

10303-6

ES CLAIMS TRIBUNAL

بیوان داری دعاوی ایران - ایالات متحدہ

ORIGINAL DOCUMENTS IN CASE

6

Case No. 10303

Date of filing: 12 Jan 87

**** AWARD**

- Type of Award

Award on Agreed Terms

- Date of Award

12 Jan 86

4 pages in English

4 pages in Farsi

**** DECISION** - Date of Decision

_____ pages in English

_____ pages in Farsi

**** CONCURRING OPINION** of

- Date

_____ pages in English

_____ pages in Farsi

**** SEPARATE OPINION** of

- Date

_____ pages in English

_____ pages in Farsi

**** DISSENTING OPINION** of

- Date

_____ pages in English

_____ pages in Farsi

**** OTHER; Nature of document:**

- Date

_____ pages in English

_____ pages in Farsi

IRAN UNITED STATES CLAIMS TRIBUNAL

دیوان دآوری دعاوی ایران - ایالات متحدہ

6

IRAN UNITED STATES
CLAIMS TRIBUNAL

دادگاه دآوری دعاوی
ایران - ایالات متحدہ

ثبت شد - FILED

Date 12 JAN 1987 تاریخ

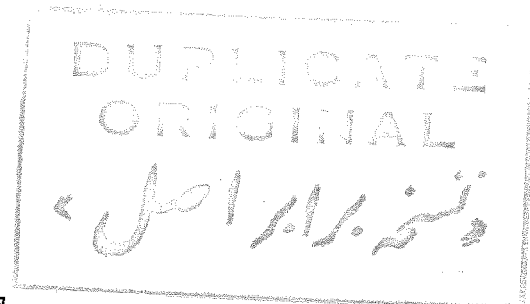
۱۳۶۵ / ۱۰ / ۲۲

No. 10303 شماره

CASE NO. 10303

CHAMBER TWO

AWARD NO. 286-10303-2



ARCO SEED COMPANY (formerly
Dessert Seed Company),
a claim of less than US\$250,000 presented
by THE UNITED STATES OF AMERICA,
Claimant,

and

BANK SEPAH,
BANK MELLAT,
THE ISLAMIC REPUBLIC OF IRAN,
Respondents.

AWARD ON AGREED TERMS

1. On 19 January 1982, the Government of the United States of America presented the Claim of less than US\$ 250,000 of the ARCO SEED COMPANY (formerly Dessert Seed Company) ("the Claimant") against THE ISLAMIC REPUBLIC OF IRAN for losses arising out of allegedly unpaid commercial debts owed to the Claimant in connection with letters of credit. On 31 December 1986, the Agent of the United States of America filed a clarification confirming that Bank Mellat (formerly Bank of Tehran) issued Letter of Credit No. SH 546239, the subject matter of part of the Claim, and that the Bank of America acted as the corresponding bank, not the issuing bank, as was mistakenly stated in the Statement of Claim.

2. On 21 October 1986, the Claimant and BANK SEPAH entered into a Settlement Agreement resolving the matters in dispute between them, whereby it was agreed, inter alia, that Bank Sepah should pay to the Claimant the amount of US\$ 92,645.98 in complete and final settlement of all claims and counterclaims now existing or capable of arising in connection with this Case.

3. On the same date, the Claimant and BANK MELLAT entered into a separate Settlement Agreement, resolving the matters in dispute between them, whereby it was agreed, inter alia, that Bank Mellat should pay the Claimant the amount of US\$ 17,715.60 in complete and final settlement of all claims and counterclaims now existing or capable of arising in connection with this Case.

4. On 18 December 1986, two Joint Requests for an Award on Agreed Terms were filed with the Tribunal, each signed by the Agents of the Islamic Republic of Iran and the United States of America, requesting that the Tribunal record and give effect to both Settlement Agreements by issuing an Award on Agreed Terms pursuant to Article 34 of

the Tribunal Rules. The Settlement Agreements were filed together with the Joint Requests and are annexed hereto.

5. Pursuant to the standing instructions of the President, the present Case was assigned to Chamber Two by lot for the purpose of considering the Joint Requests and Settlement Agreements.

6. The Tribunal has satisfied itself that it has jurisdiction in this matter within the terms of the Claims Settlement Declaration.

7. For the foregoing reasons,

THE TRIBUNAL AWARDS AS FOLLOWS:


- (a) The Settlement Agreements filed with the Joint Requests are hereby accepted and recorded as an Award on Agreed Terms, binding on the Parties, in complete and final settlement of all claims and counterclaims now existing or capable of arising out of the business relationship between the Parties in connection with this Case. Consequently,
 - (i) the Respondent BANK SEPAH shall pay the Claimant ARCO SEED COMPANY the amount of Ninety Two Thousand Six Hundred Forty Five United States Dollars and Ninety Eight Cents (US\$ 92,645.98), and
 - (ii) the Respondent BANK MELLAT shall pay to the Claimant ARCO SEED COMPANY the sum of Seventeen Thousand Seven Hundred Fifteen United States Dollars and Sixty Cents (US\$17,715.60).
- (b) These obligations shall be satisfied by payment out of the Security Account established pursuant to Paragraph

7 of the Declaration of the Democratic and Popular Republic of Algeria of 19 January 1981.

This Award is hereby submitted to the President of the Tribunal for notification to the Escrow Agent.

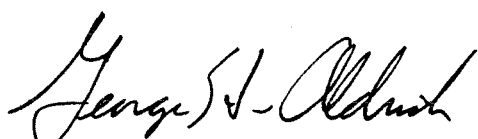
Dated, The Hague

12 January 1987



Robert Briner
Chairman

In the name of God,



George H. Aldrich



Hamid Bahrami-Ahmadi

See my Opinion in Dec. No.
46-10212-2

IN THE NAME OF GOD
BEFORE THE
IRAN-U.S. CLAIMS TRIBUNAL
THE HAGUE
THE NETHERLANDS

The Government of the United States
of America on behalf and for the
benefit of Desert Seed Company,
a United States national.

Claimant
and
Islamic Republic of Iran,

Case 10303
Chamber 2

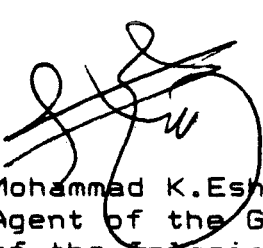
Respondent


JOINT REQUEST FOR ARBITRAL AWARD ON AGREED TERMS

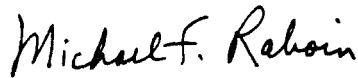
Pursuant to Article 34 of the Tribunal Rules, the Government of the United States of America, and the Government of the Islamic Republic of Iran, jointly request that the Tribunal issue an Arbitral Award on Agreed Terms that will record and give effect to the Settlement Agreement reached by Arco Seed Company (formerly Desert Seed Company) and Bank Sepah, a copy of which is attached hereto.

Arco Seed Company and Bank Sepah, have entered into a Settlement Agreement which provides that Arco Seed Company shall be paid the amount of U.S.\$92,645.98 (ninety two thousand six hundred forty five U.S. dollars and ninety eight cents only) in complete and final settlement of all claims and counterclaims now existing or capable of arising in connection with this case.

The undersigned hereby ratify the said Agreement and request the Tribunal to record it as an Arbitral Award on Agreed Terms, with payment to be made to Arco Seed Company (formerly Desert Seed Company) out of the Security Account.


Mohammad K. Eshragh
Agent of the Government
of the Islamic Republic
of Iran to the Iran-U.S.
Claims Tribunal

 Respectfully submitted,


John R. Crook
Agent of the Government
of the United States of
America

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IRAN UNITED STATES CLAIMS TRIBUNAL	دادگاه داری و داری ایران - ایالات متحده
FILED - ثبت شد	
Date	18 DEC 1986 1365/9/22
No.	10303

SETTLEMENT AGREEMENT

IRAN UNITED STATES CLAIMS TRIBUNAL		دادگاه داری و داری ایران - ایالات متحده
ثبت شد - FILED		
Date	18 DEC 1986	تاریخ
	1365/9/22	
No.	10303	

This agreement is made this 21st the day of Oct., 1986
(Mehr 29, 1365) between Bank Sepah, New York Agency
(hereinafter referred to as "Bank Sepah") and ARCO Seed Company,
formerly known as Dessert Seed Company, Inc. (hereinafter
referred to as "ARCO Seed");

WHEREAS, ARCO Seed has filed a claim that has been docketed
with Iran-United States Claims Tribunal ("Tribunal") as Case No.
10303 ("Case 10303");

WHEREAS, the parties to this Agreement wish to settle the
above claim filed with the Tribunal;

THEREFORE, the parties to this Agreement agree to settle
Case 10303 in exchange for the consideration, and under the
terms and conditions set forth below.

ARTICLE 1 - PAYMENT

A. In full and final settlement of all outstanding claims
and disputes arising or capable of arising out of the past
business relationship between the parties, including but not
limited to ARCO Seed's Statement of Claim submitted in Case No.

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10303 before the Iran-United States Claims Tribunal, ARCO Seed shall be paid the sum of Ninety Two Thousand Six Hundred and Forty Five 98/00 United States Dollars (U.S. \$92,645.98) (the "Settlement Amount").

B. By no later than December 20, 1986 the parties shall submit to the Tribunal a joint request, pursuant to Article 34 of the Tribunal's Rules, that the Tribunal record this Agreement as an arbitral award on agreed terms, and that the Tribunal order payment of the Settlement Amount to ARCO Seed from the Security Account.

ARTICLE 2 - RELEASE AND TERMINATION OF PROCEEDING

A. Payment of the Settlement Amount to ARCO Seed shall terminate the proceedings in Case 10303 and shall constitute complete and final settlement of all claims and counterclaims now existing or capable of arising in connection with Case 10303 and capable of arising out of dispute between the parties.

B. Upon full and final payment of the Settlement Amount, ARCO Seed and Bank Sepah shall, for themselves and their subsidiaries, affiliates and real or ^{Juridical} ~~judicial~~ persons, directors, officers, and employees (and for the successors and assigns of themselves and their subsidiaries, affiliates and real or ^{Juridical} ~~judicial~~ persons, directors, officers, and employees) by this Agreement release and forever discharge each other and

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H.C.

their subsidiaries, affiliates, directors, officers, and employees from any and all liability that they ever had, now have, or thereafter may have against each other in connection with Case 10303.

C. Upon full and final payment of the Settlement Amount, ARCO Seed shall, for itself and its subsidiaries and affiliates, directors, officers, and employees (and for the successors and assigns of itself and its subsidiaries and affiliates, directors, officers, and employees) by this Agreement release and forever discharge all Respondents in Case 10303 and their agencies, instrumentalities, subsidiaries, and affiliates from all liability that they ever had, now have, or hereafter may have that arises or is capable of arising out of the contracts, transactions, or occurrences that are the subject of Case 10303 and which have been subject of disputes between the parties.

D. As to any past dealings, should any claims be pending or be filed by a third party in any court or forum against either of the parties hereto based on any assignment or transfer of rights of any kind from one of the parties hereto, the party who has effected or caused such assignment or transfer of rights shall be exclusively liable to such third party.

E. The releases set forth in this Agreement are self-executing upon the full and final payment of the Settlement Amount to ARCO Seed.

F. Upon full and final payment of the Settlement Amount to ARCO Seed, Bank Sepah and ARCO Seed waive any and all claims for costs, including attorneys fees, arising out of or related to the arbitration or prosecution of the claims or counterclaims asserted (or which might have been asserted) before the Tribunal or elsewhere with respect to Case 10303 or any claim of ARCO Seed or Bank Sepah against each other.

G. This Agreement, including the releases set forth in this Agreement, does not apply to the subject matter of any other proceeding on the Tribunal, including any claim by Islamic republic, Bank Sepah or Bank Markazi against U.S. government or any U.S. financial and banking entity.

ARTICLE 3 - VALIDITY

A. This Agreement is valid only in its entirety. None of the terms and provisions of this Agreement may be interpreted separately and changed, except by written agreement of the parties.

B. If the Tribunal does not record this Settlement as an arbitral award on agreed terms within 60 days of filing of the Settlement Agreement, or if the payment of the Settlement Amount is not made to ARCO Seed within 90 days, either party may withdraw it, and this Agreement shall not prejudice Bank Sepah or ARCO Seed in future proceeding in Case 10303.

C. This Agreement has been written and signed in both languages of Farsi and English and each text shall have the same equal validity.

ARTICLE 4 - CONFIDENTIALITY

A. Prior to the full and final payment of the Settlement amount to ARCO Seed, the parties to this Agreement will not refer to or divulge the content of this Agreement (except for the submission to the Tribunal); or of documents generated solely for purposes of settlement negotiations; or of discussions in the course of settlement negotiations, in any pending or future proceeding before the Tribunal or elsewhere.

B. ARCO Seed and Bank Sepah shall not use, or cause any third party to use, this Settlement Agreement in the prosecution or defense of any other case before the Tribunal or any other court or forum.

ARTICLE 5 - AUTHORITY

The representatives of the parties hereto expressly declare that they are duly empowered to sign this Agreement and their signatures will commit their respective principals to fulfilment of their obligations under this Agreement without any limitations whatsoever, except as may otherwise contained in this Settlement Agreement.

The notarized Power of Attorney of the company's representative are hereto attached.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement.

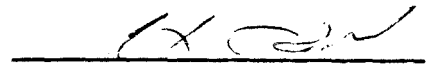
ARCO SEED COMPANY,
formerly known as
Dessert Seed Company, Inc.

Bank Sepah Iran, New York
Agency

By:


Walter J. Tusinski
President

By:

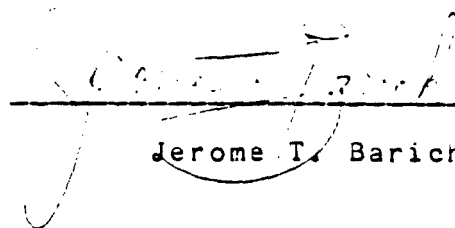


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POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS that ARCO SEED COMPANY, a corporation duly incorporated and existing under the laws of the State of California, U.S.A. does hereby give power of attorney to Walter J. Tusinski, President of ARCO SEED COMPANY to act on behalf of this Company to execute Settlement Agreements between this Company and Bank Sepah, and between this Company and Bank Mellat providing for the settlement of this Company's Iranian claims as set forth in said Agreements and to sign on behalf of this Company such additional documents as he may deem necessary, appropriate or desirable to carry out the intent and purpose of the Settlement Agreements.

This power of attorney is executed this 8th day of July, 1986, by the undersigned as Senior Vice President of ARCO SEED COMPANY.



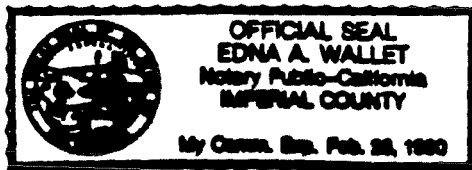
Jerome T. Barich

STATE OF CALIFORNIA)
) ss.
COUNTY OF IMPERIAL)

Before me, the undersigned authority, on this day personally appeared Jerome T. Barich, known to me to be Senior Vice President of ARCO SEED COMPANY, and acknowledged to me that he

executed the same in his capacity as Senior Vice President of ARCO SEED COMPANY, under authority given him by the Board of Directors.

Given under my hand and seal of office this 8th day of July, 1986.



Edna A. Wallet

STATE OF CALIFORNIA
COUNTY OF IMPERIAL

County Clerk's Certificate as to Notary Public

No. 2145

I, John W. Kennerson, County Clerk of the County of Imperial, State of California, and ex-officio Clerk of the Superior Court of the State of California in and for the County of Imperial, which is a court of record of the State of California, having by law a seal, do hereby certify that Edna A. Wallet whose name is subscribed to the attached certificate of proof, acknowledgment or affidavit, was at the time of taking such proof, acknowledgment or affidavit a Notary Public in and for said Imperial County, duly commissioned and qualified, and residing in said county, and was as such an officer of the State of California, duly authorized by the laws thereof to administer oaths or affirmations and to take and certify the proof and acknowledgment of deeds and other instruments in writing to be recorded in said State, and that full faith and credit are and ought to be given all his official acts as such Notary Public, and that I am well acquainted with the handwriting of said Notary Public and verily believe that the signature to the attached certificate is his genuine signature and that the annexed instrument is executed and acknowledged according to the laws of the State of California; and I further certify that an impression of the seal of said Notary Public is not required by law to be filed in my office.

In witness whereof I have hereunto set my hand, and affixed my official seal this 8 day of July 1986

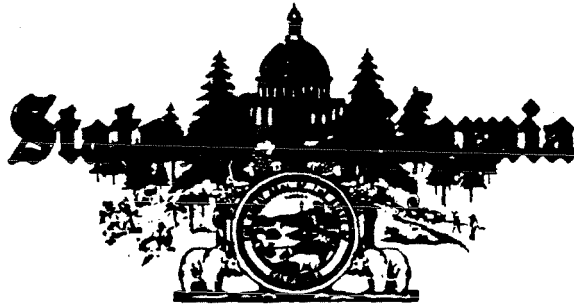
-JOHN W. KENNERSON

County Clerk of the County of Imperial and ex-officio Clerk of the Superior Court of the State of California in and for the County of Imperial.

By E. A. Wallet Deputy

POAJB





Office of

March Fong Eu

Secretary of State
SACRAMENTO

I, MARCH FONG EU, Secretary of State of the State of California, hereby certify:

That John W. Kennerson, whose name appears on the annexed certificate, was on July 8, 1986, the duly elected, qualified and acting County Clerk of the Imperial County of Imperial, in said State, and ex officio Clerk of the Superior Court of the State of California, in and for said Imperial County;

That the seal affixed thereto is the seal of said Court; that the signature thereon appears to be the signature of D. Walker, Deputy County Clerk and that the annexed certificate is in due form and by the proper officer.



IN WITNESS WHEREOF, I
execute this certificate and
affix the Great Seal of the
State of California
this 10th day of July, 1986

March Fong Eu

MARCH FONG EU
Secretary of State

By *M. Linda Beauchamp*
Deputy

IN THE NAME OF GOD
BEFORE THE
IRAN-U.S. CLAIMS TRIBUNAL
THE HAGUE
THE NETHERLANDS

The Government of the United States
of America on behalf and for the
benefit of Desert Seed Company,
a United States national.

Claimant
and
Islamic Republic of Iran,

Respondent

BB 4

IRAN UNITED STATES CLAIMS TRIBUNAL	کتاب داری دعوی ایالات متحده
FILED - ثبت شد	
Date	18 DEC 1986 ۱۳۶۵/۹/۲۷
No.	10303

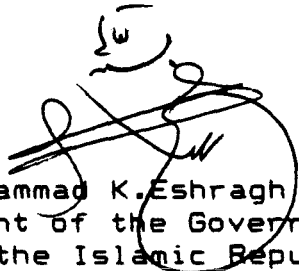
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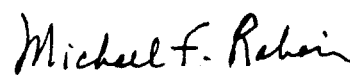
Pursuant to Article 34 of the Tribunal Rules, the Government of the United States of America, and the Government of the Islamic Republic of Iran, jointly request that the Tribunal issue an Arbitral Award on Agreed Terms that will record and give effect to the Settlement Agreement reached by Arco Seed Company (formerly Desert Seed Company) and Bank Mellat, a copy of which is attached hereto.

M.K.
nr
Arco Seed Company and Bank Mellat, have entered into a Settlement Agreement which provides that ~~De Soto Inc.~~ ^{ARCO SEED COMPANY} shall be paid the amount of U.S.\$17,715.60 (seventeen thousand seven hundred fifteen U.S. dollars and sixty cents only) in complete and final settlement of all claims and counterclaims now existing or capable of arising in connection with this case.

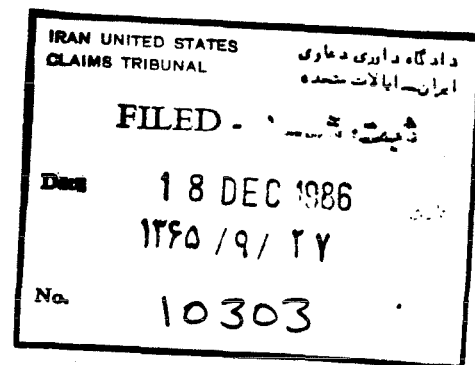
The undersigned hereby ratify the said Agreement and request the Tribunal to record it as an Arbitral Award on Agreed Terms, with payment to be made to Arco Seed company (formerly Desert Seed Company) out of the Security Account.

Respectfully submitted,


Mohammad K. Eshragh
Agent of the Government
of the Islamic Republic
of Iran to the Iran-U.S.
Claims Tribunal


Michael F. Rehair
John R. Crook
Agent of the Government
of the United States of
America to the Iran-U.S.
Claims Tribunal

SETTLEMENT AGREEMENT



This agreement is made this 21st the day of Oct., 1986
(Mehr. 29, 1365) between Bank Mellat, Tehran-Iran (hereinafter
referred to as "Bank Mellat") and ARCO Seed Company, formerly
known as Dessert Seed Company, Inc. (hereinafter referred to as
"ARCO Seed");

WHEREAS, ARCO Seed has filed a claim that has been docketed
with Iran-United States Claims Tribunal ("Tribunal") as Case No.
10303 ("Case 10303");

WHEREAS, the parties to this Agreement wish to settle the
above claim filed with the Tribunal;

THEREFORE, the parties to this Agreement agree to settle
Case 10303 in exchange for the consideration, and under the
terms and conditions set forth below.

ARTICLE 1 - PAYMENT

A. In full and final settlement of all outstanding claims
and disputes arising or capable of arising out of the past
business relationship between the parties, including but not
limited to ARCO Seed's Statement of Claim submitted in Case No.

WJF

10303 before the Iran-United States Claims Tribunal, ARCO Seed shall be paid the sum of Seventeen Thousand Seven Hundred and Fifteen 60/00 United States Dollars (U.S. \$17,715.60) (the "Settlement Amount").

B. By no later than December 20, 1986 the parties shall submit to the Tribunal a joint request, pursuant to Article 34 of the Tribunal's Rules, that the Tribunal record this Agreement as an arbitral award on agreed terms, and that the Tribunal order payment of the Settlement Amount to ARCO Seed from the Security Account.

ARTICLE 2 - RELEASE AND TERMINATION OF PROCEEDING

A. Payment of the Settlement Amount to ARCO Seed shall terminate the proceedings in Case 10303 and shall constitute complete and final settlement of all claims and counterclaims now existing or capable of arising in connection with Case 10303 and capable of arising out of dispute between the parties.

B. Upon full and final payment of the Settlement Amount, ARCO Seed and Bank Mellat shall, for themselves and their subsidiaries, affiliates and real or ^{juridical} ~~judicial~~ persons, ^{H.C.} ~~WJ~~ directors, officers, and employees (and for the successors and assigns of themselves and their subsidiaries, affiliates and real or ^{juridical} ~~judicial~~ persons, directors, officers, and employees) ^{4.C.} ~~WJ~~ by this Agreement release and forever discharge each other and

their subsidiaries, affiliates, directors, officers, and employees from any and all liability that they ever had, now have, or thereafter may have against each other in connection with Case 10303.

C. Upon full and final payment of the Settlement Amount, ARCO Seed shall, for itself and its subsidiaries and affiliates, directors, officers, and employees (and for the successors and assigns of itself and its subsidiaries and affiliates, directors, officers, and employees by this Agreement release and forever discharge all Respondents in Case 10303 and their agencies, instrumentalities, subsidiaries, and affiliates from all liability that they ever had, now have, or hereafter may have that arises or is capable of arising out of the contracts, transactions, or occurrences that are the subject of Case 10303 and which have been subject of disputes between the parties.

D. As to any past dealings, should any claims be pending or be filed by a third party in any court or forum against either of the parties hereto based on any assignment or transfer of rights of any kind from one of the parties hereto, the party who has effected or caused such assignment or transfer of rights shall be exclusively liable to such third party.

E. The releases set forth in this Agreement are self-executing upon the full and final payment of the Settlement Amount to ARCO Seed.

F. Upon full and final payment of the Settlement Amount to ARCO Seed, Bank Mellat and ARCO Seed waive any and all claims for costs, including attorneys fees, arising out of or related to the arbitration or prosecution of the claims or counterclaims asserted (or which might have been asserted) before the Tribunal or elsewhere with respect to Case 10303 or any claim of ARCO Seed or Bank Mellat against each other.

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G. This Agreement, including the releases set forth in this Agreement, does not apply to the subject matter of any other proceeding on the Tribunal, including any claim by Islamic republic, Bank ^{MELLAT} ~~Sepah~~ or Bank Markazi against U.S. government or any U.S. financial and banking entity.

ARTICLE 3 - VALIDITY

A. This Agreement is valid only in its entirety. None of the terms and provisions of this Agreement may be interpreted separately and changed, except by written agreement of the parties.

B. If the Tribunal does not record this Settlement as an arbitral award on agreed terms within 60 days of filing of the Settlement Agreement, or if the payment of the Settlement Amount is not made to ARCO Seed within 90 days, either party may withdraw it, and this Agreement shall not prejudice Bank Mellat or ARCO Seed in future proceeding in Case 10303.

C. This Agreement has been written and signed in both languages of Farsi and English and each text shall have the same equal validity.

ARTICLE 4 - CONFIDENTIALITY

A. Prior to the full and final payment of the Settlement amount to ARCO Seed, the parties to this Agreement will not refer to or divulge the content of this Agreement (except for the submission to the Tribunal); or of documents generated solely for purposes of settlement negotiations; or of discussions in the course of settlement negotiations, in any pending or future proceeding before the Tribunal or elsewhere.

B. ARCO Seed and Bank Mellat shall not use, or cause any third party to use, this Settlement Agreement in the prosecution or defense of any other case before the Tribunal or any other court or forum.

ARTICLE 5 - AUTHORITY

The representatives of the parties hereto expressly declare that they are duly empowered to sign this Agreement and their signatures will commit their respective principals to fulfillment of their obligations under this Agreement without any limitations whatsoever, except as may otherwise contained in this Settlement Agreement.

The notarized Power of Attorney of the company's representative are hereto attached.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement.

ARCO SEED COMPANY,
formerly known as
Dessert Seed Company, Inc.

Bank Sepah on behalf of
Bank Mellat,

By: Walter J. Tuzinski
Walter J. Tuzinski
President

By: H. D. J.

WJ