

39-406

ORIGINAL DOCUMENTS IN SAFE

Case No. 39

Date of filing: 10 Jan 1990

** AWARD - Type of Award AAT
 - Date of Award 10 Jan 1990
4 pages in English 4 pages in Farsi
+ JRS + SA

** 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

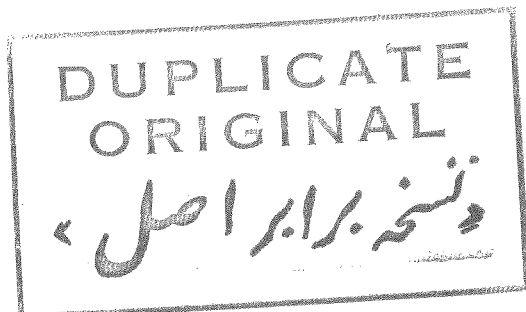
** DISSENTING OPINION of _____
 - Date _____
 _____ pages in English _____ pages in Farsi

** OTHER; Nature of document: _____

 - Date _____
 _____ pages in English _____ pages in Farsi

IRAN-UNITED STATES CLAIMS TRIBUNAL

دیوان دآوری دعاوی ایران - ایالات متحدہ



CASE NO. 39
CHAMBER TWO
AWARD NO. 461-39-2

PHILLIPS PETROLEUM COMPANY IRAN,
Claimant,

and

THE ISLAMIC REPUBLIC OF IRAN,
THE NATIONAL IRANIAN OIL COMPANY,
Respondents.

IRAN-UNITED STATES CLAIMS TRIBUNAL	دیوان دآوری دعاوی ایران - ایالات متحدہ
FILED	ثبت شد
DATE	10 JAN 1990
	تاریخ ۱۳۶۸ / ۱۰ / ۲۰

AWARD ON AGREED TERMS

1. On 18 November 1981, PHILLIPS PETROLEUM COMPANY IRAN ("Phillips") filed a Claim against THE ISLAMIC REPUBLIC OF IRAN ("Iran") and THE NATIONAL IRANIAN OIL COMPANY ("NIOC"), seeking compensation for the alleged taking of its rights under the IMINOCO Joint Structure Agreement with NIOC and for damages for the alleged breach and repudiation of that Agreement.

2. On 29 June 1989, the English Version of Award No. 425-39-2 was filed.

3. On 30 August 1989, Iran and NIOC filed an "Application to the Full Tribunal for the Revocation, Setting Aside and Annulment of the Award in Case No. 39 and for Interim Measures", which is pending before the Full Tribunal as Case No. A25. A Hearing has been scheduled in Case No. A25 for 17 January 1990.

4. On 3 January 1990, a Joint Request was filed, signed by the Agent of the Government of the Islamic Republic of Iran and by NIOC on the one hand and by Phillips on the other, requesting that the Tribunal render an Award on Agreed Terms recording and giving effect to the Settlement Agreement in this Case, dated 3 January 1990 between these same Parties, which provides for certain reciprocal obligations of the Parties thereto.

5. Article 2.1. of the Settlement Agreement provides, inter alia, that Phillips be paid the amount of U.S.\$92,000,000 out of the Security Account.

6. Article 2.4. of the Settlement Agreement provides:

"Upon the issuance of the Arbitral Award on Agreed Terms and Notification to the Escrow Agent for payment:

- (i) The English Version of Award No. 425-39-2 shall be deemed by the Parties as null and void and of no effect whatsoever.
- (ii) The Government of the Islamic Republic of Iran shall by its submission to the Tribunal withdraw Case A-25."

7. Article 3.1. of the Settlement Agreement provides:

"Payment of the Settlement Amount to Claimant shall constitute complete and final settlement and satisfaction of all claims and counterclaims now existing or capable of arising in connection with Case No. 39 including claims arising out of or with respect to all petroleum extraction operations by Claimant in Iran prior to the date of this Agreement."

8. Copies of the Joint Request and the Settlement Agreement are attached hereto.


9. Pursuant to the Claims Settlement Declaration, its related Technical Agreements, and the Tribunal Rules, the final actions required from the Tribunal with respect to Award No. 425-39-2 are the filing of the Persian version of the Award and its notification by the President of the Tribunal to the Escrow Agent. Whereas the English Version was filed on 29 June 1989, these actions have not been taken. To the extent that the Tribunal is able to do so, it should accept settlement agreements entered into by the Parties. In the present unusual circumstances where Award No. 425-39-2 has neither been filed in Persian nor notified to the Escrow Agent, the Tribunal is prepared to accept this Settlement Agreement as it fulfills the requirements for the issuance of an Award on Agreed Terms and to request the President to notify the present Award on Agreed Terms to the Escrow Agent, rather than Award No. 425-39-2.

10. For the foregoing reasons,

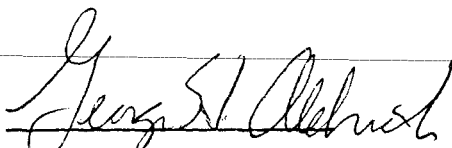
THE TRIBUNAL AWARDS AS FOLLOWS:

- (a) The Settlement Agreement filed with the Joint Request is hereby recorded as an Award on Agreed Terms, binding on the Parties in full settlement of the entire Case.
- (b) The ISLAMIC REPUBLIC OF IRAN and THE NATIONAL IRANIAN OIL COMPANY shall pay PHILLIPS PETROLEUM COMPANY IRAN the amount of Ninety Two Million United States Dollars and No Cents (U.S.\$92,000,000.00) which obligation shall be satisfied by payment out of the Security Account established pursuant to paragraph 7 of the Declaration of the Government of the Democratic and Popular Republic of Algeria dated 19 January 1981.
- (c) This Award is hereby submitted to the President of the Tribunal for the purpose of notification to the Escrow Agent.

Dated, The Hague
10 January 1990

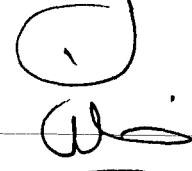


Robert Briner
Chairman
Chamber Two



George H. Aldrich

In the Name of God



Seyed K. Khalilian

IN THE NAME OF GOD

Iran-U.S. Claims Tribunal

The Hague

The Netherlands

Phillips Petroleum Company Iran,

Claimant

-and-

The Islamic Republic of Iran and
National Iranian Oil Company,Respondents.

IRAN-UNITED STATES CLAIMS TRIBUNAL	دیوان داورى دعاوى ایران - ایالات متحده
FILED	ثبت شد
DATE 3 JAN 1990	
	تاریخ 1359/10/18

Case No. 39

Chamber Two

JOINT REQUEST FOR ARBITRAL
AWARD ON AGREED TERMS

Phillips Petroleum Company Iran ("Phillips-Iran"), the Islamic Republic of Iran, and the National Iranian Oil Company, jointly request that the Tribunal issue an arbitral award on agreed terms that will record and give effect to the Settlement Agreement reached by the Parties.

On January 3, 1990, the Parties to this Case entered into a Settlement Agreement, a copy of which is attached hereto, providing that Phillips-Iran shall be paid the amount of Ninety two Million United States Dollars

(U.S.\$ 92,000,000.00) in complete and final settlement of all claims and counterclaims now existing or capable of arising in connection with Case No.39.

Accordingly, the Parties request the Tribunal to record the Settlement Agreement as an arbitral award on agreed terms, with payment to Phillips-Iran to be made out of the Security Account.

Respectfully submitted,

Agent of the Government of the
Islamic Republic of Iran to the
Iran-U.S. Claims Tribunal

By: [Signature]
Date: 10/1/90

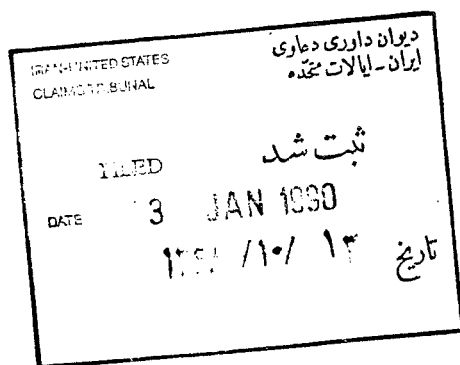
The National Iranian Oil
Company

Phillips Petroleum
Company Iran

By: [Signature]
Douglas L. Taylor
Attorney-in-Fact

Date: 1-03-90

By: [Signature]
Date: 7/21/1990



IN THE NAME OF GOD

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made and entered into this 3rd day of January, 1990 by and between Phillips Petroleum Company Iran, a United States Delaware corporation (hereinafter "Claimant") on the one part and the Government of the Islamic Republic of Iran ("Iran"), and the National Iranian Oil Company ("NIOC"), (hereinafter collectively called "Respondents"), on the other, all hereinafter collectively called the "Parties".

WHEREAS Claimant as the successor to and transferee of rights, interests, benefits, and obligations of Phillips Petroleum Company has made certain claims against Respondents seeking reimbursement for alleged expropriation of certain rights and for alleged breach of the IMINICO Joint Structure Agreement dated January 17, 1965 (hereinafter "J.S.A") and has set out its claims in a Statement of Claim (along with supporting documents and other submissions) which have been docketed with the Iran-United States Claims Tribunal ("Tribunal") as Case No. 39 ("Case 39"); and

WHEREAS Respondents have made certain counterclaims against Claimant for alleged damages, which counterclaims have been set

out in Statement of Defence and Counterclaims and supporting documents and other submissions filed on behalf of Respondents in Case 39; and

WHEREAS on June 29, 1989, the Tribunal issued the English Version of Award No. 425-39-2 in Case No. 39 (hereinafter, the "English Version of the Award"); and

WHEREAS the Persian version of the Award has not been signed; the President has not notified the Escrow Agent; and no payment has been made; and

WHEREAS Respondents have challenged the legality and validity of the English Version of the Award and have filed an Application to revoke, set aside, and annul the English Version of the Award, which Application is now pending before the Full Tribunal as Case No.A-25; and

WHEREAS the Tribunal, pursuant to the Respondent's Application, has issued an order inviting the Respondents, the United States of America, and Phillips Iran to file their respective memorials, and to appear at a hearing scheduled for 17 January 1990 in Case A-25; and

WHEREAS Case No.A-25, is now pending before the Full Tribunal and a hearing is set for January 17, 1990.

WHEREAS Respondents and Claimant wish to amicably and promptly settle all disputes between them related to Case No. 39 and the English version of the Award therein, and to contribute to the prompt and amicable resolution of all disputes between them related to Case No.A-25.

NOW THEREFORE the Parties agree as follows:

ARTICLE 1

1.1. The scope and subject matter of this Settlement Agreement is:

- (i) To settle, dismiss and terminate forever and with prejudice all disputes, differences, claims, and matters directly or indirectly raised or capable of arising out of the relationships, transactions, contracts and occurrences which have been the subject matter of the Claimant's Statement of Claim, the Respondents Statement of Defence and Counterclaims, and related submissions filed with the Tribunal in Case No. 39.

- (ii) To transfer to NIOC unconditionally and irrevocably, without any lien or encumbrance and without the right to any recourse, all and any properties, parts and equipment claimed by Claimant in the Statement of Claim and subsequent submissions in Case No.39 and to consider as vested, from the time of creation, all Claimant's rights, benefits, interests and titles to the said properties, parts, equipment and Iranian bank accounts including but not limited to those properties, parts, equipment and bank accounts of IMINOCO in or outside Iran and also to the properties left in Iran, if any, including those in possession of third parties.

ARTICLE 2

- 2.1. In consideration of full and final settlement of all disputes, differences, claims, counterclaims, and matters directly or indirectly raised or capable of arising out of the relationships, transactions, contracts and events in any manner related to the subject matter of the Statement of Claim and other submissions by the Parties in Case No. 39 and also in consideration of the covenants, and

premises set forth herein, Claimant shall be paid the amount of U.S.\$ 92,000,000.00 (U.S.Dollars Ninety two Million) (hereinafter referred to as the "Settlement Amount"). The Settlement Amount will be paid out of the Security Account established pursuant to paragraph 7 of the Declaration of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981.

2.2. Within 24 hours of the execution of this Settlement Agreement by the Parties, the Parties shall submit to the Tribunal a Joint Request in the form attached as Exhibit(1) asking the Tribunal to record this Agreement as an Arbitral Award on Agreed Terms giving effect to the terms and conditions herein. If said Joint Request is not submitted within the time specified, this Settlement Agreement shall be null and void, and of no effect whatever.

2.3. If for any reason the Notification to the Escrow Agent for payment of the Settlement Amount has not been issued on or before January 12, 1990, then either party may at any time thereafter declare this Settlement Agreement null and void, upon written notice of such declaration to the other through its Agent, and the Parties shall be placed in the same position without prejudice as they were prior to execution of this Agreement.

2.4. Upon the issuance of the Arbitral Award on Agreed Terms and Notification to the Escrow Agent for payment:

- (i) The English Version of Award No. 425-39-2 shall be deemed by the Parties as null and void and of no effect whatsoever.
- (ii) The Government of the Islamic Republic of Iran shall by its submission to the Tribunal withdraw Case A-25.

ARTICLE 3

3.1. Payment of the Settlement Amount to Claimant shall constitute complete and final settlement and satisfaction of all claims and counterclaims now existing or capable of arising in connection with Case No. 39 including claims arising out of or with respect to all petroleum extraction operations by Claimant in Iran prior to the date of this Agreement.

3.2. The Settlement Amount to Claimant is free of any Stated Payment, Additional Payment, or other financial imposition of any kind by Iran or NIOC, and is net of any Iranian tax and impositions.

3.3. Claimant shall, for itself, its parent companies, affiliates and subsidiaries and its successors and assigns, release, quitclaim and forever discharge Respondents, their affiliates, agencies, subsidiaries, and instrumentalities and all of their successors and assigns from any and all liability that any of them ever had, now has, or hereafter may have by reason of claims or counterclaims asserted in Case No. 39, ^{Related to,} arising, or capable of arising out of the contracts, transactions, or occurrences that are the subject of the claims and counterclaims in Case No. 39, or with respect to all petroleum extraction operations by Claimant in Iran prior to the date of this Agreement. BT

3.4. The Claimant shall indemnify and hold harmless the Respondents, their affiliates, agencies and instrumentalities, and their successors and assigns from any claim or action that its parent companies, affiliates, subsidiaries, and its successors and assigns may raise or take against any or both of the Respondents, their affiliates, agencies and instrumentalities, and their successors and assigns relating to, or arising out of, or capable of arising out of the contracts, transactions or occurrences that are the subject matter of Case No. 39.

3.5. Respondents shall, for themselves, their affiliates, agencies and instrumentalities, and their successors and assigns, release and forever discharge Claimant and its parents, affiliated companies, subsidiaries and all of their successors and assigns from any and all liability that any of them ever had, now has, or hereafter may have by reason of claims or counterclaims asserted in Case No. 39, arising or capable of arising out of the contracts, transactions, or occurrences that are the subject of the claims and counterclaims in Case No. 39, or with respect to all petroleum extraction operations by Claimant in Iran prior to the date of this Agreement.

3.6. The Parties hereto shall not directly or indirectly, individually or in conjunction with others at any time thereafter take or pursue any legal action or initiate or pursue arbitral or court proceedings or otherwise make any claim whatsoever against each other or any parents, subsidiaries, affiliates, agencies or instrumentalities with regard to Case No. 39 arising or capable of arising out of the contracts, transactions or occurrences that are the subject of Case No. 39. Any arbitral

or court proceedings which may be pending outside the Tribunal on behalf of any party shall be promptly dismissed with prejudice.

3.7. Claimant shall, for itself, its parent company, affiliates and subsidiaries and its successors and assigns, transfer to the NIOC, unconditionally and irrevocably, without any lien or encumbrance and without the right to any recourse "as is and where is" all and any properties, parts and equipment claimed by the Claimant in the Statement of Claim and subsequent submissions in Case No. 39, all the Claimant's rights, benefits, interests and titles to the said properties, parts, equipment and Iranian bank accounts including those properties, parts, equipment and bank accounts of IMINCO in or outside Iran and to the properties left in Iran, if any, including those in possession of third parties under Case No. 39.

3.8. Except as provided for in 2.4(ii), the releases, waivers, transfers, withdrawals, dismissals, assignments, undertakings, declarations, obligations and agreements contained herein are ^{effective and} self-executing upon the Notification B

to the Escrow Agent for payment of the Settlement Amount and need not be signified by any additional document, agreement, or writing.

ARTICLE 4

For the purpose of construction and interpretation of this Settlement Agreement the entire Agreement shall be read and construed as a whole without giving any specific effect to any article separately. None of the terms of this Agreement may be changed, except by written agreement of the parties.

ARTICLE 5

5.1. Unless and until this Agreement is submitted to the Tribunal, pursuant to Article 2.2 above, and the Tribunal has issued an Award on Agreed Terms as contemplated herein, the Parties to this Agreement will not refer to or divulge the content of this Agreement. In no event will the parties to this Agreement refer to or divulge the contents of documents generated solely for purposes of settlement negotiations in any proceeding before the Tribunal or elsewhere.

5.2. This Settlement is for the sole purpose of settling the disputes in Case No. 39. Nothing in this Settlement Agreement shall be relied upon or construed as relevant to or to affect in any way any position ^{which} ~~taken by~~ Claimant or any of its parent, subsidiaries, and affiliates or by the NIOC or any of its subsidiaries and affiliates or the Islamic Republic of Iran or any of its agencies, instrumentalities, entities, or organizations, had raised or may raise concerning the jurisdiction or the merits of Case A-25 or any other cases whether before the Tribunal or before any other forum or fora.

5.3. This Settlement Agreement shall not constitute a legal precedent for any person, and shall not be used except for the sole purpose of giving effect to its terms, and shall not prejudice or affect other rights of the Parties to this Agreement or any other person in their cases before the Tribunal or elsewhere.

ARTICLE 6

This Agreement (in ^{five} ~~three~~ originals) has been prepared in English and Persian both having equal validity.

ARTICLE 7

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, and the signing of this Settlement Agreement by Iran's Agent and the representatives of NIOC and Claimant shall signify that all such authorities have given their approval.

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

Respondents

Claimant

Agent of the Government of the
Islamic Republic of Iran to the
Iran-U.S. Claims Tribunal

Phillips Petroleum Company
Iran

By: _____

By: _____

Attorney-in-Fact

Date: _____

Date: 1-03-90

The National Iranian Oil
Company

By: _____

Date: Jan 3, 1990

POWER OF ATTORNEY

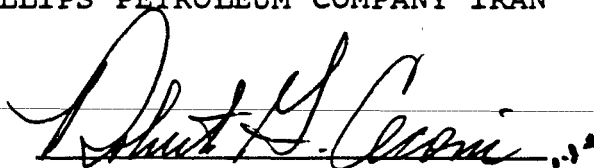
Phillips Petroleum Company Iran, hereinafter called "Company", a corporation organized and existing under the laws of the State of Delaware, United States of America, does hereby make, constitute and appoint W. W. Allen, Marion R. Froehlich or Douglas L. Taylor, as its true and lawful representative, agent and attorney-in-fact, each being authorized and empowered individually to act for and on behalf of the Company and in its name, place and stead from time to time (without the necessity of affixing the corporate seal) to do and perform such acts and to execute and deliver all such agreements, affidavits and other instruments as may be incident to and necessary or advisable in their sole discretion, with advice of legal counsel, in relation to the settlement of claims with the National Iranian Oil Company and the Government of the Islamic Republic of Iran and related settlements of the parent company, subsidiaries or affiliates of this Company; and likewise to execute in the name of this Company all documents which may be required for the due and faithful performance of each and every such contract, agreement or other instrument entered into in the name of this Company.

The power herein granted shall be effective December 20, 1989 and remain in force and effect until June 30, 1990.

EXECUTED in Bartlesville, Oklahoma, United States of America this 20th day of December, 1989.

PHILLIPS PETROLEUM COMPANY IRAN

By:



Vice President

PHILLIPS PETROLEUM COMPANY IRAN

C E R T I F I C A T E

I, the undersigned, D. L. Cone, Assistant Secretary of Phillips Petroleum Company Iran, a Delaware U.S.A. corporation, do hereby certify that R. G. Ceconi is at this date, and has been since June 18, 1986, a Vice President of the Company and as Vice President of Phillips Petroleum Company Iran, he is authorized to execute documents for the Company.

Given under my hand and the seal of the corporation this 20th day of December 1989.

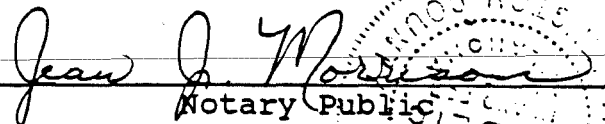

Assistant Secretary

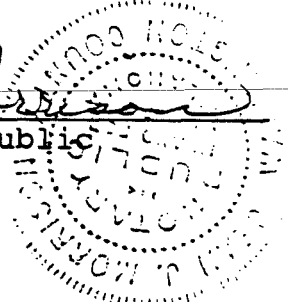


STATE OF OKLAHOMA)
) SS.
COUNTY OF WASHINGTON)

On December 20, 1989, before me, the undersigned, a notary public, in and for said county and state personally appeared R. G. Ceconi and D. L. Cone, known to me to be the Vice President and Assistant Secretary, respectively, of Phillips Petroleum Company Iran and also known to me to be the persons who executed the within instrument on behalf of the said corporation and acknowledged to me that said corporation executed the same.

WITNESS my hand and official seal.


Notary Public



My commission expires August 8, 1990.

PHILLIPS PETROLEUM COMPANY IRAN

C E R T I F I C A T E

I, the undersigned, D. L. Cone, Assistant Secretary of Phillips Petroleum Company Iran, a Delaware U.S.A. corporation, do hereby certify that the attached is a true and correct copy of a resolution adopted by the Directors of said corporation at a meeting of said Board duly held at Bartlesville, Oklahoma on the 20th day of December 1989;

I further certify that said resolution has not been amended, canceled or superseded and is in full force and effect as of the date of this certificate.

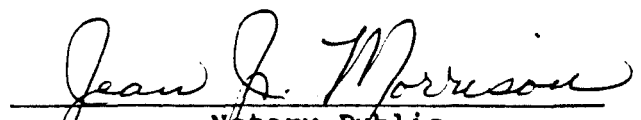
I further certify that R. G. Ceconi is at this date, and has been since June 18, 1986, a Vice President of the Company and as Vice President of Phillips Petroleum Company Iran, he is authorized to execute documents for the Company.

Given under my hand and the seal of the corporation this 20th day of December 1989.


Assistant Secretary

STATE OF OKLAHOMA)
) SS.
COUNTY OF WASHINGTON)

Before me, Jean J. Morrison, a Notary Public in and for said State, on this 20th day of December 1989, personally appeared D. L. Cone, to me known to be the identical person who subscribed his name to the foregoing certificate as Assistant Secretary of Phillips Petroleum Company Iran and acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of such corporation for the uses and purposes therein set forth.


Notary Public

My commission expires August 8, 1990.

Phillips Petroleum
Company Iran

Board of Directors

RESOLUTION

RESOLVED, that the President or any Vice President is authorized to grant a power of attorney to W. W. Allen, Marion R. Froehlich or Douglas L. Taylor appointing each of them as attorney-in-fact, authorized and empowered individually in such capacity to execute for and on behalf of this company (without the necessity of affixing the corporate seal) proposed claims and settlement agreements by and between this company, The National Iranian Oil Company and the Government of the Islamic Republic of Iran relating to settlement of claims and counterclaims filed and asserted in the Iran-United States Claims Tribunal in The Hague, the Netherlands and related settlement agreements of the parent company, subsidiaries or affiliates of this company upon such terms and conditions as any such attorney-in-fact shall deem appropriate, the execution and delivery of any such claim or settlement agreement to be deemed conclusively to evidence the proper exercise of the discretion herein conferred; and

RESOLVED, FURTHER, that any such officer is hereby authorized to execute and issue documents evidencing the appointment of the attorneys-in-fact pursuant to the above resolution, empowering each with such powers as the attorneys-in-fact may require to execute and otherwise consummate such agreements. . . .

Exhibit (1)

IN THE NAME OF GOD

Iran-U.S. Claims Tribunal

The Hague

The Netherlands

Phillips Petroleum Company Iran,

Claimant

-and-

The Islamic Republic of Iran and
National Iranian Oil Company,

Respondents.

Case No. 39

Chamber Two

JOINT REQUEST FOR ARBITRAL
AWARD ON AGREED TERMS

Phillips Petroleum Company Iran ("Phillips-Iran"), the Islamic Republic of Iran, and the National Iranian Oil Company, jointly request that the Tribunal issue an arbitral award on agreed terms that will record and give effect to the Settlement Agreement reached by the Parties.

On _____, 198__, the Parties to this Case entered into a Settlement Agreement, a copy of which is attached hereto, providing that Phillips-Iran shall be paid the amount of Ninety two Million United States Dollars

(U.S.\$ 92,000,000.00) in complete and final settlement of all claims and counterclaims now existing or capable of arising in connection with Case No.39.

Accordingly, the Parties request the Tribunal to record the Settlement Agreement as an arbitral award on agreed terms, with payment to Phillips-Iran to be made out of the Security Account.

Respectfully submitted,

Agent of the Government of the
Islamic Republic of Iran to the
Iran-U.S. Claims Tribunal

Phillips Petroleum
Company Iran

By: _____

By:

Date: _____

Douglas L. Tăylor
Attorney-in-Fact

The National Iranian Oil
Company

Date: _____

By: _____

Date: _____