

## SEPARATE OPINION OF JUDGE PARRA-ARANGUREN

1. Notwithstanding my agreement with the operative paragraphs of the Judgment I consider it necessary to explain that, in my opinion, the Court also has jurisdiction to entertain the claims made by Iran under Article IV, paragraph 1, of the Treaty of 1955, which provides:

“Each High Contracting Party shall at all times accord fair and equitable treatment to nationals and companies of the other High Contracting Party, and to their property and enterprises; shall refrain from applying unreasonable or discriminatory measures that would impair their legally acquired rights and interests; and shall assure that their lawful contractual rights are afforded effective means of enforcement, in conformity with the applicable laws.”

2. Paragraph 36 of the Judgment, after reproducing the contents of the three sentences of Article IV, paragraph 1, of the Treaty of 1955, denies the jurisdiction of the Court in the following terms:

“The whole of these provisions is aimed at the way in which the natural persons and legal entities in question are, in the exercise of their private or professional activities, to be treated by the State concerned. In other words, these detailed provisions concern the treatment by each party of the nationals and companies of the other party, as well as their property and enterprises. Such provisions do not cover the actions carried out in this case by the United States *against Iran*. Article IV, paragraph 1, thus does not lay down any norms applicable to this particular case. This Article cannot therefore form the basis of the Court’s jurisdiction.” (Emphasis added.)

3. The actions carried out by the United States in this case were directed against the offshore oil platforms belonging to the National Iranian Oil Company, not against Iran, as stated in paragraph 36 of the Judgment; and the National Iranian Oil Company is a juridical person different from Iran, even though Iran may own all of its shares. Consequently, as an Iranian corporation, the National Iranian Oil Company is covered by Article IV, paragraph 1, of the Treaty of 1955, and shall be accorded “fair and equitable treatment”, and also protected against the application of “unreasonable or discriminatory measures” that would impair its legally acquired rights and interests. Therefore, in my opinion, the Court has jurisdiction to entertain the claims made by Iran under said

Article IV, paragraph 1, on the basis of Article XXI, paragraph 2, of the Treaty of 1955.

*(Signed)* Gonzalo PARRA-ARANGUREN.

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