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IRAN UNITED STATES
CLAIMS TRIBUNALدادگاه داری دماوی
ایران - ایالات متحده

FILED - ثبت شد

No. 6 شماره

Date 9 NOV 1982 تاریخ

۱۳۶۱ / ۸ / ۱۸

Dissenting opinion in Interlocutory Award
No: ITL 1-6-FT

Case No. 6

Dissenting opinion of Mr. Lagergren, Mr. Kashani, Mr. Shafeiei
and Mr. Jahangir Sani as to Part II

Article 24 of the TAVANIR Contract sets forth that all disputes that may arise between the parties over the contract or the interpretation of its contents shall be settled through competent courts according to Iranian law. On the face of the text this Article provides that disputes, failing settlement between the parties, shall be solved through court proceedings and that Iranian law shall apply to the court proceedings or to the merit of the case or to both. Read in this way Article 24 as a forum selection clause does not make much sense, since it would mean that the parties to the contract had agreed to submit their disputes to the jurisdiction of any court in the world where a forum can be found according to the domestic legislation of the country concerned. And, were the reference to Iranian law to apply to the substance of the case, it would be a mere duplication of the choice of law provision in Article 30 of the contract. Therefore, it is beyond doubt that the parties by the expression "through competent courts according to Iranian law" have intended to confer sole jurisdiction on Iranian courts, applying Iranian procedural law.

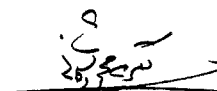
As to the Claimant's contention that the present forum selection clause is not "binding" upon the parties owing to the changed circumstances in Iran, we refer to the Tribunal's reasons and conclusion in relation to the same issue in the Interlocutory Award No. 2 in Case No. 51.

Therefore, we conclude, the Tribunal has no jurisdiction over the claim to the extent that it is based on the TAVANIR Contract.

- 2 -

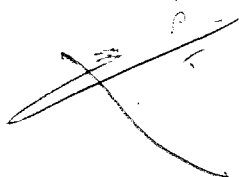
Signed on 9 November 1982

In the name of God,



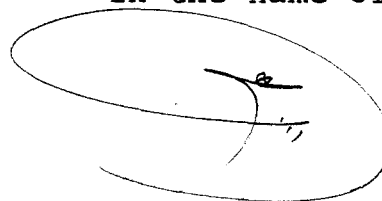
Mahmoud M. Kashani

In the name of God,



Shafei Shafeiei

In the name of God,



Mostafa Jahangir Sani