

CONCURRING OPINION OF MAKHDOOM ALI KHAN

1. Respondent's Request for Bifurcation is based on two jurisdictional objections:
 - (I) Claimant has not made an "investment"; and
 - (II) If Claimant's assets were to qualify as an "investment", it was not made in accordance with the laws of Qatar.
2. Regarding the Respondent's first objection, I agree with my colleagues that it is so intertwined with the merits that bifurcation would neither be expeditious nor inexpensive.
3. For the second objection, I agree with my colleagues that bifurcation would materially reduce the time and cost of the proceedings. The only point of divergence between us is that in my view, the second objection is not so intertwined with the merits as to make its disposal inefficient or expensive.
4. A legal issue cannot be considered in complete isolation from the facts that give rise to it. All jurisdictional objections are, therefore, made within the context of the facts of the case. The issue before the Tribunal is not whether the issue raises a pure question of law. The issue is whether such an issue within the context of its discrete facts can be efficiently and relatively inexpensively decided and, if decided in favour of the Respondent, whether it will result in an expeditious and cost-efficient resolution of the case. In my respectful opinion, the second objection can be so decided. It does not require a plethora of evidence to be produced. The legal submissions too would be pointed and would not consume much time either. Accordingly, the second objection should be bifurcated and decided now.
5. The issue of bifurcation is one of efficiency and costs, however. As my colleagues are not persuaded, I do not regard this a matter important enough to merit a dissent. Further, a lengthy dissent would unnecessarily add to the costs of the proceedings. I, therefore, withhold expatiating on the reasons for this difference of opinion. In the interests of collegiality and to progress matters further, I concur in the result.

MAKHDOOM ALI KHAN