

148

IRAN-UNITED STATES CLAIMS TRIBUNAL

ن - ایالات متحدہ



ORIGINAL DOCUMENTS IN SAFE

Case No. 177

Date of filing: 18 Nov. 1983

** AWARD - Type of Award ON AGREED TERM.
- Date of Award 18 NOV. 83
7 pages in English 6 pages in Farsi

** DECISION - Date of Decision _____
_____ pages in English _____ pages in Farsi

** CONCURRING OPINION of _____
- Date _____
_____ pages in English _____ pages in Farsi

** SEPARATE OPINION of _____
- Date _____
_____ pages in English _____ pages in Farsi

** DISSENTING OPINION of _____
- Date _____
_____ pages in English _____ pages in Farsi

** OTHER; Nature of document: _____

- Date _____
_____ pages in English _____ pages in Farsi

IRAN-UNITED STATES CLAIMS TRIBUNAL

دیوان داوری دعاوی ایران - ایالات متحدہ

IRAN UNITED STATES
CLAIMS TRIBUNAL

دادگاه داوری دعاوی
ایران - ایالات متحدہ

ثبت شد - FILED

1362 / 8 / 27 دیه
18 NOV 1983

شماره 177 - 177

CASE NO. 177

CHAMBER TWO

AWARD NO. 86-177-2

ALLIS - CHALMERS CORPORATION,
Claimant,
-and-

DUPLICATE
ORIGINAL
نسخه برابر اصل

THE ISLAMIC REPUBLIC OF IRAN,
Respondent.

AWARD ON AGREED TERMS

The Claimant, ALLIS-CHALMERS CORPORATION, together with its subsidiary American Air Filter Company, Inc., has entered into a Settlement Agreement with AAF SS, Iran Air Filter SS, Kerman Cement Co., Fars & Khuzestan Cement Co., National Iranian Steel Co., and Bank Mellat, dated 26 October 1983, resolving the matters in dispute between them. In this Settlement Agreement it is agreed, inter alia, that an amount of US \$ 1,471,200 shall be paid to the Claimant, in four payments, three of which are subject to certain conditions set forth in the Settlement Agreement.

The Tribunal notes that the counterclaim of the Foundation for the Oppressed, filed in this case on 23 November 1982 jointly with the counterclaims of AAF and Iran Air Filter, is withdrawn by it in a letter dated 26 October 1983, signed by its counsel and attached to the Settlement Agreement.

The Tribunal also notes that the named Respondent in this case, THE ISLAMIC REPUBLIC OF IRAN, is not a party to the Settlement Agreement. The Tribunal equally notes, however, that the Agent of the Islamic Republic of Iran signed the Joint Request for Award on Agreed Terms, filed on 26 October 1983, and that a letter dated 26 October 1983, signed by the Agent of the Islamic Republic of Iran, is attached to the Settlement Agreement, by which letter the Islamic Republic of Iran releases the Claimant from any liability. The Tribunal concludes that the Respondent, the Islamic Republic of Iran, has thus accepted the Settlement Agreement.

Copies of the Joint Request, the Settlement Agreement, and further documents submitted with it are attached hereto.

The Tribunal has satisfied itself that the Settlement Agreement and the letters from the Foundation of the Oppressed and the Agent of the Islamic Republic of Iran include all claims and counterclaims in the present case.

The Tribunal has satisfied itself that it has jurisdiction in this matter within the terms of the Declaration of the Democratic and Popular Republic of Algeria concerning the Settlement of Claims by the Government of the United States of America and the Islamic Republic of Iran of 19 January 1981.

For the foregoing reasons,

THE TRIBUNAL AWARDS AS FOLLOWS:

The Settlement Agreement and the relevant attachments thereto are hereby accepted and recorded as an Award on agreed terms, binding on the Parties. Consequently, the Respondent shall pay to the Claimant the sum of One Million Four Hundred Seventy One Thousand Two Hundred United States Dollars (US \$ 1,471,200), in four payments, three of which are conditional and one of which is unconditional.

upon the receipt by the Tribunal from the Agent of the Islamic Republic of Iran of shipping documents for spare parts totalling the above amount, claimed to be due Kerman Cement Co. and Fars & Khuzestan Cement Co.

The unconditional payment shall be made as follows:

- d. The amount of US \$ 26,000 (not identified as such in the Settlement Agreement, but forming the balance of the total Settlement Amount after deduction of the three conditional payments specified above):
as soon as practicable after the issuance of this Award.

Furthermore Bank Mellat shall pay to the Claimant in full settlement of the claim against it the amount of 352,684 Rials, as identified in Article 6 C of the Settlement Agreement and as further specified in a separate Memorandum of Understanding, signed by the Claimant and Bank Mellat and dated 26 October 1983, which is attached to the Settlement Agreement.

The proceedings before the Tribunal with respect to this claim shall be fully terminated upon the fulfillment of all conditions specified for the payments under a, b, and c above. Failing the fulfillment of any of the conditions

specified for the payment under a above, and provided that the Claimant thereupon will avail itself of its right, provided for in Article 6 A of the Settlement Agreement, to withdraw the portion of the Settlement Agreement specified in that same Article, the Tribunal shall retain jurisdiction over that portion of the claim. The payments under b, c, and d shall be notified to the President of the Tribunal upon the fulfillment of the conditions therefor, if any, irrespective of the fulfillment of the condition specified for the payment under a.

The Tribunal notes that the Claimant has filed on 11 November 1983 the Test Report referred to under b above, and is satisfied that the condition for the payment under b, in the amount of US \$ 6,200 is fulfilled.

This Award is hereby submitted to the President of the Tribunal for the purpose of notification of the payment under b, in the amount of US \$ 6,200, and under d, in the amount of US \$ 26,000, to the Escrow Agent. The Tribunal will make separate submissions to the President for the purpose of notifications for the payments under a and c, after the Tribunal has satisfied itself that the requirements with respect to each of those payments have been met.

Dated, The Hague

18 October 1983

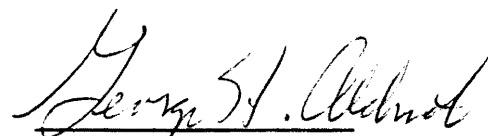
Willem Riphagen

Chairman Chamber Two

In the Name of God



Shafie Shafeiei



George H. Aldrich

I agree with the Tribunal in
accepting and recording of the
Settlement Agreement, and with
the enforcement procedure
contained in the Award only on
the basis of ARTICLE 1C of the
Settlement Agreement.

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه دادرسی دعاوی ایران - ایالات متحده
فایلد - ثبت شد	
1762 / 18 / 4	26 OCT 1983
177	177

IN THE NAME OF GOD

IN THE IRAN-UNITED STATES CLAIMS TRIBUNAL
THE HAGUE, THE NETHERLANDS

Case No.: 177

Chamber No.: 2

Joint Request For Arbitral Award on Agreed Terms

Pursuant to Article 34 of the Tribunal Rules of procedure, Allis-Chalmers Corporation ("A-C"), American Air Filter Company, Inc. ("AAF"), AAF SS, Iran Air Filter SS ("IRAF"), Kerman Cement Company, Inc. (K-C), Fars & Khuzestan Cement Company (F&K), National Iranian Steel Company (NISIC) and Bank Mellat (Mellat) (hereinafter collectively referred to as The Iranian entities) jointly request that the Tribunal issue an arbitral award on agreed terms as follows:

On October 26 1983 (4 Aban 1362) A-C and AAF (on one hand) and The Iranian entities (on the other hand) entered into a Settlement Agreement, a copy of which is attached hereto and which provides that A-C shall be paid the amount of one million, four hundred seventy one thousand two hundred United States Dollars and no Cents (US\$ 1,471,200) in complete and final settlement of all claims and counter-claims now existing or capable of arising in connection with this Case, payable in accordance with the terms of the Settlement Agreement.

The undersigned jointly request the Tribunal to record the Settlement Agreement as an arbitral award on agreed terms,

[Signature]
[Signature]
L-12
M.V.

with full payment to Allis-Chalmers Corporation to be made out of the Security Account (subject only to the terms of the Settlement Agreement).

Respectfully submitted

Allis-Chalmers Corporation

By [Signature]
Date October 26, 1983

American Air Filter Company, Inc.

By [Signature]
Date October 26, 1983

in the name of God
Mohammad K. Eshvayh
Agent of the Islamic
Republic of Iran

[Signature]

AAF SS

By M. Vezaghi
Date 15 OCT 1983
26 Oct. 1983

Iran Air Filter SS

By M. Vezaghi
Date 15 OCT 1983
26 Oct. 1983

Kerman Cement Co.

By JALAL SAFFARZADEH
Date 26 OCT 1983

Fars & Khuzestan Cement Co.

By JALAL SAFFARZADEH
Date 26 OCT 1983

National Iranian Steel Co.

By [Signature]
Date 26 OCT 1983

Bank Mellat

By [Signature]
Date 26 OCT 1983

and

Z. Heidari
26 OCT 1983

In The Name of God

In The Name of God

IN THE NAME OF GOD

Settlement Agreement

This Agreement is made this 26/6 day of October 1983
(4/8 Aban 1362) by and between Allis-Chalmers Corporation
(A-C), American Air Filter Company, Inc. (AAF) on the one
side and AAF SS and Iran Air Filter SS (IRAF), Sherkate
Cement Kerman (Kerman Cement Company, Inc.) (Kerman) (K-C),
Sherkate Cement Fars & Khuzestan (Fars & Khuzestan Cement
Co. (F&K), National Iranian Steel Company, sucessor to
National Steel Industries Company (NISIC) and Bank Mellat
(Mellat) Successor to Bank Omran (Omran) (hereinafter collec-
tively referred to as Iranian entities) on the other side.

Whereas, A-C has filed a claim against AAF SS, IRAF and the
Foundation For the Oppressed, K-C, F&K, NISIC and Omran that
has been docketed with the Iran United States Claims
Tribunal as Case 177 (hereinafter the "Claims") and the
other parties have filed counter claims against A-C and four
of its subsidiaries.

Whereas, the Claims and counterclaims arise out of various
transactions between and among them; and

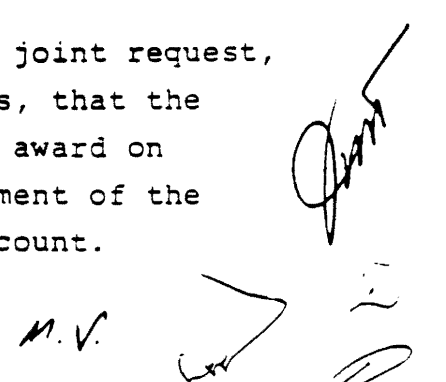
Whereas, the parties to this Agreement wish amicably to
settle those Claims and counterclaims filed with the Tribu-
al;

Now therefore, the parties to this Agreement agree to settle
the Claims and counterclaims in exchange for the considera-
tions and under the terms and conditions set forth below.

ARTICLE 1 Payment

A. A-C shall be paid the amount of one million, four hundred
seventy-one thousand two hundred United States Dollars
(US \$ 1,471,200) (the "Settlement Amount").

B. The parties shall submit to the Tribunal a joint request,
pursuant to Article 34 of the Tribunal's Rules, that the
Tribunal record this Agreement as an arbitral award on
agreed terms, and that the Tribunal order payment of the
Settlement Amount to A-C from the Security Account.



C. The Iranian entities shall pay to Bank Markazi Iran the Rial equivalent of the Settlement Amount and will obtain Bank Markazi's approval for the payment thereof to be made to A-C out of the Security Account. Submission of this Settlement Agreement by the Agent of the Government of the Islamic Republic of Iran to the Tribunal means that such approval has been obtained.

D. The Iranian entities confirm that all applicable Iranian social insurance charges and taxes have been deducted from the Settlement Amount. Should there be any Social insurance charges, taxes or any other liabilities whatsoever imposed on the Settlement Amount by the Government of Iran, The Iranian entities shall be responsible therefor. Should there be any taxes imposed on the Settlement Amount by countries other than Iran, A-C shall be responsible therefor.

ARTICLE 2 Release and Termination of proceedings:

A. Payment of the Settlement Amount to A-C shall terminate the proceedings in the Claims against The Iranian entities, the Foundation and The Government of the Islamic Republic of Iran and the counterclaims against A-C and four of its subsidiaries and shall constitute complete and final settlement of these Claims and the counterclaims now existing or capable of arising in connection with the Claims and the counterclaims between the named parties to this Settlement Agreement.

B. Upon full and final payment of the Settlement Amount to A-C, A-C shall for itself and AAF and the subsidiaries or affiliates of itself and AAF (and for the successors and assigns of itself and AAF and their subsidiaries and affiliates) by this Agreement release and forever discharge The Iranian entities and their subsidiaries, affiliates, directors, officers and employees (and the successors and assigns of them and their subsidiaries, affiliates, directors, officers and employees) from any and all liability that they

M.V.

(S.V.)

[Handwritten signature]

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ever had, now have or hereafter may have by reason of any past dealings between the parties to this Settlement Agreement or that are capable of arising out of any such past dealings or from any claim that may be pending in any court or forum. Accordingly A-C agrees, that it shall within 30 days of the full and final payment of the Settlement Amount cause all other claims, if any filed by A-C as well as any of its subsidiaries or affiliates against The Iranian entities in any court or forum to be finally withdrawn and terminated.

C. Upon full and final payment of the Settlement Amount to A-C, The Iranian entities shall for themselves and their subsidiaries and affiliates (and for their successors and assigns and their subsidiaries and affiliates) by this Agreement release and forever discharge A-C and AAF and their subsidiaries, affiliates, directors, officers and employees (and the successors and assigns of A-C and AAF and their subsidiaries, affiliates, directors, officers and employees) from any and all liability that they ever had, now have or hereafter may have by reasons of any past dealings between the parties to this Settlement Agreement or that are capable of arising out of any such past dealings or from any claim that may be pending in any court or forum. Accordingly, The Iranian entities agree that they shall within 30 days of the full and final payment of the Settlement Amount cause all other claims filed by them against A-C and AAF or any of their subsidiaries or affiliates in any court or forum to be finally withdrawn and terminated.

D. Upon the full and final payment of the Settlement Amount to A-C, A-C shall for itself and AAF and the subsidiaries and affiliates of them (and for the successors and assigns of itself and AAF and their subsidiaries and affiliates) by this Agreement release and forever discharge all the Respondents, the Foundation for the Oppressed, and the Government of the Islamic Republic of Iran and its agencies and Instrumentalities from any liability that they ever had, now have or hereafter may have that arises or is capable of

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arising out of contracts, transactions or occurrences that are the subject of Case 177.

E. As to any past dealings between the parties to this Settlement Agreement should any claim be pending or be filed by a third party in any court or forum against any of the parties hereto based on any assignment or transfer of rights of any kind from one of the parties hereto or any of its subsidiaries or affiliates, the party who or whose subsidiary or affiliate has caused or effected such assignment or whose transfer of rights shall be exclusively liable to such third party.

F. Upon the full and final payment of the Settlement Amount to A-C, all rights in AAF's shares, including dividends, of AAF SS and IRAF shall be transferred by AAF to the Government of the Islamic Republic of Iran. A-C shall cause the certificates of said shares to be returned to the Government of the Islamic Republic of Iran within 30 days of payment; otherwise all said shares shall be considered cancelled and new share certificates shall be issued. A-C will indemnify AAF SS and IRAF for any loss, cost or damage resulting from a successful assertion by a third party or parties of rights to ownership of said shares or dividends on said shares in either AAF SS or IRAF.

G. The releases set forth in this Agreement are self executing upon the full and final payment of the Settlement Amount of A-C.

H. Upon full and final payment of the Settlement Amount to A-C, the parties to this Settlement Agreement waive any and all claims for costs, including attorney's fees, arising out of or related to the arbitration or prosecution of the claims or counterclaims asserted (or which might have been asserted) before the Tribunal or elsewhere with respect to these claims or counterclaims.

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asserted) before the Tribunal or elsewhere with respect to these claims or counterclaims.

I. This Agreement, including the releases set forth in this Agreement does not apply to the subject matter of any other proceedings in the Tribunal.

ARTICLE 3 Other Matters

A. Upon full and final payment of the Settlement Amount to A-C any and all agreements and contracts between A-C, AAF and The Iranian entities, or any of them and any of their subsidiaries or affiliates, including any termination consequences thereof, will be terminated, if and to the extent not previously terminated. A-C agrees to grant IRAF or to any successor company of IRAF the right of first refusal to a future sales representation agreement.

ARTICLE 4 Validity

A. This Agreement is valid upon recording by the Tribunal as an award and only in its entirety. None of the terms and provisions of this Agreement may be interpreted separately or changed, except by the written agreement of the parties.

B. This Agreement has been written and signed in both languages of Farsi and English, both of equal validity.

ARTICLE 5 Confidentiality

A. Prior to the full and final payment of the Settlement Amount to A-C the parties to this Agreement shall not refer

[Handwritten signatures and initials]
M.V. *[Signature]* *[Signature]* *[Signature]*

to or divulge the contents of this Agreement (except for submission to the Tribunal); or of documents generated solely for purposes of settlement negotiations; or of discussions in the course of the settlement negotiations, in any pending or future proceeding before the Tribunal or elsewhere.

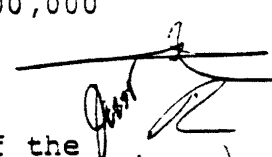
B. The parties to this Agreement shall not use, or cause any third party to use this Settlement Agreement in the prosecution or defence of any other case before the Tribunal or any other court of forum.

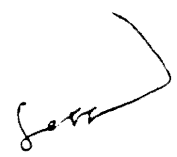
ARTICLE 6 Condition

A. The Tribunal will authorize payment of \$1,400,000 of the Settlement Amount upon notice of withdrawal of Claim No. 874 filed before the Tribunal (Chamber 2) by Bank Tejerat against A-C and the United States Government. If the claimant in Case 874 fails to terminate and withdraw its claims in Case No. 874 within 60 days after the submission of this agreement to the Tribunal, A-C will either withdraw this portion of the agreement or may within an additional 10 days, withdraw this condition, in which event the \$1,400,000 of the Settlement Amount shall be released.

B. As part of this Settlement, A-C shall send a copy of the Test Report of work performed for NISIC, ^{to the Tribunal} with a copy to the Tribunal. Payment of \$6,200 of the total Settlement award is conditioned upon delivery of said Test Report.

C. A-C and Bank Mellat have entered into a separate agreement, copy attached hereto, whereby Bank Mellat in full settlement of its claim by A-C will pay 352,684 Rials to any authorized representative of A-C in Iran.


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D. A-C, K-C and F&K have agreed that the Tribunal shall retain authorization for \$39,000 of the Settlement Amount until shipping documents for spare parts totalling said amount, claimed to be due K-C and F&K, have been received by the Tribunal through the Agent of the Islamic Republic of Iran.

ARTICLE 7 Authority

The representatives of the parties hereto expressly declare that they are duly empowered to sign this Agreement and their signatures will commit their respective principals to fulfillment of their obligations under this Agreement without any limitations whatsoever, except as may be otherwise contained in this Settlement Agreement.

M. V.






IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement.

Allis Chalmers Corporation

By [Signature]
Date October 26, 1983

American Air Filter Company, Inc.

By [Signature]
Date October 26, 1983

AAF SS

In The Name of God

By M. Vesaghi
Date 26 OCT. 1983

Iran Air Filter SS

By M. Vesaghi
Date 26 Oct. 1983

Kerman Cement Co.

By JALAL SAEFARXADEN
Date 26 OCT. 1983

Fars & Khuzestan Cement Co.

By JALAL SAEFARXADEN
Date 26 OCT 1983

National Iranian Steel Company

By [Signature]
Date SC/A/R

Bank Mellat

By [Signature]
Date 26/10/1983

and

Z. Hadian
26/10/1983



EMBASSY OF THE ISLAMIC REPUBLIC OF IRAN
Agent Bureau
The Hague

No.
Date. 26th Oct. 83
Encl.

IN THE NAME OF GOD, MOST COMPASSIONATE, MOST MERCIFUL

IN THE IRAN-UNITED STATES CLAIMS TRIBUNAL
THE HAGUE, THE NETHERLANDS

Case No. 177
Chamber 2

The Government of the Islamic Republic of Iran hereby releases Allis-Chalmers Corporation and its subsidiaries, divisions, and affiliates from any liability that they ever had, now have, or hereafter may have that arises or is capable of arising out of contracts, transactions or occurrences before the date of this release in relation to Case No. 177.

By

Mohammad K. Eshragh
The Agent of the Government
of the Islamic Republic of
Iran to the Iran-United
States Claims Tribunal

IN THE NAME OF GOD

IN THE IRAN-UNITED STATES CLAIMS
TRIBUNAL

THE HAGUE, THE NETHERLANDS

Case No. 177
Chamber 2

The Foundation For The Oppressed (Boniade Mostazafan)
hereby withdraws its counterclaim in Case No. 177 against
the claimants in said Case.

FOUNDATION FOR THE OPPRESSED

Mansourchub Madadi *In the name of God*
By
Counsel
Date _____
1362-8-4

MEMORANDUM OF UNDERSTANDING

This arrangement is made this 26 day of October, 1983
(4 ABAN 1362) by and between Allis-Chalmers Corporation, a
United States corporation (A-C) and Bank Mellat of Iran (Mellat).

WHEREAS A-C has filed a claim against Mellat which has been
docketed with the Iran-United States Claims Tribunal in Case No.177
(Claim); and

WHEREAS the Claim arises out of a bank deposit of \$5,020
United States Dollars in Bank Omran by A-C in 1978; and

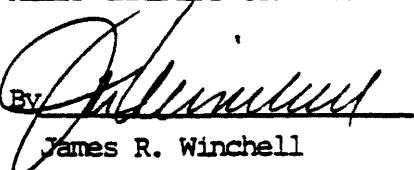
WHEREAS A-C has agreed to withdraw its claim against Mellat
in said Case No. 177 upon the payment of the settlement amount to
A-C, A-C shall for itself and AAF and the subsidiaries or affiliates
of itself and AAF (and for the successors and assigns of itself and
AAF and their subsidiaries and affiliates) by this Agreement release
and forever discharge Bank Mellat and their subsidiaries, affiliates,
directors, officers and employees (and the successors and assigns of
them and their subsidiaries, affiliates, directors, officers and
employees) from any all liability that they ever had, now have or
hereafter may have by reason of any past dealings between the parties
to this settlement.

NOW THEREFORE, A-C undertakes to withdraw the Claim against
Mellat under the terms and conditions set forth below.

Mellat undertakes to pay the sum of 352,684 Rials to any
authorized representative of A-C upon appearance of said representative
in Tehran, Iran for the purpose of withdrawing said funds, the said
fund will be paid according to circular No. 11600 dated 14 November
1978 of Bank Markazi Iran provided said payment is permissible.

Agreed to on the date first above mentioned in The Hague, The
Netherlands.

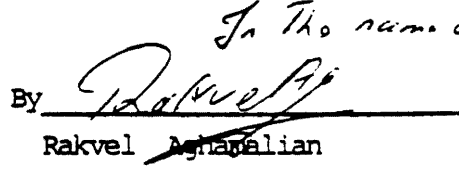
ALLIS-CHALMERS CORPORATION

By 

James R. Winchell

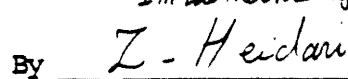
Title Assistant Secretary

BANK MELLAT

By  *In the name of God*

Rakvel Ashkanian

Title Deputy Manager, Inter-
national Legal Division
in the name of God

By 

Mrs. Zahra Heidari
Attorney for Bank Mellat

Room 15

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mr mohamad eshragh 1417 cdt 10/24/83

iranian agent

iran u s claims tribunal

the hague netherlands

File - #177

cc: mr john crook / u s agent

iran u s claims tribunal

u s embassy

the hague netherlands

cc: mr james r winchell c/o hotel promenade

van stolweg 1

the hague netherlands

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this is to confirm that james r. winchell, assistant secretary of allis-chalmers corporation (a-c) and treasurer of american air filter company, inc. (aaf) is authorized to act for a-c and its subsidiaries, aaf, elex a.g., aaf international s.a., and aaf ltd., with full power of attorney to negotiate and settle claims and counterclaims on behalf of said companies or any of them, and to execute any and all documents necessary or convenient to carry out the foregoing provisions

wendell f. bueche

president and chief operating officer

allis-chalmers corporation

milwaukee wi 269441

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212717 cifa ir our no 10301
our no 10301 dated 23.10.33
att. mr. john crok
in the name of allan
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we hereby introduce mr. jalal safferzaden, as our full authorized representative, to sign the agreement already concluded between us
best regards.

m.t. azimi managing director of fars and khuzestan cement co.

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att. mr. john crok

our no 10301 dated 23.10.33
in the name of allan

urgent

we hereby introduce mr. jalal safferzaden, as our full authorized representative, to sign the agreement already concluded between us
best regards.

m.t. azimi managing director of fars and khuzestan cement co.

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