

ORIGINAL DOCUMENTS IN SAFE

Case No. 333

Date of filing: 7-Aug 86

** AWARD - Type of Award _____
- Date of Award _____
_____ pages in English _____ 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 Mr Mostafaei دکتر طیفی
- Date _____
2 pages in English 2 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	دادگاه داری دعاوی ایران - ایالات متحدہ
FILED - ثبت شد	
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No. 333	شماره

IN THE NAME OF GOD

Case No. 333

Chamber One

Award No. ITM 62-333-1

Date: 7 August 1986

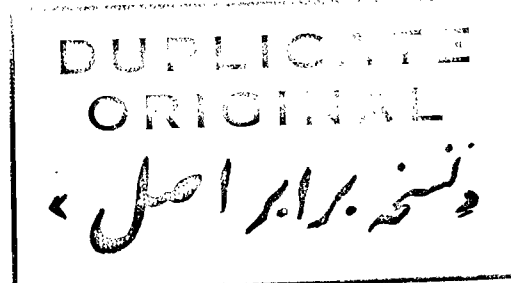
FLUOR CORPORATION,

Claimant,

and

ISLAMIC REPUBLIC OF IRAN,
NATIONAL IRANIAN OIL COMPANY,

Respondents.



SEPARATE OPINION OF MOHSEN MOSTAFAVI

Article VII, paragraph 2 of the Claims Settlement Declaration expressly provides that "claims referred to the arbitration tribunal shall, as of the date of filing of such claims with the tribunal, be considered excluded from the jurisdiction" of other courts [emphasis added]. This language is so clear that no term of condition can be added thereto by way of interpretation. The question as to jurisdiction over a portion of the claim can affect only that portion thereof; moreover, because the Claimant has brought its claim, not as separate claims but rather as a single overall claim, the existence of question as to jurisdiction over a portion of the claim should not affect the whole of this overall claim, including even

that portion regarding which there has not arisen any apparent question over jurisdiction. As a consequence of the present Interim Award, that portion of the claim over which there has so far not been any question regarding jurisdiction will also be covered by the decision concerning the portion over which the Tribunal's jurisdiction has been questioned. It is my opinion that it would have been better, had the Tribunal first taken a decision as to its jurisdiction in order not to prejudice the position of either Party. It should have then ruled on the Respondent's petition; and in view of the fact that the Claimant chose to bring its claim before this Tribunal although it was aware of questions as to the Tribunal's jurisdiction, the Claimant should have been temporarily barred, by virtue of Article VII, paragraph 2 of the Claims Settlement Declaration, from bringing its claim before any other forum pending a final decision with respect to jurisdiction.



Mohsen Mostafavi