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TEXT

TAGS: EFIN, PREL, AL  
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SUBJECT: GOLD/CLAIMS NEGOTIATIONS

1. CONFIDENTIAL -- ENTIRE TEXT.

2. SUMMARY: ON APRIL 28-30, USG DELEGATION, HEADED BY MARY BETH WEST (L/CID), MET WITH GOVERNMENT OF ALBANIA (GOA) REPRESENTATIVES IN TIRANA FOR THE FIRST ROUND OF NEGOTIATIONS FOR A US-GOA CLAIMS SETTLEMENT AGREEMENT. ALTHOUGH PROGRESS WAS SLOW DURING THE FIRST TWO DAYS DUE TO GOA UNWILLINGNESS TO CONSIDER A LUMP SUM PAYMENT, AT THE APRIL 30 SESSION THE GOA INFORMED THE U.S. SIDE THAT IT WOULD ACCEPT THE U.S. DRAFT AS THE BASIS FOR AGREEMENT AND WOULD WORK THROUGH THE EMBASSY ON THE EVENTUAL SIZE OF THE LUMP SUM PAYMENT TO THE FCSC. ASSUMING PROGRESS IS MADE DURING THE INTERIM, THE TWO SIDES DISCUSSED MEETING IN LONDON TO SIGN AN ACCORD AND TOGETHER WITH THE BRITISH AND FRENCH WORK OUT THE MODALITIES FOR THE RETURN OF THE GOLD WITH THE BANK OF ENGLAND. END SUMMARY.

3. PERSONS ATTENDING THE MEETINGS: FOR THE USG, MARY BETH WEST, L/CID) STATE; CHRIS HILL, DCM, USEMBASSY TIRANA; DAVID KOSTELANCIK, POL-ECON OFFICER, USEMBASSY TIRANA; DAVID BRADLEY, CHIEF COUNSEL, FOREIGN CLAIMS SETTLEMENT COMMISSION (FCSC), DEPARTMENT OF JUSTICE; DAVID JOY, SENIOR COUNSEL, DEPARTMENT OF THE TREASURY; FRANK SHKRELI, STATE DEPARTMENT INTERPRETER. FOR THE ALBANIANS: LEONARD DEMI, DIRECTOR, MINISTRY OF FOREIGN AFFAIRS (HEAD OF GOA DEL); QIRIAKO QIRKO, HEAD OF JURIDICAL AND CONSULAR DEPARTMENT, MOFA; SKENDER BARHANI, HEAD OF LEGISLATION DEPARTMENT, MINISTRY OF FINANCE; DHURATA DOLLNENI, HEAD OF FOREIGN CURRENCY SECTION, MINISTRY OF FINANCE; FLORENT CELIKU, DESK OFFICER FOR USA, MOFA; KASTRIOT MYFTIU, INTERPRETER, UNIVERSITY OF TIRANA.

4. GOA CHIEF OF DEL DEMI OPENED BY STATING THAT IT WAS THE GOA'S SPECIAL PLEASURE, AFTER 50 YEARS OF BLOCKED ALBANIAN/U.S. RELATIONS, TO MEET WITH A U.S. TEAM TO DISCUSS U.S. CLAIMS ARISING FROM THE COMMUNIST ERA AND TO INITIATE THE RETURN OF ALBANIAN GOLD. HE NOTED THAT THE USG HAS A STRATEGIC AND IRREPLACEABLE POSITION IN THE INTERNATIONAL RELATIONS OF ALBANIA, THAT USG HUMAN RIGHTS ACTIONS TO PROTECT ALBANIANS AGAINST SERB AGGRESSION HAVE AIDED THE GOA, AND THAT USG EMERGENCY AID TO ALBANIA HAS BEEN HIGHLY APPRECIATED.

5. WEST THANKED THE GOA FOR HOSTING THE TALKS,

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INDICATED U.S. PLEASURE IN NEGOTIATING CLAIMS, AS PROVIDED IN 1991 AGREEMENT REESTABLISHING RELATIONS, AND EXPRESSED U.S. DESIRE TO MOVE FORWARD EXPEDITIOUSLY TO NEGOTIATE A CLAIMS SETTLEMENT AGREEMENT. SHE OFFERED TO DESCRIBE GENERAL U.S. CLAIMS POLICY AND PROCEDURES, AND TO EXPLAIN THE RECENT SURVEY OF ALBANIAN-AMERICAN CLAIMS. SHE ASKED FOR AN OVERVIEW OF THE GOA LAW, PASSED BY THE ALBANIAN PARLIAMENT ON APRIL 15, 1993, ENTITLED "ON THE RESTITUTION AND COMPENSATION OF THE PROPERTIES OF SOME EX-PROPRIETORS" (THE "MUNICIPAL PROPERTY LAW"), WHICH WILL BE AVAILAABLE FOR U.S. CLAIMANTS WHOSE CLAIMS ARE NOT SETTLED BY THE AGREEMENT. SHE ALSO PROPOSED DISCUSSIONS ON THE TEXT OF A DRAFT CLAIMS SETTLEMENT AGREEMENT, AN APPROPRIATE SETTLEMENT AMOUNT, AND THE RELATIONSHIP BETWEEN PAYMENT OF THE LUMP SUM SETTLEMENT AMOUNT AND THE RETURN OF THE GOLD HELD BY THE TRIPARTITE GOLD COMMISSION (TGC) FOR ALBANIA.

6. WITH ALBANIAN CONCURRENCE ON THE GENERAL OUTLINES OF DISCUSSION, WEST THEN DESCRIBED USG POLICY ON RESOLVING CLAIMS OF U.S. CITIZENS AND STATED THAT USG, THANKS TO RECENT FCSC SURVEY OF AMERICAN CLAIMS, HAS MUCH BETTER INFORMATION ON UNIVERSE OF CLAIMS AGAINST ALBANIA. SHE STATED THAT, TO THE USG'S BEST KNOWLEDGE, NO GOVERNMENT CLAIMS EXISTED. THUS THE USG PROPOSED SETTLEMENT OF CLAIMS U.S. NATIONALS, ESPOUSED BY THE USG, FOR PROPERTY OWNED BY U.S. NATURAL AND JURIDICAL PERSONS AT THE TIME OF THE TAKING AND CONTINUOUSLY TO THE PRESENT. THE PROPOSED AGREEMENT WOULD NOT COVER CLAIMS OF U.S. CITIZENS FOR PROPERTY NOT OWNED BY U.S. NATIONALS AT THE TIME OF THE TAKING. THE FCSC PROCESS WAS THEN DESCRIBED. WEST STATED THAT THE U.S. EXPECTED A SUBSTANTIAL NUMBER OF U.S. CLAIMANTS, WHICH COULD BE AS MANY AS 700, TO ADVANCE CLAIMS TO THE FCSC, AND SHE OFFERED SOME HISTORY CONCERNING PRIOR VALUATIONS OF ALBANIAN CLAIMS UNDER THE WAR CLAIMS PROGRAM. BASED ON THIS EVIDENCE, THE USG SOUGHT A LUMP SUM CLAIMS SETTLEMENT AMOUNT OF \$3 MILLION, WHICH REFLECTED A PRINCIPAL AMOUNT PLUS SIX PERCENT SIMPLE INTEREST.

7. WEST THEN RAISED THE ISSUE OF THE CONSERVATIVE BAPTIST MISSION SOCIETY CLAIM TO THREE PARCELS OF PROPERTY IN AND NEAR KORCA. SHE SAID THAT THE SOCIETY WANTED RESTITUTION OF THIS LAND, AND IF THE LAND WERE RESTORED, THE SETTLEMENT AMOUNT COULD BE REDUCED. GOA CHIEF DEMI SAID THAT HE WAS FAMILIAR WITH THE SOCIETY, BUT THE ALBANIANS DID NOT APPEAR TO BE AWARE OF THIS PARTICULAR CLAIM. (SOCIETY MAY, HOWEVER, HAVE PROBLEMS BEING RESTORED LAND UNDER TERMS OF LAWS DISCUSSED BELOW, AND GOA WAS NOT SURE WHETHER SOCIETY IS A FOREIGN CORPORATION

NOT COVERED UNDER MUNICIPAL PROPERTY LAW.)

8. WEST THEN ENDED THE U.S. PRESENTATION BY STRESSING USG CONCERN FOR TREATMENT OF U.S. NATIONALS WHO HAVE CLAIMS WHICH CANNOT BE SETTLED BY THIS AGREEMENT. SHE SAID THAT THE U.S. CANNOT SETTLE CLAIMS FOR PROPERTY WHICH WAS NOT OWNED BY U.S. NATIONALS AT THE TIME OF TAKING. IN ADDITION, IN THE SPECIAL FACTS OF THIS CASE IT WOULD BE INAPPROPRIATE FOR THE U.S. TO SETTLE THE CLAIMS OF DUAL U.S.-ALBANIAN NATIONALS LIVING ABROAD WHO HAVE NO PRACTICAL TIES WITH THE UNITED STATES. BECAUSE THEIR CLAIMS MAY FALL UNDER THE ALBANIAN PROPERTY LAWS, THE U.S. WAS VERY INTERESTED IN RECEIVING DETAILS ON THESE LAWS.

9. GOA REPS THEN BRIEFED THE USDEL ON THE GOA MUNICIPAL PROPERTY LAW AND LAW ON LAND (THE AGRICULTURAL PROPERTY LAW). HIGHLIGHTS OF GOA LAWS ARE AS FOLLOWS: RESTITUTION AND COMPENSATION (IN LEKE) ARE AVAILABLE UNDER MUNICIPAL PROPERTY LAW FOR PROPERTY WITHIN MUNICIPAL LIMITS, BUT ONLY COMPENSATION IS AVAILABLE UNDER LAND LAW FOR PROPERTY OUTSIDE MUNICIPAL LIMITS. COMPENSATION UNDER LAND LAW IS LIKELY TO BE PAID WITH BONDS OR VOUCHERS PAYABLE IN 1999, AND GOA IS NOT SURE WHETHER BONDS WILL BEAR INTEREST. IN ANY EVENT, SYSTEM FOR VALUING PROPERTY HAS NOT BEEN ESTABLISHED UNDER EITHER LAW. ONCE OWNERSHIP IS RECOGNIZED BY LOCAL LAND OFFICE, CLAIMANTS WILL HAVE TO WORK OUT ARRANGEMENTS WITH CURRENT OCCUPANTS FOR PAYMENT OF RENT OR VACATION OF PREMISES BASED ON STANDARDS CONTAINED IN THE LAWS. IF DISPUTES ARISE, OWNER WILL HAVE TO TAKE CURRENT OCCUPANT TO LOCAL COURT. BOTH LAWS STRONGLY FAVOR SMALL PROPERTY HOLDERS; HOLDERS OF OVER ONE HACTARE (APPROXIMATELY 2.5 ACRES) CANNOT RECEIVE FULL RESTITUTION OR FULL COMPENSATION FOR THE EXCESS OVER THAT AMOUNT.

10. THE MUNICIPAL PROPERTY LAW CAME INTO FORCE ON MAY 15, 1993, AND REQUIRES PRESENTATION OF DEMANDS FOR TRANSFER (I.E., CLAIMS) WITHIN SIX MONTHS. LAND LAW MAY ENTER INTO FORCE SOMETIME THIS SPRING, AND WILL HAVE A ONE YEAR CLAIMS PRESENTATION PERIOD. GOA IS APPARENTLY FAXING INFORMATION ON THE MUNICIPAL PROPERTY LAW TO GOA EMBASSY IN WASHINGTON FOR PUBLICATION IN USA.

11. TO PRESENT CLAIMS, U.S. CLAIMANTS SHOULD COME TO ALBANIA, OR HIRE ALBANIAN REPRESENTATIVES, TO APPEAR BEFORE THE LOCAL LAND OFFICE IN THE DISTRICT WHERE PROPERTY IS LOCATED, WITH SUPPORTING DOCUMENTS, TO HAVE THEIR OWNERSHIP CONFIRMED. THE U.S. EMBASSY HAS SUPPLIED LIST OF ALBANIAN ATTORNEYS WHO MIGHT BE AVAILABLE. GOA INDICATED

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WILLINGNESS TO WORK WITH U.S. EMBASSY IF THERE ARE ALBANIAN-AMERICANS IN U.S. WHO HAVE SMALL CLAIMS AND WOULD NOT BE ABLE TO PRESENT CLAIMS IN ALBANIA OR HIRE LOCAL COUNSEL.

12. FIRST AFTERNOON MEETING WAS SPENT ENTIRELY ON THE ISSUE, RAISED BY THE GOA, OF ALBANIAN CLAIMS FOR SOCIAL SECURITY PAYMENTS HELD BY THE TREASURY DEPARTMENT. (GOA DEL DID NOTE THAT THIS RESTRICTION HAD RECENTLY BEEN LIFTED.) U.S. DEL RESPONDED THAT THIS MEASURE HAD PROTECTED ALBANIAN-AMERICANS RESIDENT IN ALBANIA FROM CONFISCATION OF THEIR CHECKS BY THE COMMUNIST REGIME, AND THAT SUCH SOCIAL SECURITY PAYMENTS SHOULD BE TREATED OUTSIDE THE CLAIMS SETTLEMENT AGREEMENT. THE USG STATED THAT IT COULD NOT ENTER INTO A LUMP SUM AGREEMENT WITH ALBANIA FOR THE TOTAL AMOUNT OF THESE PAYMENTS. U.S. DEL NONETHELESS INDICATED A WILLINGNESS TO DISCUSS A SIDE LETTER OR AGREED MINUTE SIMILAR TO A LETTER IN THE CHINA CLAIMS AGREEMENT WHEREBY THE U.S. WOULD PROMISE BEST EFFORTS TO ASSIST INDIVIDUAL ALBANIANS IN ATTEMPTING TO RECOVER PAYMENTS FROM THE SOCIAL SECURITY ADMINISTRATION.

13. BEFORE SECOND MORNING MEETING, U.S. DEL RECEIVED SOME LIMITED INFORMATION FROM WASHINGTON ON ABILITY OF ALBANIANS TO RECOVER BENEFITS ACCRUING TO ALBANIANS WHO WERE U.S. CITIZENS OR NON-U.S. CITIZENS. ALSO U.S. DEL MET WITH CONSULAR OFFICER CUMMINGS FOR BRIEFING ON THE OVER 200 ALBANIAN QUOTE CLAIMS UNQUOTE FOR BENEFIT CHECKS FROM THE SOCIAL SECURITY ADMINISTRATION. ALL OF THESE CLAIMANTS APPEAR TO BE HEIRS OF U.S. CITIZENS WHO HAD MOVED BACK TO ALBANIA SINCE 1944 AND WHO WERE NOT ABLE TO RECEIVE CHECKS. U.S. DEL THUS BEGAN MEETING BY STATING THAT IT WOULD PROVIDE MORE DETAILED INFORMATION THROUGH U.S. EMBASSY CONSULAR OFFICER, AND THAT CONSULAR OFFICER SHOULD BE PRIMARY CONTACT AND SHOULD SCREEN ANY POSSIBLE GOA ADVERTISEMENTS ON POTENTIAL CLASSES OF CLAIMANTS.

14. GOA SPENT REMAINDER OF APRIL 29 MEETINGS PRESSING WHAT APPEARED TO BE ITS BOTTOM LINE POSITION: THAT THE RELEASE OF THE TGC GOLD DUE THE GOA SHOULD NOT BE TIED TO RESOLUTION OF CLAIMS ISSUES. GOA ARGUED THAT ONLY SINCE 1984 HAS THE USG TIED RELEASE OF THE GOLD TO PAYMENT OF PROPERTY CLAIMS. IN GOA'S EYES, NOW THAT THE PROPERTY LAWS HAD BEEN PASSED AND THE GOA WAS DEMOCRATIC, U.S. PROPERTY HOLDERS COULD TAKE ADVANTAGE OF ALBANIAN RESTITUTION/COMPENSATION SYSTEM.

15. USG RESPONDED THAT WHILE THE PROPERTY LAW MIGHT BE USED INDIVIDUALLY BY SOME U.S. NATIONALS, THE CLAIMS ESPOUSED BY THE USG MUST BE SETTLED

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THROUGH A LUMP SUM AGREEMENT PROVIDING ADEQUATE AND EFFECTIVE COMPENSATION UNDER APPLICABLE STANDARDS OF INTERENATIONAL LAW.

16. ON THE MORNING OF APRIL 30, IMMEDIATELY PRIOR TO THE DEPARTURE OF THE DELEGATION, THE ALBANIAN SIDE REQUESTED AN ADDITIONAL SESSION TO ANNOUNCE THAT IT WOULD ACCEPT THE U.S. DRAFT (WHICH INCLUDED PROVISION FOR A LUMP SUM PAYMENT) AS A BASIS FOR AN EVENTUAL AGREEMENT: THE ALBANIAN SIDE PROPOSED THAT IT CONTINUE NEGOTIATION ON THE SIZE OF THE LUMP SUM PAYMENT THROUGH AMEMBASSY TIRANA, WITH THE EXCEPTION THAT A FULL TEXT CAN BE REACHED. ASSUMING AGREEMENT, THE TWO SIDES DISCUSSED HAVING THE NEXT MEETING TAKE PLACE IN LONDON. THE SESSION IN LONDON WOULD AIM TO COMPLETE MODALITIES FOR THE ACTUAL TRANSFER OF THE GOLD AND WOULD INCLUDE REPRESENTATIVES FROM THE BANK OF ENGLAND.

17. CONCLUDING THE MEETING, BOTH SIDES EXPRESSED APPRECIATION FOR THE OPPORTUNITY TO EXPLORE THE ISSUES FACE-TO-FACE AND AGREED TO WORK TOWARD AGREEMENT ON A TEXT PRIOR TO THE NEXT SESSION. THE DELEGATIONS PROMISED TO STAY IN CLOSE CONTACT THROUGH AMEMBASSY TIRANA.

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ADMIN  
END OF MESSAGE

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