, in the case of *Nicaragua vs. the United States*, the party seeking to establish the truth also bears the burden of proof. This approach has been accepted by the parties in many cases brought before the Court.[4]

The general rule of proof does not apply uniformly without considering the specific circumstances of each case. Several factors must be taken into account when applying this general rule. Firstly, the nature of the claim along with the type of evidence that must be presented for which the burden of proof rests with the claimant must be understood by the

1 Seyed Hossein Sadat Meydani, *International Proceedings - International Court of Justice - Evidence of Claims.* (Jangal, Tehran, 2012) 130.
2 Nasir Katouzian, *Proof and Evidence, Volume One, General Rules of Evidence, Admission and Document.* Mizan, Tehran, 8th edition, (2014) 62-65.
3 For instance, I.U.S.C.T., Judgment A15, para. 74: "... each party is responsible for proving the facts relied upon in support of the claim or defense regarding the compensation in question."
4 Seyed Hossein Sadat Meydani, Op. Cit. (2012) 252.

claimant. Secondly, the burden of proof on the claimant must be distinguished from that on the respondent, considering the issues that form part of the defense. Thirdly, the burden of proof may transfer from one party to the other. Consequently, if the claimant provides evidence supporting a claim's validity, the burden of proof shifts to the respondent. Fourthly, the limits and nature of the evidence presented—the standard of proof—depend on the nature of the claim, the legal obligations in question, and also on one party's access to the relevant evidence. Finally, both parties have a duty to cooperate in providing relevant evidence available to them to international courts.[1]

The United States has consistently claimed in its briefs in cases involving defense and military items, and even some of Iran's assets, such as the A-15, B-61, and particularly in case B-1, that the burden of proof rests with Iran, without considering one or more of the aforementioned conditions. This assertion by the United States aligns with the principle; thus, it is necessary to determine what Iran, as the claimant, must prove based on this principle. In a transaction, the general rule is that the buyer pays for goods or services, and in return, the seller provides those goods or services. Here, Iran must prove that it has paid for the goods and services, while the United States, as the seller, must demonstrate that it has delivered the goods or services.

It seems that in this case neither Iran nor the United States disputes the payment for the goods and services by Iran, and therefore, there is no need for Iran to fulfill the burden of proof regarding the payment as the claimant. What must be proven here is the fulfillment of obligations by the United States, and if this is established, Iran must then provide opposing evidence to prove that the United States has not fulfilled its obligations.

5. Claim and Prima Facie Case

"The duty of an advocate to demonstrate that sufficient evidence exists for raising an issue regarding the existence or non-existence of an alleged fact is primarily characteristic of common law systems... Nevertheless, the use of the phrase 'prima facie' also seems reasonable in the context of international arbitration.[2] Therefore, a prima facie case is one where the burden of proof is failed or the burden of adducing or production of evidence is met [3] and although this evidence may not be deemed conclusive, it is sufficient to establish a fact in the absence of contradicting evidence.[4]

Regarding the burden of proof in the prima faice case, frequently referenced and discussed by both parties in their submissions, the position of the Tribunal has consistently been that the claimant must present a prima faice case, and if successful, the burden of proof shifts to the respondent.[5] Numerous instances of the Tribunal's decisions and opinions referencing prima

1 Arab Chadegani, Op. Cit. (2005) 1646.
2 Durward V Sandifer, *Evidence Before International Tribunals* (The Foundation Press, Inc. 1975) 171.
3 I.U.S.C.T. Report, Vol. 31, *Dadras International v. Iran*, Award No. 567-213, 215-3 (7 November 1995) p. 251 (Aghahosseini, J., dissenting).
4 *International Ore & Fertilizer Corporation v. Razi Chemical Co. Ltd.*, AWD No. 351-486-3 (1988) (Brower, J., dissenting) 102.
5 Mojtaba Kazazi, *Burden of Proof and Related Issues* (Kluwer Law International 1996) 332.

faice evidence' or stating a claim based on prima facie case exist, some of which are outlined below.

In the case of *Reza Saeed Malek v. Iran*, where the claimant alleged the confiscation of three-fifths of his real estate and shares in two Iranian banks, the Tribunal stated: "The Tribunal believes that the decision regarding the properties in Shemiran has been appropriately made in accordance with Article 24(1) of the Tribunal's procedural rules, which stipulates that each party must bear the burden of proof based on the facts upon which their claims or defenses rely. It is clear that the claimant must first prove the facts upon which they rely. However, once sufficient evidence is presented to support their claim, we reach a point where the burden of proof shifts to the respondent."[1]

In the case of "*Lockheed Corporation v. Iran* (Ministry of War and Air Force)," the claimant alleged non-payment of invoices related to services rendered in the last quarter of 1978. In relation to one of the claims within the Lockheed case, the evidence presented was not strong enough to cover other aspects of the claim; nevertheless, the Tribunal considered Lockheed's assertion that nearly all evidence related to the claim remained in Iran and that the company had no access to it as 'prima facie evidence.' Taking into account the respondent's defense based solely on the lack of written evidence and the failure to provide necessary documents—thus transferring the burden of proof to the respondent[2]—the Tribunal ruled in favor of Lockheed.[3]

The conditions governing the general rule of burden of proof, including the principle of shifting the burden of proof upon the presentation of evidence deemed sufficient, have also been affirmed by the ICJ. In the case of Avena and Other Mexican Nationals (*Mexico v. United States*), Mexico presented compelling evidence that each of the 52 nationals in question was indeed a Mexican citizen. The United States argued that Mexico needed to do more than just assert this claim and provide the **C**ourt with evidence showing that none of these 52 individuals, in addition to holding Mexican nationality, held American citizenship. The Court rejected the United States' argument, stating that in this case, the United States had the burden to prove that each of these individuals was a citizen of that state, and concluded that the United States failed to establish the burden of proof regarding the American citizenship of individuals who also possessed Mexican nationality.[4]

6. Standard of Evidence

International arbitration Tribunals and judicial bodies consistently consider various features when assessing the criteria for establishing the burden of proof, such as the nature of the claim, the parties' access to evidence, and how the standard of proof is influenced by these factors. The ICJ, in the *Corfu Channel case*, explains how one party can rely on inferences from facts or circumstantial

1 I.U.S.C.T. Report, Vol. 19, *Malek v. Iran* (also *Reza Saeed Malek v. Iran*).

2 In the following cases, the burden of proof has also been transferred: I.U.S.C.T. Report, Vol. 29, *Kaysons International v. Iran*, Award No. 548-367-2 (28 June 1993) pp. 231-235, paras. 34-50.; I.U.S.C.T. Report, Vol. 09, *Touche Ross v. Iran* (1985) AWD. 197-480-1 p. 28.; I.U.S.C.T. Report, Vol. 26, *Combustion Engineering, Inc. v. Iran*, Award No. 506-308-2 (18 February 1991) pp. 79-80, para. 70.; I I.U.S.C.T. Report, Vol. 23, *Rockwell International Systems, Inc. v. The Ministry of National Defence*, Award No. 438-430-1 (5 September 1989) p. 178.

3 I.U.S.C.T. Report, Vol. 18, *Lockheed Corporation v. The Government of Iran, the Ministry of War and the Iranian Air Force*, (9 June 1988) AWD. 367-829-2 p. 292, para. 97.

4 *Avena and Other Mexican Nationals (Mexico v. United States of America)*, Judgment, I.C.J. Reports 2004, p. 12, at pp. 41-42.

evidence when the relevant evidence is under the control of the opposing party. According to the Court, one cannot simply accuse Albania of knowledge of the mine-laying operation solely because a mine was discovered in its territorial waters, which led to the explosion of British warships. Conversely, it would not suffice to accept a response that overlooks the circumstances of the act and its perpetrators. In such situations, where one party controls the evidence, the other party often cannot provide direct evidence establishing liability; thus, that state should be allowed greater leeway to challenge the facts and circumstances surrounding the events without prejudice.[1]

Although the degree of proof required in practice before an arbitration tribunal cannot be precisely defined, the concept of "balance of probability" can be considered an appropriate standard. This standard should be distinguished from the "beyond the reasonable doubt" standard used in common law for proving criminal cases. The task of international arbitration tribunals is to evaluate the weight of the evidence presented regarding each specific issue, taking into account the nature of each claim. Therefore, the more complex the claim that either party seeks to prove, the greater the tribunal's obligation will be to ensure accuracy in establishing that claim through evidence. In deciding what evidence to present and how to present it, it is the tribunal itself that must determine the evidentiary value of that evidence.[2]

The Tribunal has consistently endeavored to encourage or compel the parties to prepare and present suitable evidence to facilitate proceedings and defenses. In cases where this has not been possible, the Tribunal has interpreted or modified its standards in response to the evidence and proof criteria presented by the parties. For instance, in the case of "*Oil Field of Texas Company v. Iran - National Iranian Oil Company*," the Tribunal acknowledged that all claims, including bribery, fraud, or forgery, require "evidentiary proof" that exceeds the typical standards applied in civil law for "preponderance or suspicion." [3]

Once the Tribunal has established its criteria, it assesses the weight of the parties' evidence based on these predetermined standards. In this context, the Tribunal places the burden of disproving the claims on the opposing party, and when either party fails to substantiate critical evidence, the Tribunal rejects that claim.

---

1 It is clear that knou-leoge of the mineIaying cannot be imputed to the Albanian Government by reason merely of the fact that a minefield discovered in Albanian temtorial waters caused the explosions of which the British warships were the victims. It is true, as international practice shows, that a State on whose territory or in whose waters an act contrary to international law has occurred, may be called upon to give an explanation. It is also true that that State cannot evade such a request by limiting itself to a reply that it is ignorant of the circumstances of the act and of its authors. The State may, up to a certain point, be bound to supply particulars of the use made by it of the means of information and inquiry at its disposal. But it cannot be concluded from the mere fact of the control exercised by a State over its territory and waters that that State necessarily knew, or ought to have known, of any unlawful act perpetrated therein, nor yet that it necessarily knew, or should have known, the authors. This fact, by itself and apart from.other circumstances, neither involves prima facie resp~nsibility nor shifts the burden of proof. On the other hand, the fact of this exclusive temtorial control exercised by a State within its frontiers has a bearing upon the methods of proof available to establish the knowledge of that State as to such events. By reason of this exclusive control, the other State, the. victim of a breach of international law, is often unable to furnish direct proof of facts giving rise to responsibility. Such a State should be dowed a more liberal recourse to inferences of fact and circumstantial evidence. This indirect evidence is admitted in al1 systems of law, and its use is recognized by international decisions. It must be regarded as of special weight when it is based on a series of facts linked together and leading logically to a single conclusion[*Corfu Channel Case*, Judgment of 9 April 1949, I.C.J. Reports 1949, pp. 4-18.]

2 Nigel Blackaby, Constantine Partasides, Allen Redfern, and Martin Hunter, *Redfern and Hunter International Arbitration* (Oxford University Press 2015) p. 388.

3 I.U.S.C.T. Report, Vol. 12, *Oil Field of Texas, Inc. v. National Iranian Oil Company*, Award No. 258-43-1 (8 October 1986) p. 315, para. 25. The Tribunal stated that " the burdun is on NIOC to establish its defense of alleged bribery in connection with lease agreement. If reasonable doubts remain , such an allegation cannot be deemed to establish.

For example, the Tribunal has examined the evidentiary submissions of the parties concerning the countemperaneous objection to a specific issue in the case by identifying the fundamental and crucial factor of the matter at hand. Given the significance of rejecting the opposing party's claims and the arguments presented by both sides in their submissions that emphasize the issue of countemperaneous objection, as well as the Tribunal's ruling that addresses the issue of the statute of limitations in some of Iran's claims, the Tribunal's approach to the issue of countemperaneous objection will be explored in detail.

7. Countemperaneous Objection as a Measure of Assessment

As previously noted, the Tribunal first seeks to identify the main point of contention between the parties when examining the subject of the dispute. It then considers whether the parties have made all reasonable efforts to resolve the issue before referring the matter to the Tribunal, or whether the nature of these disputes arose after the events of the revolution or specifically only after the filing of the lawsuit. The most important criterion that the Tribunal focuses on, is the behavior of the parties during the execution of the contract or agreement. The Tribunal assesses whether either party raised objections regarding the arbitrations currently in dispute or whether their activities continued without any issues.

To this evaluation, the Tribunal bases its practice on a legal principle found in commercial law known as the "principle of accepted accounting." It emphasizes the importance of the buyer's duty to raise specific and timely objections to the seller's actions. In the Tribunal's practice, the lack of objection is interpreted in two ways. In some cases, the buyer's failure to object to invoices creates the assumption that the invoices are correct. In other cases, the Tribunal concludes that upon receiving the invoices, the burden of proving timely objection is on the buyer.

The Tribunal's decisions indicate that, from its perspective, the obligation to object and provide timely notice can stem from three main reasons. First, timely objection to the contractor allows a fair opportunity to rectify deficiencies in their work and to receive their rights promptly. Second, if contractual obligations in complex transactions are not timely objected to, it creates difficulties in finding evidence and documentation. Third, timely objection and notice pertain to the conclusion of the transaction; after the transaction ends, the seller or obligor is not required to maintain extensive records and documents due to the possibility of legal disputes.[1]

In most cases assessed by the Tribunal using this standard, Iran, as the respondent, has attempted to justify its actions regarding the non-payment of invoices issued by American companies by rejecting the claimant's references and evidence, while filing counterclaims that have been largely dismissed by the Tribunal using the same standard. One notable case in this regard is "*Houston Contracting Company v. National Iranian Oil Company*," where Iran failed to provide evidence of the American company's alleged failure, leading the Tribunal to reject Iran's counterclaim due to lack of evidence.[2] In the cases of "*Collins Systems International*

1 I.U.S.C.T. Report, Vol. 17, *Iran National Airlines Co. v. United States (B-8)* (1987) AWD. 333-B8-2 p. 190, para. 11.
2 I.U.S.C.T. Report, Vol. 20, *Houston Contracting Co. v. National Iranian Oil Co.* (1988) AWD. 378-173-3 p. 119, para. 447.

v. Iranian Navy,"[1] "*Ford Aerospace and Communications v. Iran*,"[2] "*QuesTech v. Iran*,"[3] and "*Touche Ross v. Iran*,"[4] the Tribunal reiterated its position from the *Houston Contracting case*, stating that" it is repeatedly been hels that in the absence of countempraneous objection or disputes invoices or payment documents presented during the course are persumed to be correct."[5]

In the case of *Lockheed Corporation v. Iranian Air Force*, the Tribunal has repeatedly regarded the invoices and accompanying supporting documents, in the absence of a timely objection, as a claim bearing validity for the payment of the invoices. In the cases of *Rockwell International Systems v. Iran*[6] and *R.J. Reynolds Tobacco Company v. Iran*,[7] the Tribunal stated that if the respondent has received the disputed invoices or appears to have received them, the burden of proving the objection to the invoices will fall on the respondent.

Similarly, in the case of "*Avco v. Iranian Aircraft Industries*," Iran's counterclaim was dismissed by the Tribunal due to its failure to provide evidence showing Avco's refusal to deliver or repair the disputed items.[8] In the case of *Sedco v. Iranian Marine Industries*, the Tribunal asserted that the respondent's claim regarding the claimant's failure to fulfill obligations is proven false because no countemperaneous objection to the invoices submitted for …, the contention appearing for the first time in NIOC's submission here [1983].[9]

In the case of *D.I.C. Delaware v. Tehran Renovation Company*, the Tribunal stated that prolonged failure to express opposition to an invoice at least places the burden on the respondent to prove that the invoice was incorrect.[10] In *Austin Co. v. Iran*, the Tribunal, after examining the countemperaneous objection to the quality and timeliness of Austin's work as a factor of consideration, stated that none of the available evidence could prove any objections by Iran regarding Austin's performance prior to 1983. Thus, in rendering a decision in favor of the claimant, it dismissed the respondent's evidence due to the lack of necessary documentation.[11]

In the case of *Levitt v. Iran*, the countemperaneous objection to overpayment was introduced as a fundamental factor in the case, and the respondent's defense of unjustified overpayment to avoid payment of the invoices presented to the Tribunal was dismissed due to the absence of any evidence of a countemperaneous objection to the overpayment.[12]

In the case of the *Seismological Organization*, which may be one of the few instances where a ruling was made in favor of Iran, the Tribunal determined the fundamental issue of the case as the seizure of the claimed funds as compensation, set-off, and waiver. After reviewing the evidence from both parties, the Tribunal rejected the claimant's assertion of not receiving

1 I.U.S.C.T. Report, Vol. 28, *Collins Systems Int'l, Inc. v. Navy of the Islamic Republic of Iran* (AWD. 526-431-2) pp. 26, 57 (20 January 1992).
2 I.U.S.C.T. Report, Vol. 14, *Ford Aerospace and Communications Corporation v. Iran* p. 41.
3 I.U.S.C.T. Report, Vol. 09, *QuesTech, Inc. v. Iran* p. 126, para. 62.
4 I.U.S.C.T. Report, Vol. 09, *Touche Ross v. Iran* (1985) AWD. 197-480-1 p. 284, para. 297.
5 I.U.S.C.T. Report, Vol. 20, *Houston Contracting Co. v. Iran* pp. 24-25, para. 73.
6 I.U.S.C.T. Report, Vol. 23, *Rockwell International Systems, Inc. v. The Ministry of National Defence*, Award No. 438-430-1 (5 September 1989) p. 178, para. 109.
7 I.U.S.C.T. Report, Vol. 07, *R.J. Reynolds Tobacco Company v. Iran* p. 190.
8 I.U.S.C.T. Report, Vol. 19, *Avco Corporation v. Iran Aircraft Industries* (1988) AWD. 377-261-3 pp. 200, 222-223, para. 110.
9 I.U.S.C.T. Report, Vol. 15, *SEDCO Inc. v. Iran Marine Industrial Company* p. 72, para. 147.
10 I.U.S.C.T. Report, Vol. 08, *DIC of Delaware, Inc. v. Tehran Redevelopment Corp.* (1985) AWD. 176-255-3 p. 144, para. 164.
11 I.U.S.C.T. Report, Vol. 12, *Austin Company v. Mashine sazi Arak* p. 294, para. 31.
12 I.U.S.C.T. Report, Vol. 27, *Levitt v. Iran* (Case No. 210) p. 179, para. 107.

money from the respondent, arguing that despite being aware of the nature of the actions taken, no countemperaneous objection was made by the claimant.[1]

8. Burden of Producing Evidence

It is evident that based on the principle of cooperation in proceedings, which can be considered a construct of the principle of good faith, when one party possesses relevant evidence or has the ability to access it, they are not permitted to remain silent or conceal that evidence. It should be noted, however, that according to the same principle of good faith, this obligation should not be extended excessively to the point of causing inconvenience, complications, or excessive costs to the other party. According to some scholars, a strict reliance on the rule of "the burden of proof lies with the claimant" in determining the burden of proof in an international arbitration Tribunal, where there is no possibility of appeal from its decisions, conflicts with the flexibility and truth-seeking nature inherent in the arbitration process, which obliges both parties to make every effort to clarify the issues under discussion. Therefore, the respondent's duty under the principle of cooperation does not conclude with a general denial of the claimant's claims; rather, the respondent must provide explanations and documents that are solely in their possession to present to the International Tribunal.[2]

In this case, the Tribunal has applied the same approach and requested both parties to provide all documents and evidence they have for use in the proceedings. Following Iran's claim that a substantial portion of the evidence in this case was only in the possession of the United States, the Tribunal ordered the United States to submit all necessary information regarding the disputed sales agreements in this case.[3] The United States, while objecting to this order and stating that all documents were provided to Iran throughout the FMS program, complied with the Tribunal's order and submitted all delivery lists and invoices by the deadline set by the Tribunal.[4]

It is essential to note that when addressing one of the United States' requests to issue an order prohibiting the use of certain documents submitted by Iran,[5] the Tribunal rejected the United States' request, stating that the Tribunal could only ask the parties to provide what was necessary to advance the proceedings based on its jurisdiction, rather than obliging the parties to refrain from registering evidence. In this regard, the Tribunal may only determine during the proceedings whether to disregard the materials presented in specific evidence.[6]

The ICJ, while expressing a natural expectation from the claimant to provide relevant evidence to support its case in the *Pulp Mill on the River Uruguay case* (*Argentina v. Uruguay*), stated that this expectation should not imply that the respondent is not required to cooperate in

1 I.U.S.C.T. Report, Vol. 22, *Seismograph Service Corp. v. National Iranian Oil Co.*, AWD 420-443-3 (31 March 1989) pp. 55-56, para. 199.
2 Mojtaba Kazazi, Op. Cit. (1996) 119.
3 I.U.S.C.T., Case B1, (Claim No. 2-3), Full Tribunal, Order, 16 May 1984, Doc. 308 (I-U.S.C.T. Doc. 308).
4 The United States did not register delivery lists with the Arbitration Tribunal but provided these lists to the Legal Services Office of Iran in The Hague through four liaison representatives of that country. Therefore, the documents related to this matter have not been registered with the Tribunal's secretariat.
5 I.U.S.C.T., Case B1, Doc. 1360, (Claim No. 2-3), Full Tribunal, Request and Exhibits of the United States for an Order Directing the Production of Documents and Suspending the Proceedings until Claimant (I-U.S.C.T. Doc. 1360).
6 I.U.S.C.T., Case B1, Doc. 1551, (Claim No. 2-3), Full Tribunal, Order, 18 March 1998 (I-U.S.C.T. Doc. 1551).

producing evidence that is in its possession and may assist the Court in resolving part of the dispute.[1]

Thus, in this case, each party has acted to provide evidence within their possession, either at the request of the opposing party and the Tribunal's order or voluntarily to advance the case.

Conclusion

With the establishment of the Iran-United States Claims Tribunal (the Tribunal) to resolve disputes between the two states in financial matters, the process of registering various claims by the parties began. The registration of the "*Foreign Military Sales of Iran*" case (Claim B-1, the FMS), which included six claims by Iran and a counterclaim by the United States, initiated the proceedings for one of the largest arbitration cases in the world in terms of volume and financial value, which continues even after more than four decades. The various issues raised in this case, particularly the matters of evidence and proof, which have been extensively discussed in all submissions and hearings, are considered among the most challenging and impactful topics affecting the outcome of this arbitration. Notably, more than five years after the hearings of 25 individual claims related to Claims 2 and 3 in this case, the Tribunal has yet to render its decision on these matters.

In general, states have the freedom to choose the type and form of evidence in their claims; however, certain limitations, such as access to evidence, restrict this freedom. Article 24 of the UNCITRAL Rules, which has been reiterated unchanged as Article 24 of the Tribunal's procedural rules, places the burden of proof on the claimant. However, in many cases, this general rule is applied with consideration of the specific circumstances of each case. The Tribunal, in adhering to general principles, has consistently encouraged or compelled the parties to prepare and present suitable evidence to facilitate proceedings and defenses. When this has not been possible, it has interpreted or modified its standards in dealing with the evidence and proof criteria presented by the parties. After establishing its desired criteria, the Tribunal has assessed the weight of the parties' evidence according to the established standards. In this context, the Tribunal has placed the burden for disproving claims on the opposing party, and when either party has failed to substantiate critical evidence in the Tribunal's view, it has rejected that claim.

In this case, the United States contends that Iran, as the claimant, must substantiate its claims with reasoned evidence or at least provide claims bearing validity for its allegations. Due to its inability to do so in most individual cases, it argues that Iran's claims should be dismissed. Conversely, Iran asserts that as the buyer, it has paid for goods and services that it did not receive, and it is the United States that must now prove that it has fulfilled its contractual obligations in the individual FMS agreements with Iran. Each party has also registered a vast amount of information regarding the 1,126 individual cases within this dispute, claiming to have completed their evidence and documents while discrediting the opposing party's evidence.

In one of its partial rulings, the Tribunal referred to two categories of documents submitted by the United States and, in terms of evidentiary standards, did not accept them as comprehensive evidence but also did not deem them entirely without merit. Thus, both parties are attempting to utilize general principles of international law, which appear to have been accepted by the

1 *Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, Judgment, I.C.J. Reports 2010, para. 163.

Tribunal as governing law in the dispute, to substantiate the credibility of their evidence before the Tribunal while undermining the credibility of the opposing party's evidence.

It seems that the current challenge for the Tribunal lies in determining the standards of evidence amid the complexity of the technical and financial documents presented by the parties, and the degree of precision of each based on the domestic laws and practices of each country. Regarding proof, it appears that, based on previous rulings, the Tribunal has accepted that the United States must demonstrate the fulfillment of its obligations. However, the Tribunal's previous decisions suggest that the lack of timely objection will also significantly overshadow a substantial portion of Iran's claims, especially since the FMS contracts contain a statute of limitations, the interpretation of which is also a point of contention between the parties.

Ultimately, it seems that efforts to clarify the technical aspects and enhance the precision in referencing the documents submitted by Iran, as well as to establish the criteria that the Tribunal will set in its future ruling regarding evidence, could be beneficial for the Iranian side in upcoming negotiations. These negotiations will occur according to the Tribunal's procedure after the issuance of similar rulings regarding the determination of damages between the parties, as well as providing lessons from this matter in the counterclaim that awaits hearings.

References

Book

Blackaby N, Partasides C, Redfern A and Hunter M, *Redfern and Hunter International Arbitration* (Oxford University Press 2015) 388.

Katouzian N, *Proof and Evidence, Volume 1, General Rules of Proof, Admission, and Document* (8th edn, Mizan Publications 2013). [In Persian]

Kazazi M, *Burden of Proof and Related Issues* (Kluwer Law International 1996).

Sādāt Meydānī S H, *International Proceedings - International Court of Justice - Evidence in Litigation* (Jangal Publication 2012). [In Persian]

Sandifer DV, *Evidence Before International Tribunals* (Foundation Press Inc. 1975).

Article

Arab Chadegani R, 'Governing Law and Its Impact on the Foreign Military Sales (FMS) Case in the Iran-United States Claims Tribunal' (2019) 50(4) *Quarterly Journal of Public Law Studies* 1643. [In Persian]

Gibson CS and Drahozal CR, 'Iran-United States Claims Tribunal Precedent in Investor-State Arbitration' (2006) 23 *Journal of International Arbitration* 521-546, Suffolk University Law School Research Paper No. 07-15.

International Court of Justice Reports

Avena and Other Mexican Nationals (Mexico v United States of America) (Judgment) [2004] ICJ Rep.

Corfu Channel Case (UK v Albania) (Judgment) [1949] ICJ Rep 4.

Pulp Mills on the River Uruguay (Argentina v Uruguay) (Judgment) [2010] ICJ Rep 14, para 163.

Iran-United States Claims Tribunal Cases

Iran-United States Claims Tribunal, *Case B1, Doc. 1*, Statement of Claim of Ministry of National Defense.

Iran-United States Claims Tribunal, *Case B1, Doc. 1360* (Claim No. 2-3), Full Tribunal, Request and Exhibits of the United States for an Order Directing the Production of Documents and Suspending the Proceedings until Claimant.

Iran-United States Claims Tribunal, *Case B1, Doc. 1551* (Claim No. 2-3), Full Tribunal, Order, 18 March 1998.

Iran-United States Claims Tribunal, *Case B1, Doc. 1949*, Counterclaim, Interlocutory Award No. ITL 83-B1-FT, 9 September 2004

Iran-United States Claims Tribunal, *Case B1, Doc. 199* (Claim No. 4), Full Tribunal, Order.

Iran-United States Claims Tribunal, *Case B1, Doc. 308* (Claim No. 2-3), Full Tribunal, Order, 16 May 1984.

Iran-United States Claims Tribunal, *Case B1, Doc. 593* (Claim No. 5), Full Tribunal, Award No. 370-B1-FT (16 June 1988).

Iran-United States Claims Tribunal, *Case B1, Doc. 664* (Claim No. 2 & 3), Full Tribunal, Order.

Iran-United States Claims Tribunal, *Case B1, Doc. 860* (Claim No. 4), Full Tribunal, Partial Award on Agreed Terms No. 525-B1-FT (2 December 1991).

Iran-United States Claims Tribunal Reports

Iran-United States Claims Tribunal Report, Vol. 11, *Iran v United States* (DEC 45-A20-FT) (10 July 1986).

Iran-United States Claims Tribunal Report, Vol. 12, *Austin Company v Mashine sazi Arak* 294, para 31.

Iran-United States Claims Tribunal Report, Vol. 12, *Oil Field of Texas, Inc. v National Iranian Oil Company*, Award No. 258-43-1 (8 October 1986).

Iran-United States Claims Tribunal Report, Vol. 14, *Ford Aerospace and Communications Corporation v Iran*.

Iran-United States Claims Tribunal Report, Vol. 15, *SEDCO Inc. v Iran Marine Industrial Company*.

Iran-United States Claims Tribunal Report, Vol. 17, *Iran National Airlines Co. v United States* (B-8) (1987) AWD 333-B8-2.

Iran-United States Claims Tribunal Report, Vol. 18, *Lockheed Corporation v The Government of Iran, the Ministry of War and the Iranian Air Force* (9 June 1988) AWD 367-829-2.

Iran-United States Claims Tribunal Report, Vol. 19, *Avco Corporation v Iran Aircraft Industries* (1988) AWD 377-261-3, 200, 222-223.

Iran-United States Claims Tribunal Report, Vol. 19, *International Ore & Fertilizer Corporation v Razi Chemical Co. Ltd.* AWD No. 351-486-3 (1988) (Brower, J dissenting).

Iran-United States Claims Tribunal Report, Vol. 19, *Malek v Iran* (Also Reza Saeed Malek v Iran).

Iran-United States Claims Tribunal Report, Vol. 20, *Houston Contracting Co. v National Iranian Oil Co.* (1988) AWD 378-173-3.

Iran-United States Claims Tribunal Report, Vol. 20, *Houston Contracting Co. v Iran*.

Iran-United States Claims Tribunal Report, Vol. 22, *Seismograph Service Corp. v National Iranian Oil Co.* AWD 420-443-3 (31 March 1989) 55-56, para 199.

Iran-United States Claims Tribunal Report, Vol. 23, *Rockwell International Systems, Inc. v The Ministry of National Defence*, Award No. 438-430-1 (5 September 1989).

Iran-United States Claims Tribunal Report, Vol. 26, *Combustion Engineering, Inc. v Iran*, Award No. 506-308-2 (18 February 1991).

Iran-United States Claims Tribunal Report, Vol. 27, *Levitt v Iran* (Case No. 210) 179, para 107.

Iran-United States Claims Tribunal Report, Vol. 28, *Collins Systems Int'l, Inc. v Navy of the Islamic Republic of Iran*, AWD 526-431-2.

Iran-United States Claims Tribunal Report, Vol. 29, *Kaysons International v Iran*, Award No. 548-367-2 (28 June 1993).

Iran-United States Claims Tribunal Report, Vol. 31, *Dadras International v Iran*, Award No. 567-213, 215-3 (7 November 1995).

Iran-United States Claims Tribunal Report, Vol. 4, *CMI International v Ministry of Roads and Transport of the Islamic Republic of Iran*, AWD 99-245-2 (27 December 1983).

Iran-United States Claims Tribunal Report, Vol. 7, *R.J. Reynolds Tobacco Company v Iran* 190.

Iran-United States Claims Tribunal Report, Vol. 8, *DIC of Delaware, Inc. v Tehran Redevelopment Corp.* (1985) AWD 176-255-3.

Iran-United States Claims Tribunal Report, Vol. 9, *QuesTech, Inc. v Iran*.

Iran-United States Claims Tribunal Report, Vol. 9, *Touche Ross v Iran* (1985) AWD 197-480-1.