



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

October 24, 2016

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

The Honorable Marco Rubio
United States Senate
Washington, DC 20510

Dear Congressman Pompeo and Senator Rubio:

This responds to your letter to the Attorney General, dated October 7, 2016, regarding the January 17, 2016, announcement that the United States and Iran settled a long-standing claim before the Iran-U.S. Claims Tribunal at The Hague.

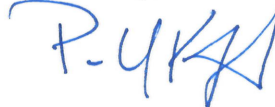
As we noted in public testimony, the Department of Justice (the Department) fully supported the Administration's resolution of several issues with Iran, including the settlement of the Hague Tribunal claim involving the Foreign Military Sales fund, as well as the arrangements that led to the return of U.S. citizens detained in Iran. For additional information on the Department's role in these matters, please see attached a written copy of the Department's opening statement from the September 8, 2016, hearing before the House Financial Services Subcommittee on Oversight and Investigations. In addition to this testimony, we also provided closed briefings for House and Senate staff on September 6, 2016.

As you know, in response to requests from other Committees and members, the Departments of Justice, State, and Treasury also transmitted to William McFarland, Director of House Security, and Michael DiSilvestro, Director of Senate Security, documents outlining the arrangements settling this claim, as well as documents regarding other arrangements that were made in that same time frame. These documents have been available to all members of the House and Senate and all staff who are able to view them in House and Senate Security since early September 2016, and remain available for review at your convenience. Please note that these documents contain sensitive information that is not appropriate for public release. Disclosure of this information beyond members of the House and Senate and staff who are able to view them could adversely affect the diplomatic relations of the United States, including with key allies, as well as the State Department's ability to defend claims against the United States that are still being litigated at the Hague Tribunal. The public release of any portion of these documents, or the information contained therein, is not authorized by the transmittal of these documents or by this communication.

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While we have made significant efforts to accommodate your information needs and respond to your requests regarding this matter, we remain available to confer with your staff to address any remaining questions you may have in connection with this matter. We hope that this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,



Peter J. Kadzik
Assistant Attorney General

Enclosure

Prepared Remarks of Mary McCord, Principal Deputy Assistant Attorney General for National Security, before the House Financial Services Subcommittee on Oversight and Investigations

September 8, 2016

Good morning Chairman Duffy, Ranking Member Green, and members of the subcommittee. Thank you for the opportunity to appear before you today to discuss the Department's role in the settlement of Iran's claim before the Iran-U.S. Claims Tribunal at the Hague for funds in the Foreign Military Sales (or "FMS") trust fund, as well as Iran's associated claim for interest on these funds.

As the Attorney General made clear when the deal was first announced, the Department of Justice fully supported the Administration's resolution of several issues with Iran, including the settlement of the Hague Tribunal claim involving the FMS fund, as well as the arrangements that led to the return of U.S. citizens detained in Iran.

With respect to the Hague settlement, when there is a settlement of litigation that is pending against the United States, it is generally paid from the judgment fund unless there is a separate source of funding for such a settlement. For a payment of a settlement to be made from the judgment fund, the Attorney General must certify to the Treasury that the payment of the settlement is in the best interests of the United States.

Here, the Attorney General approved the settlement and certified payment from the judgment fund of the portion of the settlement that resolved the interest dispute. The certification was based on the Department of Justice's typical type of assessment for such judgment fund payments. Assessment of a settlement payment from the judgment fund includes consideration of the exposure that the United States faces from the claims proposed for settlement. It also considers the likelihood of an adverse ruling against the United States; the likely size of such an award; the background of the litigation, the tribunal, relevant legal arguments, relevant facts, and governing legal doctrines.

The Department's certification of this settlement payment from the judgment fund was based on the assessment that it was in the best interests of the United States -- that the payment was significantly less than the United States's exposure under the claims for the balance in the FMS (foreign military sales) account and the interest on those funds.

The Department of Justice also was involved in the consular negotiations with Iran, and in effectuating the ultimate arrangements that led to the release of American citizens. In this regard, DOJ identified certain criminal cases involving Iranian and Iranian-American defendants for which relief could be provided as a reciprocal humanitarian gesture. The defendants in these cases had been charged primarily with violating the U.S. trade embargo. None were charged with terrorist activity or other violent crimes.

As has been noted previously, the ultimate arrangement involved the pardon or commutation of seven defendants who had been convicted or were awaiting trial in the United States, and the

dismissal of criminal charges against 14 others, all of whom were located outside the United States and for whom our attempts to obtain custody had failed or were likely to fail.

DOJ was also responsible for preparing and filing the paperwork related to the pardons, commutations, and dismissals.

I thank you for the opportunity to testify. I am happy to answer any questions you might have.