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The Honorable Mike Pompeo
House of Representatives
Washington DC 2015

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United States Department of State

Washington, D.C. 20520

The Honorable
Mike Pompeo
House of Representatives
Washington, DC 20515

Dear Mr. Pompeo:

Thank you for your letter of January 21 regarding the announcement that the United States and Iran settled a long-standing claim before the Iran-U.S. Claims Tribunal at The Hague (“the Tribunal”). We apologize for the delay in responding.

The Tribunal was established as part of the Algiers Accords in 1981 in connection with the release of the 52 U.S. hostages detained in Iran. The agreement establishing the Tribunal was transmitted to Congress by the Reagan Administration and implemented through executive orders issued by Presidents Carter and Reagan.

The Tribunal was established to hear claims between the nationals and governments of the two countries. It allowed U.S. nationals – individuals or corporations – to file claims against Iran that had arisen before January 19, 1981, and were based on contracts, debts, expropriations and other measures affecting property rights. The Tribunal resolved long ago all of the approximately 4,700 private U.S. claims filed against the Government of Iran at the Tribunal, resulting in payments of more than \$2.5 billion in awards to U.S. nationals and companies.

In addition to the private claims, significant government-to-government claims were filed, including Iran’s contract claims arising under the U.S.-Iran Foreign Military Sales (“FMS”) Program. The U.S.-Iran FMS Program resulted in billions of dollars in military procurement by Iran in the 1960s and 1970s, with Iran becoming the largest FMS partner at that time. As part of the FMS Program, a Trust Fund was established with Iranian funds to pay U.S. contractors as work progressed on the various contracts. The United States and Iran entered into a Memorandum of Understanding (MOU) in February 1979 that substantially curtailed Iran’s purchases under the FMS Program. Nine months later, in November 1979, the hostages were taken at the U.S. Embassy.

Some of the government-to-government claims were decided or settled some time ago. As claims reached the end of briefing or proceeded to hearings, the parties were occasionally able to reach settlements, including parts of Iran's FMS claims. For example, in 1988, the United States settled one of Iran's FMS claims for spare parts for \$7.5 million, which comprised both principal and interest. In 1990, the United States entered into a partial settlement for \$200 million from the Iranian FMS Trust Fund, and in 1991, the United States settled Iran's claim for titled FMS assets for \$278 million. Apart from the FMS claims, there were other significant settlements between the parties, including in 1990, when the United States received \$105 million from Iran in settlement of certain U.S. national claims and U.S. government claims.

In the past two years, as the litigation proceedings have advanced, Iran revisited the question of settling claims at the Tribunal, raising the issue in June 2014 and January 2015. These discussions led to settlement of claims for architectural drawings, which are now in the Tehran Museum of Contemporary Art, and for fossils, which are now in the possession of Iran's Ministry of the Environment, and the parties also discussed the possibility of broader settlements. With the settlements over the artworks and fossils concluded in December, and with hearings in the FMS claims involving the disposition of the Iranian Trust Fund on the horizon, we were able to achieve this most recent settlement, which finally resolves Iran's claim for funds in the FMS Trust Fund, as well as its claim for interest on the funds for more than 35 years.

The claim that was settled in January addressed Iran's claim for the Trust Fund and interest thereon, as the culmination of both recent settlement efforts and the longer term process of settling claims at the Tribunal over the past three decades. Pursuant to this settlement, Iran received the balance of \$400 million in the Trust Fund as well as roughly \$1.3 billion representing a compromise on the interest.

If Iran's claim for the Trust Fund balance and interest had gone to decision in the Tribunal, the United States could well have faced significant exposure in the billions of dollars. Iran was of course seeking very high rates of interest for a period of over three decades. We were able to secure a favorable resolution on the interest owed to Iran and avoid the potential for a much larger Tribunal award against us, saving the U.S. taxpayers a significant amount of money. Of course, given the nature of litigation risk it is not possible to give a precise figure because we can never know how the Tribunal would have decided the matter. But we are confident that this was a good settlement for the American taxpayer.

The timing was particularly critical, as hearings on this claim were then being considered for scheduling by the Tribunal.

The balance of \$400 million was paid from the Trust Fund itself. The payment for the compromise on interest was provided out of the Judgment Fund. The Judgment Fund is a source of funding to pay judgments and settlements of claims against the United States when there is no other source of funding. Awards and settlements of Tribunal claims have been paid from the Judgment Fund in the past, including for example a \$278 million settlement payment in 1991. As noted, the Trust Fund settlement relates to a claim that was brought before the Tribunal, which does not have jurisdiction to address claims of victims of terrorism. The Trust Fund balance and the Judgment Fund, which were used to pay the settlement, would not have been available to compensate victims of terrorism who hold judgments against Iran.

It would not be in the interest of the United States to discuss further details of the settlement of these claims in an unclassified letter due to the ongoing litigation at the Tribunal. However, we would be prepared to provide a closed briefing on such issues if it would be useful to you.

There remain some large claims pending before the Tribunal, many of which are against the United States. They include Iran's contract claims arising under the former FMS program. These fact-intensive claims involve over 1,000 separate contracts between Iran and the United States. The partial settlement we achieved in January regarding the Trust Fund was part of that case. The United States also has a significant counterclaim against Iran arising out of the FMS program and in January filed a major submission in the case, seeking substantial damages against Iran. Apart from the FMS claims, Iran also has claims for the alleged U.S. failure to transfer property that was blocked following the 1979 hostage crisis, the return of the former Shah's assets and the return of Iran's diplomatic property. The United States is continuing to vigorously litigate these claims at the Tribunal, but is also open to discussing further settlements of claims with Iran, as we have done throughout the life of the Tribunal, with the aim of resolving them in furtherance of U.S. interests.

We hope this information has been useful. We remain committed to continuing our close consultations with Congress on Iran. Please do not hesitate to contact us if we can be of further assistance on this or any other matter.

Sincerely,



Julia Frifield
Assistant Secretary
Legislative Affairs