IUSCT Case No. 99

# PHELPS DODGE CORP. AND OVERSEAS PRIVATE INVESTMENT CORP. V. THE ISLAMIC REPUBLIC OF IRAN

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## AWARD (AWARD NO. 217-99-2)

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19 March 1986

Tribunal:
Robert Briner (President)
George H. Aldrich (Appointed by the claimant)
Hamid Bahrami-Ahmadi (Appointed by the respondent)

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# Award (Award No. 217-99-2)

## I. The Facts

1. In 1974, the Claimant PHELPS DODGE CORP. (hereinafter referred to as "Phelps Dodge"), a New York corporation, became one of the founders of an Iranian company, SICAB, which was established for the purpose of manufacturing in Iran and selling various wire and cable products. The other initial investors in SICAB included the Industrial and Mining Development Bank of Iran ("IMDBI"), Iranians' Bank, several private Iranian investors and a Danish wire and cable firm, A/S Nordiske Kabel-og Traadfabriker ("NKT"). The stock of SICAB was divided into two classes, A and B. The class B shares were divided between Phelps Dodge and NKT and represented 35 percent of the total stock; 25 percent was issued to Phelps Dodge and 10 percent was issued to NKT. For its shares, Phelps Dodge contributed U.S.$ 2,437,860. As a result of a 1977 increase in share capital, in which the class B shareholders chose not to participate, Phelps Dodge's percentage of equity ownership in SICAB was reduced to 19.36 percent.

2. The other Claimant, OVERSEAS PRIVATE INVESTMENT CORP. ("OPIC"), is an agency of the United States Government which became involved in this Case by virtue of a political risk insurance contract covering Phelps Dodge's investment in SICAB that it concluded with Phelps Dodge on 16 December 1974. Pursuant to that contract, OPIC signed a settlement agreement with Phelps Dodge on 17 June 1981 requiring the payment by OPIC to Phelps Dodge of a sum of money and the transfer by Phelps Dodge to OPIC of a beneficial interest in ninety percent of its shareholdings in SICAB.[1] The sum of money paid by OPIC to Phelps Dodge was not disclosed to the Tribunal. The Claimants seek compensation for the alleged expropriation by the Respondent, the Islamic Republic of Iran, of Phelps Dodge's ownership interest in SICAB.

3. The creation of separate class B stock reflected, in part, the agreement of the founders of SICAB that the non-Iranian investors were to be granted control and management powers greater than those that would otherwise accrue to 35 percent owners. In particular, the class B shareholders were entitled to elect two of the five members of the Board of Directors, and certain major decisions required the affirmative votes of four directors. Separate agreements provided other important elements of control for Phelps Doge over the development and activities of SICAB. These included four 1974 agreements: a shareholders agreement restricting the sale or transfer of shares; an engineering and design agreement between SICAB and Phelps Dodge Industries ("PDI"), a wholly-owned subsidiary of Phelps Dodge; a technical assistance and training agreement between SICAB and Phelps Dodge International Corp. ("PDIC"), another wholly-owned subsidiary of Phelps Dodge; and a technical management agreement, also between SICAB and PDIC. Pursuant to these agreements, Phelps Dodge was able to make the basic plant designs, select the equipment, appoint SICAB's technical director, train SICAB personnel and otherwise transfer technical knowledge to SICAB and supervise manufacturing operations. The evidence indicates that these elements of control were required by Phelps Dodge as a condition of its investment.

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[1] The ninety percent apparently results from the limitations of the insurance contract. The Tribunal notes that the United States law creating OPIC requires it to limit its insurance so that at least ten percent of the risk of loss is borne by the insured. See 22 U.S.C. ¶ 2197(f).

4. Phelps Dodge's rights to control SICAB were expanded significantly through a supplemental agreement of 9 July 1977 among some of the shareholders which permitted Phelps Dodge to appoint the managing director, the financial manager and the marketing manager of SICAB. By that agreement, Phelps Dodge committed itself to remain actively involved in the wire and cable project, and IMDBI committed itself to provide, through loans, the necessary additional funding to the extent it was not raised through increases in capital. IMDBI's commitment was conditioned upon two provisos: "(a) Phelps Dodge stayed in the project performing the technical assistance and management functions and (b) Phelps Dodge presented it with projections for SICAB's future performance which Phelps Dodge considered reasonably attainable, and which showed a reasonable return on equity within five years."

5. Construction of the SICAB factory began in August 1976 and was not completed until July 1978. By December 1978, most of the planned equipment was on site and much was installed, but certain machines and test equipment had not yet arrived, and not all equipment that had arrived was installed and operational. The factory was designed to produce four product lines: bare wire, building wire, telephone cable and XLP, a high-voltage cable. Limited production of the first two of these product lines had begun in late 1978, but the production and testing facilities for the telephone cable and XLP lines were not yet completed. By 1978, SICAB's stockholders equity totaled U.S.$ 12.3 million and long-term debt (six loans by IMDBI) totaled U.S.$ 25.8 million. Nine expatriate employees of Phelps Dodge or its subsidiaries had been assigned to SICAB and were resident in Iran in late 1978.

6. The evidence indicates that, had the Iranian Revolution not occurred when it did, the SICAB factory would have been completed by mid-1979 so that commercial production of all four product lines would have been possible by then. However, growing unrest in late 1978 and threats and other perceived dangers to expatriate employees of an American controlled company resulted in the abrupt departure from Iran in December 1978 of all Phelps Dodge's expatriate personnel. Some were sent temporarily to Bombay, where Phelps Dodge owned another facility, in the hope that they would soon be able to return. By letter dated 15 December 1978, PDIC informed the Chairman of the Board of SICAB of this departure. With respect to the agreements, the letter stated:
We will continue to follow developments in Iran very closely, and while we are not terminating the Technical Management Agreement at this time, we want you to know that under conditions such as exist today we are unable to perform under that Agreement or to carry out in Iran the Technical Assistance Agreement.

7. In early January 1979, Phelps Dodge decided to bring back to the United States the employees who had been sent temporarily to Bombay. By letter dated 5 January 1979, PDIC notified the Chairman of SICAB of termination of the Technical Management Agreement and suspension of the Technical Assistance and Training Agreement.

8. During the remainder of 1979 and thereafter, Phelps Dodge's contacts with SICAB became progressively attenuated. In April 1979 representatives of Phelps Dodge and NKT held a meeting in Paris with the Chairman of the Board and the Deputy Managing Director of SICAB, at which time the latter official allegedly informed them that a workers' committee had been established in the plant and had assumed virtual control. In June 1979, the two bank investors in SICAB, IMDBI and Iranians' Bank were nationalized, and Phelps Dodge was informed that the stock owned by several

Iranian shareholders had been nationalized and transferred to the Foundation for the Oppressed. Communications thereafter were sporadic but indicated that Phelps Dodge approved, after the fact, the appointment of several successive managing directors, and, in response to IMBDI's requests, gave it conditional proxies for shareholders' meetings, which proxies apparently were not accepted or used by IMDBI. As late as 13 November 1980, Phelps Dodge's member of SICAB's Board telexed to SICAB his approval, as a class B director, of certain resolutions previously approved by the class A directors and requested financial statements for 1979 and 1980. Phelps Dodge never received any response to that telex, however, apparently because a significant change in the management of the SICAB factory had occurred in Iran.

9. On 27 October 1980, the Iranian Council for the Protection of Industries, a governmental body, decided to order the transfer of SICAB's management to the Bank of Industry and Mine (which was the successor to IMDBI) and the Organization of National Industries, both agencies of the Government. This transfer was accomplished pursuant to the 1964 "Law of Protection of Industries and Prevention of Stoppage of Factories in the Country". The Bank of Industry and Mine accelerated the demand for repayment of the loans made to SICAB by IMDBI and obtained, on 6 November 1980, a writ of execution against SICAB (SICAB's property having been mortgaged as collateral for the loans). On 15 November 1980, the Council for the Protection of Industries, by Decree No. 6777, ordered the transfer of management of the SICAB factory to the Bank of Industry and Mine and the Organization of National Industries. Since that date, the factory has operated under managers appointed by those Government agencies, no meetings of SICAB's Board of Directors or shareholders have been held, and Phelps Dodge has received no information on the business activities or financial affairs of SICAB.

10. This Case was consolidated for hearing purposes with Case No. 135, involving related parties and facts. A Hearing was held on 25-26 November 1985.

## II. Jurisdiction

11. Two significant jurisdictional issues arise in the Case, both involving the eligibility of the two Claimants, Phelps Dodge and OPIC, to bring their claims. It is undisputed that a claim for compensation by a national of the United States for an alleged expropriation of its property in November 1980 by the Islamic Republic of Iran is within our jurisdiction, but whether OPIC is eligible to bring such a claim before this Tribunal and whether Phelps Dodge remains entitled to bring its claim after its settlement with OPIC are both disputed.

12. Phelps Dodge has presented evidence sufficient to satisfy the Tribunal that it was, at all relevant times, a national of the United States as defined in Article VII, paragraph 1 of the Claims Settlement Declaration, in that it was incorporated under the laws of the State of New York in 1885, that it remained so incorporated during the period from the time the claim arose until 19 January 1981 and that, during such period, natural persons who were citizens of the United States held interests in the corporation equivalent to fifty percent or more of its capital stock.

13. The Respondent argues that OPIC is not a "national" of the United States within the meaning of Article VII, paragraph 1 of the Declaration, because it is an agency of the Government of the United

States, and Government agencies are authorized to bring only certain official claims, as defined in Article II, paragraph 2 of the Declaration. The Statement of Claim acknowledges that OPIC is an agency of the United States, but also asserts that it is a corporation organized under the laws of the United States, all of the stock of which has been issued to the Secretary of the Treasury, who is a citizen of the United States. However, the Tribunal need not decide in this Case whether OPIC is a national of the United States, because it is clear from the record that OPIC did not own any part of the claim prior to its settlement agreement with Phelps Dodge on 17 June 1981.

14. Article II, paragraph 1 of the Declaration grants the Tribunal jurisdiction over "claims of nationals" of the United States or Iran. Article VII, paragraph 2 of the Declaration defines "claims of nationals" of the United States as "claims owned continuously, from the date on which the claim arose to the date on which this agreement enters into force, by nationals of that state". This is the only provision in the Declaration requiring continuity of nationality of a claim. See Gruen Associates, Inc. and Iran Housing Company et al., Award No. 61-188-2 (27 July 1983) in which the Tribunal held that the dissolution of the Claimant corporation in 1982 did not affect the question of nationality "as the only relevant period for the purpose of jurisdiction is the period from the time the claim arose until 19 January 1981." Thus, the claims presented in the present Case are "claims of nationals" of the United States over which the Tribunal has jurisdiction whether or not OPIC is such a national.

15. The Respondent further argues that Phelps Dodge somehow lost its right to pursue its claims before the Tribunal by entering into the settlement agreement with OPIC on 17 June 1981 pursuant to which it received partial compensation under OPIC's insurance policy and assigned to OPIC the beneficial interest in ninety percent of its claims, while retaining legal ownership of the claim. However, as noted above, Phelps Dodge did not transfer to OPIC all of its claims, retaining, in addition to legal ownership of all of the claims, beneficial ownership of the claim for the ten percent of its investment with respect to which it bore the risk of loss under the insurance contract. Moreover, it appears from clause 2 of the insurance contract that Phelps Dodge may well be able to retain any amount it recovers from the present arbitration that exceeds the total of the amount of insurance payment it received from OPIC and the amount of expenditures incurred by OPIC since 17 June 1981 with respect to the claims. Therefore, Phelps Dodge retains ownership of at least part of the claims in the present Case and has standing to assert them.

16. The Tribunal holds that it has jurisdiction over the claims presented in this Case.

## III. Procedural Issues

17. There are two procedural issues that remain to be resolved in this Award. The first is the request by the Respondent for an order requiring the Claimants to reveal the amount of money that has been paid by OPIC pursuant to the settlement of 17 June 1981. The Claimants filed a copy of the settlement agreement as an attachment to their rebuttal memorial on 16 January 1984, but they deleted the amount of money paid. The Respondent in its rebuttal filed on 29 March 1984 asked the Tribunal to order the Claimants to reveal that amount. The Claimants, in response, argued that the amount Phelps Dodge received from its insurer was both irrelevant to the claim and privileged information, the diclosure of which could be prejudicial to Phelps Dodge. As discussed in the preceding Section, the Tribunal agrees that the amount of the insurance payment received by Phelps Dodge is irrelevant to the present proceeding. Therefore, the Tribunal declines to order the Claimants to

disclose it.

18. Second, on 20 November 1985, just five days before the Hearing in this Case, the Respondent filed a report (Document No. 144) by a firm of auditors concerning the value of SICAB. Essentially, the document constituted a rebuttal of a consultant's report that was filed by the Claimants as part of their evidence on 1 August 1983. The final date authorized by the Tribunal for the submission of evidence in rebuttal was 15 June 1984, although certain material was in fact filed by the Respondent in July, August and October 1984. At the Hearing, the Claimants requested the Tribunal not to accept the report filed by the Respondent without permission on the eve of the Hearing, but the Tribunal deferred decision until after the Hearing. A representative of the consulting firm that prepared the report filed by the Claimants was a witness at the Hearing, and in rebuttal to his testimony, the Respondent introduced many of the arguments made in the late-filed report. While the Tribunal has taken note of the arguments made at the Hearing, it believes that considerations of fairness, orderliness and possible prejudice to the other Parties require it to disregard the report itself. More than 17 months elapsed between the expiration of the deadline established by the Tribunal for the submission of rebuttal evidence and the filing of the report in question. More important, the filing occurred only a few days before the Hearing, and its acceptance would cause prejudice to the rights of the opposing Parties and to the conduct of a fair and final hearing in the Case in accordance with the schedule established by the Tribunal. Thus, the Tribunal will disregard the report.

# IV. The Merits

## A. Liability

19. The facts of this Case, as described above, show a progressive erosion during the years 1979 and 1980 of Phelps Dodge's ability to exercise its ownership rights in SICAB. Many of the elements of control were factors of Phelps Dodge's right to appoint its personnel to key management positions, and the loss of those elements of control stemmed from the revolutionary conditions in Iran that caused it to evacuate its personnel in December 1978 and to terminate the Technical Management Agreement and suspend the Technical Assistance and Training Agreement in January 1979. In the months that followed, the interests of the workers of the SICAB factory in protecting their incomes and the interests of IMDBI and its nationalized successor, Bank of Industry and Mine, in protecting their rights under six loan agreements with SICAB tended, not surprisingly, to prevail over the interests of the expatriate shareholders. Moreover, another shareholder, Iranians' Bank, was nationalized, and several other shareholders, including the Firooz Corp. and the Sabet family, had their shareholdings nationalized, so that, by the summer of 1979, the Respondent had become the majority shareholder of SICAB. Phelps Dodge received only occasional and limited reports on the activities of SICAB, and several successive Managing Directors were appointed without prior consultation with and approval of the class B directors, as required by the Articles of Association, although it appears that Phelps Dodge approved all of these after the fact, except for the last one. On several occasions, Phelps Dodge was requested to give proxies for shareholder meetings, and it did so, but generally conditioned its proxies on its prior receipt of information and approval of specific proposals. It does not appear that the proxies it gave were utilized by the Iranian parties to whom they were given.

20. Despite these difficulties, Phelps Dodge does not contend that its ownership interest was taken by the Respondent prior to November 1980. The evidence indicates that both Parties considered Phelps Dodge a shareholder entitled to at least some voice in the management of the factory prior to the actions transferring management of the factory in November 1980.

21. As noted in Section I above, the evidence shows that the Respondent, acting through the Council for the Protection of Industries and in accordance with the "Law of Protection of Industries and Prevention of Stoppage of Factories in the Country", transferred management of the SICAB factory to the Bank of Industry and Mine and the Organization for National Industries (both agencies of the Government) by Decree No. 6777, dated 15 November 1980. Since that act, there have apparently been no meetings of the Board of Directors or shareholders, and Phelps Dodge has received neither dividends nor any information concerning the operations of the factory or the finances of SICAB. This is scarely surprising, as the factory was the principal asset of SICAB, and the Law makes clear that the purposes of the transfer of management, in cases such as this, are to prevent the closure of the factory, ensure payments due to the workers and protect any debts owed to the Government. While the law describes the managers as "trustees" and the administration of the factory as "provisional", it does not indicate that they are trustees for the shareholders, and it makes clear that factories are not to be returned to their owners unless and until debts owed to Government agencies (both pre-existing and new debts acquired while under management by the Government-appointed managers) are repaid out of profits. See, in particular, Articles 2, 7 and 10 of the Law.

22. The conclusion is unavoidable that, as of 15 November 1980, control of the SICAB factory was taken by the Respondent, thereby depriving Phelps Dodge of virtually all of the value of its property rights in SICAB. It is undisputed that such deprivation has lasted for five years, and it seems clear to the Tribunal that it is likely to continue indefinitely. The Tribunal fully understands the reasons why the Respondent felt compelled to protect its interests through this transfer of management, and the Tribunal understands the financial, economic and social concerns that inspired the law pursuant to which it acted, but those reasons and concerns cannot relieve the Respondent of the obligation to compensate Phelps Dodge for its loss. As the Tribunal said in an earlier Award:
A deprivation or taking of property may occur under international law through interference by a state in the use of that property or with the enjoyment of its benefits, even where legal title to the property is not affected. [Citations omitted.]

While assumption of control over property by a government does not automatically and immediately justify a conclusion that the property has been taken by the government, thus requiring compensation under international law, such a conclusion is warranted whenever events demonstrate that the owner was deprived of fundamental rights of ownership and it appears that this deprivation is not merely ephemeral. The intent of the government is less important than the effects of the measures on the owner, and the form of the measures of control or interference is less important than the reality of their impact.

Tippetts, Abbott, McCarthy, Stratton and TAMS-Affa Consulting Engineers of Iran et al., Award No. 141-7-2, pp. 10-11 (29 June 1984). Accord Starrett Housing Corp. and Government of Islamic Republic of Iran et al., Award No. ITL 32-24-1, pp. 51-54 (19 Dec. 1983).

23. In the present case, the Respondent has taken control of the SICAB factory, is running it for its own benefit and seems likely to continue to do so indefinitely. Consequently, it has effectively taken

Phelps Dodge's property and is liable to the Claimants for the value of that property.

## B. Valuation

24. The Parties disagree as to the appropriate standard of compensation, both as to whether there is an applicable treaty standard and as to the requirements of customary international law in the event no treaty standard is applicable.

25. The Treaty of Amity, Economic Relations and Consular Rights of 1955 between Iran and the United States entered into force on 16 June 1957. It provides, in Article IV, paragraph 2 as follows:
Property of nationals and companies of either High Contracting Party, including interests in property, shall receive the most constant protection and security within the territories of the other High Contracting Party, in no case less than that required by international law. Such property shall not be taken except for a public purpose, nor shall it be taken without the prompt payment of just compensation. Such compensation shall be in an effectively realizable form and shall represent the full equivalent of the property taken; and adequate provision shall have been made at or prior to the time of taking for the determination and payment thereof.

26. The Treaty of Amity also contains a clause (Article XXIII, paragraph 2) stating that the Treaty "shall remain in force for ten years and shall continue in force thereafter until terminated as provided herein." The termination clause is set forth in paragraph 3 of that article, as follows:
Either High Contracting Party may, by giving one year's written notice to the other High Contracting Party, terminate the present Treaty at the end of the initial ten-year period or at any time thereafter.

27. No Party contends that the Treaty was ever terminated in accordance with its terms, but the Respondent suggests that the Treaty has been terminated by "implication" as a result of economic and military sanctions imposed on Iran by the United States in late 1979 and 1980. The Claimant argues that the Treaty remains in force. The other State Party to the Treaty, the United States of America, is not, of course, a Party to these proceedings. However, the Tribunal does not find it necessary in this Case to determine whether the Treaty remains in force at present between the two States, as the Tribunal is satisfied that Article IV, paragraph 2, was, in any event, clearly applicable to the investment at issue in this Case at the time the claim arose.[2] Therefore, whether or not the Treaty is still in force today, it is a relevant source of law on which the Tribunal is justified in drawing in reaching its decision.

28. Applying the rule of law set forth in Article IV of the Treaty of Amity to the present case, it is clear that the taking of Phelps Dodge's property, that is, its ownership rights in SICAB, required the prompt payment of "just compensation", which must represent the "full equivalent" of the property taken. Thus, the standard is similar, if not identical, to the standards which the Tribunal has previously applied. See American Int'l Group Inc. et al. and Islamic Republic of Iran et al., Award No. 93-2-3 (19 Dec. 1983); Tippetts, Abbott, McCarthy, Stratton, supra.

[2] The Tribunal notes that the International Court of Justice reached a similar conclusion in May 1980. See Case Concerning United States Diplomatic and Consular Staff in Tehran, 1980 I.C.J. 28 (Judgment of 24 May) reprinted in 19 Int'l L. Mat'ls 566 (1980).

29. It remains to determine what is the "full equivalent" of Phelps Dodge's 19.36 percent interest in SICAB. The Claimants assert that, as in the American Int'l Group Case, the company should be valued as a "going concern" at the time of the taking. The consultant's study submitted by the Claimants has forecast SICAB's projected earnings utilizing a 1978 SICAB forecast, after determining it to be reasonable on the basis of a comparison with the actual performances of three other, non-Iranian, wire and cable companies and weighing other factors. The consultant then computed an earnings multiplier by comparing SICAB's projected performance with the performance of a group of publicly traded United States corporations, in order to arrive at a market value of SICAB's stock. The study assumed that the Iranian Revolution would have no long-term impact and would result only in several months delay. The study concluded that Phelps Dodge's shares were worth U.S.$ 7.5 million. The Respondent contends that net book value is the proper approach to valuation and that the value of Phelps Dodge's shares at the end of 1980 was, on that basis, 30,003,750 rials. It also contends that subsequent losses have made the present value negative, but the Tribunal, of course, is concerned only with the value at the time the property was taken.

30. The Tribunal cannot agree that SICAB had become a "going concern" prior to November 1980 so that such elements of value as future profits and goodwill could confidently be valued. In the case of SICAB, any conclusions on these matters would be highly speculative. While no diminution in value should be made because of the anticipation of a taking, the Tribunal could not properly ignore the obvious and significant negative effects of the Iranian Revolution on SICAB's business prospects, at least in the short and medium term. There was no market for Phelps Dodge's shares in November 1980. The value of SICAB would clearly be reduced if it were not to have continued access to technological expertise. Thus, any purchaser of Phelps Dodge's shares would either have to have been a company, like Phelps Dodge, with the necessary technical expertise which it could make available to SICAB, or the price would have to have been much reduced. Given the continued availability of such expertise, however, the Tribunal believes that SICAB, although laden with a considerable burden of debt, could reasonably have been expected to become profitable in the long term, given its well-equipped factory and given that its debt was owed to one of the principal shareholders. Nevertheless, SICAB's short-term prospects would certainly have been seen in November 1980 as sufficiently uncertain to require a considerable discounting of the anticipated long-term profits. The refusal of both Phelps Dodge and NKT to participate in the 1977 capital increase of SICAB suggests that, even then, SICAB's prospects were less than certain. Moreover, the speculative nature of future profits was recognized in the Minutes of the meeting of SICAB's Board of Directors on 26 June 1978, where it was noted that efforts must be made to obtain preferential consideration from the Government of Iran, as SICAB was expected to be dependent on government orders to 60 or 70 percent and could not be viable if it failed to obtain sizable government orders.

31. Taking into account all relevant evidence, the Tribunal concludes that the value of Phelps Dodge's ownership interest in SICAB on 15 November 1980 was equal to its investment, that is, U.S.$2,437,860. The Claimants are entitled to compensation in that amount. As the Tribunal is uninformed as to how the two Claimants will divide this compensation, it considers it appropriate to direct that payment be made to Phelps Dodge, on the understanding that the law of subrogation will protect the interests of both insured and insurer.

## V. Interest

32. Phelps Dodge was entitled to "prompt compensation." In order to compensate the Claimants for the damages they have suffered due to delayed payments, the Tribunal considers it fair to award interest at the rate of 11.25 percent from the date of the taking, 15 November 1980.

## VI. Costs

33. Each of the Parties shall bear its own costs of arbitrating this Claim.

## AWARD

34. For the foregoing reasons,
THE TRIBUNAL AWARDS AS FOLLOWS:

a) The Respondent, THE ISLAMIC REPUBLIC OF IRAN, is obligated to pay the Claimant, PHELPS DODGE CORPORATION, Two Million Four Hundred Thirty-Seven Thousand Eight Hundred Sixty United States dollars (U.S.$2,437,860,) plus simple interest at the rate of 11.25 percent per annum (365 day year), calculated from 15 November 1980 to and including the date on which the Escrow Agent instructs the Depositary Bank to effect payment out of the Security Account.

b) This obligation shall be satisfied by payment out of the Security Account established by paragraph 7 of the Declaration of the Government of the Democratic and Popular Republic of Algeria of 19 January 1981.

c) Each of the Parties shall bear its own costs of arbitrating this claim.

d) This Award is hereby submitted to the President of the Tribunal for notification to the Escrow Agent.