

*INA Corp. v. Islamic
Republic of Iran*
8 Iran-U.S. Claims Tribunal Reports
373 (1985)
Iran-United States Claims Tribunal

BACKGROUND AND FACTS

On May 3, 1978, a subsidiary of INA Corporation (INA), INA International Insurance Company, Ltd. (INA International), acquired 20 percent of the shares of Bimek Shargh, an Iranian insurance company. The proposed investment by INA International was approved by Central Insurance of Iran (CII), the government body responsible for the regulation of insurance activities in Iran, by a letter to Shargh of December 27, 1977. INA International paid 20 million rials for the shares of Shargh.

On June 25, 1979, the Law of Nationalization of Insurance and Credit Enterprises was enacted in Iran. Article I provided as follows:

To protect the rights of the insured, to expand the insurance industry and the entire State and to place it at the service of the people, from the date of this law, all insurance enterprises in Iran are proclaimed nationalized with acceptance of the principle of legitimate ownership.

By operation of this law, Shargh, along with other Iranian insurance companies, was brought under the control of a joint board of directors consisting of the president of CII, the executive director of Iran Insurance Company, and representatives from certain government ministries. INA's shares were annulled. INA claimed U.S. \$285,000 representing what it alleged to be the going value of its Shargh shares, together with interest and legal costs.

JUDGE LAGERGREN

The essence of the dispute between the Parties lies not in the fact of nationalization having taken place, which is agreed, but in the determination of the level of compensation, if any, which should be paid to the shareholders of Shargh as a consequence. No compensation has been paid to date, INA argues for compensation that is "prompt, adequate and effective," on the basis both of general principles of international law and the Treaty of Amity, Economic Relations, and Consular Rights of 15 August 1955. INA asks the Tribunal to accept the amount

of its initial investment in Shargh as the best available indicator of the value of the company as a going concern at the time of nationalization just over one year later.

The respondent government concedes that, in principle, the working of Article I of the nationalization law does, in appropriate cases, envisage the payment of compensation to private shareholders of nationalized insurance companies, but that this must be based on the "net book value" of the company.

It has long been acknowledged that expropriations for a public purpose and subject to conditions provided for by law—notably that category which can be characterized as "nationalizations"—are not *per se* unlawful. A lawful nationalization will, however, impose on the government concerned the obligation to pay compensation.

This case presents, in addition, a classic example of a formal and systematic nationalization by decree of an entire category of commercial enterprises considered of fundamental importance to the nation's economy. During the course of the post-Revolutionary economics restructuring in Iran, the banks were nationalized on 7 June 1979. The insurance companies, including Bimek Shargh, were nationalized by decree on 27 June 1979, and then on 5 July 1979 there followed the nationalization of heavy industries. Such measures number among the risks which investors must be prepared to encounter.

In the event of such large-scale nationalizations of a lawful character, international law has undergone a gradual reappraisal, the effect of which may be to undermine the doctrinal value of any "full" or "adequate" (when used as identical to "full") compensation standard as proposed in the case.

However, the Tribunal is of the opinion that in a case such as the present, involving an investment of a rather small amount shortly before the nationalization, international law admits compensation in an amount equal to the fair market value of the investment.

Decision. The Iran-United States Claims Tribunal awarded INA Corporation \$285,000 plus simple interest at 8.5 percent per annum from the date of nationalization.