

No. 21912

**NETHERLANDS
and
IRAN**

Exchange of notes constituting an agreement concerning a security account relating to the settlement of certain disputes between the United States of America and Iran (with annex). The Hague, 13 August 1981

Authentic text: English.

Registered by the Netherlands on 31 May 1983.

**PAYS-BAS
et
IRAN**

Échange de notes constituant un accord concernant l'ouverture d'un compte de garantie en relation avec le règlement de certains différends entre les États-Unis d'Amérique et l'Iran (avec annexe). La Haye, 13 août 1981

Texte authentique : anglais.

Enregistré par les Pays-Bas le 31 mai 1983.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE GOVERNMENT OF THE NETHERLANDS
AND THE GOVERNMENT OF IRAN CONCERNING A SECURITY
ACCOUNT RELATING TO THE SETTLEMENT OF
CERTAIN DISPUTES BETWEEN THE UNITED STATES OF
AMERICA AND IRAN

I

EMBASSY OF THE ISLAMIC REPUBLIC OF IRAN
THE HAGUE

In the name of God

No. 340

The Embassy of the Islamic Republic of Iran at The Hague presents its compliments to the Ministry of Foreign Affairs and has the honour to refer to the consultations among representatives of the Governments concerned relating to the selection of De Nederlandsche Bank at Amsterdam by the Governments of the Islamic Republic of Iran and the United States of America as a mutually agreeable central bank within the meaning of the Declaration of the Government of the Democratic and Popular Republic of Algeria of 19th January 1981.²

The Embassy of the Islamic Republic of Iran has the honour to enclose herewith the text of agreement which is agreed by the appropriate authorities.

If this agreement which contains preamble and nine articles set in the Annex to this note, are acceptable to the Government of the Kingdom of the Netherlands, the Embassy proposes that this note together with the affirmative Note of reply of the Ministry constitutes an agreement between the Islamic Republic of Iran and the Kingdom of the Netherlands which shall enter into force on the date of the Note of reply.

The Hague, August 13, [1981]

The Embassy
of the Islamic Republic of Iran

Attachment: Annex.

ANNEX

Considering the Exchange of notes dated July 10, 1981 between the Governments of the Kingdom of the Netherlands and the United States of America³ as well as the Exchange of Notes dated 10th and 13th of July 1981 between the Governments of the Kingdom of the Netherlands and the Democratic and Popular Republic of Algeria⁴ and the immunities covered by the above referred two Exchanges of Notes, the Governments of the King-

¹ Came into force on 13 August 1981, the date of the note in reply, in accordance with the provisions of the said notes.

² See p. 225 of this volume.

³ See p. 225 of this volume.

⁴ See p. 245 of this volume.

dom of the Netherlands and the Islamic Republic of Iran do state their agreements hereunder as follows:

Article 1. 1) The Governments of the Islamic Republic of Iran and the United States of America, desiring to give effect to certain provisions of the Declaration of the Government of the Democratic and Popular Republic of Algeria of 19th January 1981, have selected, as a mutually agreeable central bank, De Nederlandsche Bank at Amsterdam, to assume the management of the N.V. Settlement Bank of the Netherlands which shall act as Depositary of the funds in the Security Account established by the foregoing Declaration.

2) The Government of the Kingdom of the Netherlands concurs with the appointment of De Nederlandsche Bank for this task, subject to the provisions of the present Agreement and subject to agreement being reached among the competent authorities or central banks of the other States concerned and De Nederlandsche Bank and the Depositary on the conditions subject to which the latter shall carry out their respective tasks. The agreement or agreements reached by De Nederlandsche Bank and the Depositary on this matter with the authorities or central banks of the other States shall hereafter be referred to as the "Technical Agreements".

3) Having regard to the international and public nature of the foregoing tasks entrusted to De Nederlandsche Bank and the Depositary, the said Banks shall, in performing their functions, enjoy immunity from the jurisdiction of each of the Contracting States as described below.

Article 2. 1) The Security Account shall be opened by the Depositary on its books in the name of the Banque Centrale d'Algérie, as Escrow Agent.

2) The Security Account may consist of one or more accounts as may be provided for in the technical Agreements.

3) The Security Account has as its sole purpose to hold funds in order to secure the payment of, and to pay, claims in accordance with awards rendered by the Tribunal pursuant to the Declaration of the Government of the Democratic and Popular Republic of Algeria Concerning the Settlement of Claims by the Government of the United States of America and the Government of the Islamic Republic of Iran, of 19 January 1981, and in accordance with the Technical Agreements.

It is further understood that in case the Islamic Republic of Iran and the United States of America reach an agreement on the question of the payment out of the Security Account of the amounts agreed between Iran and any of the United States claimants in settlement of the relevant claim or in case a decision of the Tribunal is issued to this effect, then the amount of such settlements may also be paid for out of the Security Account. The sole function of the Depositary shall be to carry out the responsibilities specified in the present Agreement and in the Technical Agreements.

Nothing in this clause shall prevent the Depositary from investing the funds held in the Security Account in accordance with the provisions of the Technical Agreements.

Article 3. Payments from the Security Account shall be made and the Account shall be closed in accordance with rules to be set forth in the Technical Agreements.

Article 4. The Depositary shall be responsible to the Banque Centrale d'Algérie as Escrow Agent, and to other parties to the Technical Agreements, for the management of the Security Account in accordance with rules to be set forth in the Technical Agreements.

Article 5. 1) The funds held in the Security Account and the funds in turn deposited with third parties by the Depositary are immune in each of the Contracting States from attachment, enforcement of court judgements and/or writs of execution.

2) Attachment orders, court judgements and/or writs of execution issued against the funds held in the Security Account shall not be enforced or otherwise implemented within the territory of the Contracting States.

Article 6. Except as otherwise provided for in the present Agreement or in the Technical Agreements, De Nederlandsche Bank and the Depositary shall enjoy immunity from the jurisdiction of the Contracting States, in accordance with their laws, in respect of claims relating to:

- a) The presence in the Netherlands of the funds in the Security Account;
- b) The assistance given by De Nederlandsche Bank or the Depositary in setting up and managing the Security Account;
- c) Actions performed or omitted by De Nederlandsche Bank or the Depositary in carrying out the tasks entrusted to them in accordance with the present Agreement.

Article 7. Judgments by foreign courts and writs of execution, in so far as they relate to claims as defined in Article 6 above against De Nederlandsche Bank and/or the Depositary, shall not be enforced or otherwise implemented within the Territory of the Contracting States.

Article 8. The Governments of the Contracting States shall be responsible for the effective implementation of the immunities covered by the present Agreement in their respective countries.

Article 9. If De Nederlandsche Bank or the Depositary appears before the courts in order to assert immunity pursuant to the present Agreement, it shall not thereby be deemed to have waived immunity.

II

MINISTRY OF FOREIGN AFFAIRS THE HAGUE

DVE/VV-226111

The Ministry of Foreign Affairs presents its compliments to the Embassy of the Islamic Republic of Iran at The Hague and has the honour to acknowledge receipt of the Note of 13 August 1981 of the Embassy, the text of which reads as follows:

[*See note I*]

The Ministry has the honour to confirm that the contents of the Note and its Annex are acceptable to the Government of the Kingdom of the Netherlands and that the Note together with this Note constitute an Agreement between the Governments of the Kingdom of the Netherlands and the Islamic Republic of Iran which shall enter into force on the date of this Note.

The Hague, 13 August 1981

To the Embassy of the Islamic Republic of Iran
at The Hague
