



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

September 12, 2016

The Honorable Mike Pompeo
U.S. House of Representatives
Washington, DC 20515

Dear Representative Pompeo:

I write in response to your recent letter regarding the January 2016 settlement of Iran's longstanding claim before the Iran-United States Claims Tribunal at The Hague (the Tribunal). As we have stated previously, the settlement of this longstanding dispute benefited the United States and saved taxpayers potentially billions of dollars.

As you know, the United States and its partners entered into the Joint Comprehensive Plan of Action (JCPOA) with Iran on July 14, 2015. Through implementation of the JCPOA, Iran reduced its stockpile of enriched uranium by 98%, dismantled two-thirds of its centrifuges, redesigned its heavy water reactor at Arak to effectively eliminate Iran's only source of weapons grade plutonium, and accepted the most intrusive and thorough IAEA monitoring regime ever negotiated. These important steps have extended Iran's breakout time – i.e. the time it would take to produce enough fissile material for a nuclear bomb – from only two months to over 12 months. The nuclear negotiations also created additional opportunities for diplomacy, including talks that secured the release of unjustly detained Americans in Iran and reinforcing ongoing talks related to Hague Tribunal claims that led to the January 2016 claim settlement.

Your letter requests information about Treasury's involvement in effectuating the payments related to the January 2016 Hague Tribunal settlement. The Administration publicly announced the \$1.7 billion settlement on January 17, 2016. The settlement involved two payments by the United States to settle a long-standing dispute with Iran regarding an account established decades ago with Iranian funds, as well as its claim for interest on that account. Both payments complied with U.S. sanctions law and neither were "ransom." The Administration's public announcement has been, and continues to be, available at the websites of the White House and the State Department.¹

¹ Statement by the President on Iran (January 17, 2016) (available online at www.whitehouse.gov/the-press-office/2016/01/17/statement-president-iran and Press Statement of Secretary of State John Kerry on the Hague Claims Tribunal Settlement (January 17, 2016) (available online at www.state.gov/secretary/remarks/2016/01/251338.htm).

In response to recent requests, Treasury has provided detailed information to Congress about its efforts to effectuate the payments related to the January 2016 settlement. For example, a Treasury official testified on September 8, 2016 in a public hearing before the House Committee on Financial Services, and Treasury staff participated in closed interagency briefings for congressional staff. This letter summarizes the information provided in the hearing and briefings.

The Claim at the Tribunal

The Tribunal was established pursuant to the Algiers Accords of January 19, 1981, and was set up to resolve claims between the governments and nationals 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. Those claims had to be filed by January 19, 1981. The Tribunal has long resolved all of those claims, resulting in recovery of approximately \$2.5 billion from Iran by U.S. claimants.

The claim that was settled in January is part of a much larger case involving Iran's claims arising out of the former Foreign Military Sales (FMS) program that Iran had with the United States in the 1960s and 1970s. The remainder of the FMS case is being actively litigated in the Tribunal, and the State Department just this week submitted a filing in the case. As the State Department has advised, if the Iranian claim settled in January had gone to decision in the Tribunal, the United States could well have faced significant exposure, with potential cost to the U.S. taxpayer in the billions of dollars.

The Settlement Payments

For the first settlement payment in January, Treasury assisted the Defense Finance and Accounting Service (DFAS) in crafting a wire instruction to transfer the \$400 million in principal from the Iran FMS account on January 14, 2016. This account – typically referred to as the FMS Trust Fund – amounted to about \$600 million until 1990, when the Bush Administration entered into a settlement returning \$200 million to Iran, and since that time the fund has amounted to about \$400 million. Treasury worked with DFAS and the Federal Reserve Bank of New York (FRBNY), which was acting as Treasury's fiscal agent, so that the funds were converted from dollars to Swiss francs and credited to a FRBNY account at the Swiss National Bank (SNB), which is the central bank of the Switzerland.

FRBNY withdrew the funds from its account as Swiss franc banknotes and the U.S. Government physically transported them to Geneva. On January 17, Treasury disbursed the payment to an official from the Central Bank of Iran, for transfer to Tehran. The funds were under U.S. Government control until their disbursement pursuant to the settlement.

The second settlement payment, which represented a settlement of the dispute over accrued interest, was disbursed out of the Judgment Fund. The Judgment Fund is the source of funding Congress has provided for use generally in paying 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 a \$278 million settlement reached in 1991.

Though the payment to settle the dispute over accrued interest was one payment, the Judgment Fund system has a technical limitation that prevents it from processing individual claims in amounts over ten digits in length. Therefore the single claim of \$1.3 billion was broken into 13 claims of \$99,999,999.99, and the remainder of \$10,390,236.28. As in similar prior instances, the system's technical limitation required a claim to be divided into smaller amounts. These amounts are displayed on Treasury's Judgment Fund website, as is additional information about claims processed through the Judgment Fund.

Treasury disbursed the payment after receiving the appropriate approvals from the Department of Justice. The payment from the Judgment Fund was initiated through a transfer to an account of the Dutch Central Bank (DNB). In this circumstance, it was held available for disbursement to Iran. Pursuant to an arrangement between Iran, the Netherlands, and the United States, DNB converted the \$1.3 billion into euros. DNB then disbursed the funds as euro banknotes in the Netherlands to an official from the Central Bank of Iran. The disbursement occurred in two installments, one on January 22 and the other on February 5.

The Payments were Consistent with Existing Sanctions and did not Constitute Ransom

The sanctions regime we built with our international partners had effectively cut off Iran from the international financial system. Iran was very aware of the difficulties it would face in accessing and using these funds if they were in any form other than cash, even after the lifting of sanctions under the JCPOA. Therefore, effectuating the payment of the funds in the FMS account and the subsequent interest payments in cash was the most reliable way to ensure that they received the funds in a timely manner.

For both the payments to settle the dispute over principal and the interest, no direct transfer was made from any U.S. account to Iran. In addition, these transactions complied with U.S. sanctions law and did not require a unique license, waiver, or other form of authorization. Treasury's Iranian Transactions and Sanctions Regulations, at 31 C.F.R. 560.510, explicitly authorize "[a]ll transactions necessary to payments pursuant to settlement agreements entered into by the United States Government" in a legal proceeding in which the United States is a party, such as settlements of claims before the Tribunal.

As the Administration has said, neither of the payments constituted ransom to secure the return of Americans unjustly held in Iran. The Americans were released based on a one-time, reciprocal arrangement reached after 14 months of negotiations. The funds that were transferred to Iran effectuated the settlement with Iran of a longstanding claim at the Tribunal. The settlement of this 35-year old claim was resolved on its merits to the benefit of the United States, and the settlement negotiations included technical experts involved in litigating these claims at the Tribunal for several decades.

We remain committed to working cooperatively with Congress. If you need more information, please contact me or have your staff contact Luke Ballman, Office of Legislative Affairs, at (202) 622-1900.

Sincerely,

A handwritten signature in blue ink, appearing to read "T. Maloney", with a long horizontal flourish extending to the right.

Thomas Patrick Maloney
Senior Advisor, Office of Legislative Affairs