

ORIGINAL DOCUMENTS IN SAFE

Case No. 764

Date of filing 16 Aug 1983

✓ Partial

AWARD. Date of Award 16 Aug 1983

6 pages in English. 5 pages in Farsi.

764-41  
V7E-41

DECISION. Date of Decision \_\_\_\_\_

\_\_\_\_\_ pages in English. \_\_\_\_\_ pages in Farsi.

ORDER. Date of Order \_\_\_\_\_

\_\_\_\_\_ pages in English. \_\_\_\_\_ pages in Farsi.

CONCURRING OPINION of \_\_\_\_\_

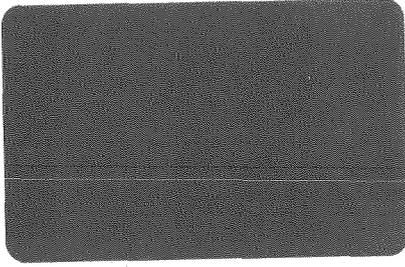
Date \_\_\_\_\_ pages in English. \_\_\_\_\_ pages in Farsi.

DISSENTING OPINION of \_\_\_\_\_

Date \_\_\_\_\_ pages in English. \_\_\_\_\_ pages in Farsi.

OTHER; Nature of document: \_\_\_\_\_

Date \_\_\_\_\_ pages in English. \_\_\_\_\_ pages in Farsi.



CASE NO. 764

CHAMBER ONE

AWARD NO. 66-764-1

WORLD FARMERS TRADING INCORPORATED;

Claimant,

and

GOVERNMENT TRADING CORPORATION;

BANK MELLI IRAN; BANK MARKAZI IRAN,

Respondents.

IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داوری دعاوی ایران - ایالات متحدہ
ثبت شد - FILED	
Date	۱۳۶۲ / ۵ / ۲۵
16 AUG 1983	
Case No.	764 ۷۶۴

PARTIAL

AWARD

DUPLICATE  
ORIGINAL  
دستخبره برابر اصل

i) Introduction

The claim of WORLD FARMERS TRADING INCORPORATED ("the Claimant") was filed with the Tribunal on 18 January 1982. The Claimant seeks an award of damages of \$9,471,420.00 against the Respondent GOVERNMENT TRADING CORPORATION (GTC) for alleged breach of two contracts entered into on 6 July 1979 for the sale and purchase of certain quantities of yellow sorghum and soyabean meal. The same amount is claimed against BANK MELLI IRAN and BANK MARKAZI IRAN under two irrevocable letters of credit issued in respect of the contracts.

GTC asserted a counterclaim for \$473,571, being the amount of the performance guarantee the Claimant was required by a contract to present.

ii) The jurisdictional issue

The contracts are evidenced by two telexes dated 9 July 1979 sent by Alavi International Export Corporation, acting as agents for the purchaser, GTC, to the Claimant, headed, "The following are the contracts signed with World Farmers Trading Inc. on July 6, 1979," and setting out the detailed terms agreed between the parties. Each telex contains the following clause:

"Conflicts and Settlements:

Eventual disputes must be finally and exclusively settled in Iranian Courts."

In its Statement of Defence filed on 10 December 1982 GTC asserts that this clause operates to exclude the Tribunal's jurisdiction over the claim, as it falls within the provisions of Article II, paragraph 1 of the Claims Settlement Declaration which excludes "claims arising under a binding contract between the parties specifically providing that any disputes thereunder shall be within the sole jurisdiction of the competent Iranian courts in response to the Majlis position."

On 14 April 1983 the Claimant filed a "Response to Jurisdictional Issue Raised by Government Trading Corporation" in which it argued that the forum selection clause was not binding as revolutionary changes in Iran have fundamentally altered the judicial system that existed when the contract was signed. It further contends that the use of the term "settled" in the clause imparts ambiguity, as it cannot be taken as synonymous with "litigated"; and that the clause should be strictly construed.

The Tribunal notified the Parties in its Order of 13 June 1983 that it intended to decide the jurisdictional implications of the forum clause in this case on the basis of the documents already submitted.

iii) Reasons

On 5 November 1982 the Full Tribunal rendered Interlocutory Awards on jurisdiction in nine test cases involving a selection of contracts with different forum clauses. The

that it has no jurisdiction over the claim against GTC which is based on these two contracts.

The Tribunal accordingly dismisses the claim against the Respondent GTC.

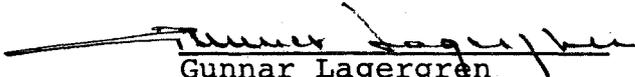
The Claimant is hereby directed to file with the Tribunal by 17 October 1983 its comments concerning the Tribunal's jurisdiction over the claims against BANK MELLI IRAN and BANK MARKAZI IRAN, in view of the forum clause in the two contracts with GTC and the terms of the two Letters of Credit; and also its comments concerning the Tribunal's jurisdiction over the Counterclaim of GTC.

The Respondents BANK MELLI IRAN and BANK MARKAZI IRAN are hereby directed to file any Response by 12 December 1983.

By 12 December 1983 GTC shall file any comments concerning the Tribunal's jurisdiction over its counterclaim.

It is the present intention of the Tribunal to proceed thereafter to render its decision on the basis of the documents submitted. on jurisdiction

Dated, The Hague  
16 August 1983

  
Gunnar Lagergren  
Chairman  
Chamber One

  
Mahmoud Kashani  
Concurring Opinion

  
Howard M. Holtzmann  
Concurring Opinion