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(Countries: Iran)  
**Case File Number(s):** 426706 (1 of 2)  
**Box Number:** 90

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*Last Updated: 11/13/2023*

**WHITE HOUSE STAFFING MEMORANDUM**

DATE: 11/17/86 ACTION/CONCURRENCE/COMMENT DUE BY: 11/18/86

SUBJECT: REPORT TO CONGRESS ON THE IRAN EMERGENCY

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MILLER - ADMIN.	<input type="checkbox"/>	<input type="checkbox"/>
REGAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	POINDEXTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MILLER - OMB	<input type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input type="checkbox"/>
BALL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BARBOUR	<input type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input type="checkbox"/>
BUCHANAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SVAHN	<input type="checkbox"/>	<input type="checkbox"/>
CHEW	<input type="checkbox"/>	<input checked="" type="checkbox"/>	THOMAS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DANIELS	<input type="checkbox"/>	<input type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
HENKEL	<input type="checkbox"/>	<input type="checkbox"/>	WALLISON	<input checked="" type="checkbox"/>	<input type="checkbox"/>
KING	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
KINGON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MASENG	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS: Please provide your comments/recommendation by close of business Tuesday, November 18th. Thank you.

**RESPONSE:**

The NSC concurs as is.

*Rodney B. McDaniel*  
 Rodney B. McDaniel  
 Executive Secretary  
 18 November 1986

David L. Chew  
 Staff Secretary  
 Ext. 2702

NSC 8608277



THE SECRETARY OF THE TREASURY  
WASHINGTON

November 13, 1986

Dear Mr. President:

Under the International Emergency Economic Powers Act, you are required to submit every six months a report to the Congress concerning the Iranian emergency declared in Executive Order No. 12170 on November 14, 1979. The next report is due on November 14, 1986.

Enclosed is a proposed report covering the six-month period since your last submission on this subject. The proposed report indicates in its initial paragraph that it covers only matters concerning the national emergency with respect to Iran that was declared on November 14, 1979. It is not intended to report on all activities regarding Iran.

Your last report to Congress on this matter, dated May 23, 1986, is also enclosed for your reference.

I recommend that you sign and transmit the proposed report to the Congress.

Respectfully,

James A. Baker, III

The President  
The White House  
Washington, D.C. 20500

Enclosures

THE WHITE HOUSE

WASHINGTON

Dear Mr. Speaker:

This report is made pursuant to Section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and, like previous reports, discusses only matters concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979. This report covers matters that have occurred since the report I made on May 23, 1986.

1. The Iran-United States Claims Tribunal, established at The Hague pursuant to the Claims Settlement Agreement of January 19, 1981, continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered 37 more decisions for a total of 260 final decisions. Of that total, 197 have been awards in favor of American claimants; 119 were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties, and 78 were adjudicated decisions. The Tribunal has dismissed a total of 17 claims on the merits, and 33 for jurisdictional reasons. As of November 1, 1986, total payments to successful American claimants from the Security Account, held by the NV Settlement Bank, stood at approximately \$681 million.

In January 1986, the payment of awards in favor of U.S. nationals caused the balance of the Security Account to fall for the first time below \$500 million, thus triggering Iran's obligation to replenish. Iran acted quickly in instructing replenishment from interest earned on the Security Account, which is also held by the NV Settlement Bank. Although technical difficulties involving the concerned central banks delayed actual replenishment for several months, a procedure has now been established that should make future transfers administratively simple. On October 10, 1986, replenishment was again triggered, and the second replenishment occurred on October 27, 1986.

In cases between the two governments, the Tribunal to date has issued three decisions in favor of each government, dismissed one claim that had been filed by the United States, and dismissed four claims that had been filed by Iran. In addition, Iran has withdrawn 15 of its government-to-government claims, while the United States has withdrawn three.

2. The Tribunal continues to make progress in the arbitration of claims of U.S. nationals for \$250,000 or more. More than 50 percent of the claims have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 251 such claims on the docket. Among recent cases, two U.S. claimant companies received large awards totalling approximately \$91 million. Other decisions were notable for the legal precedents set by the Tribunal: In one case, the Tribunal valued an expropriated service company at its going concern value, taking into account the negative impacts of the Iranian revolution on its business, rather than using the net book value of the business as advocated by Iran. In a second legally significant decision, the Tribunal held that an order by a local Iranian court prohibiting an Iranian company from making lease payments or returning equipment to the U.S. claimant constituted a taking by the Government of Iran requiring compensation under international law. Both these decisions should prove helpful to other U.S. claimants before the Tribunal.

3. The Tribunal continues to process claims of U.S. nationals against Iran of less than \$250,000 each. Iran has not to date been willing to negotiate a lump sum settlement of these claims. While the Tribunal's progress is slower than we would like, 50 additional claims have been selected by the Tribunal for active arbitration, making the total number of active small claims 170. The Department of State has submitted more than 44,000 pages of text and evidence in support of these claims, and additional pleadings are being filed weekly.

Since my last report, the Tribunal has held seven hearings on claims under \$250,000, and issued awards in three contested claims, raising the total number of such decisions to five, of which four favored the American claimant. These decisions will help in establishing guidelines for the adjudication or settlement of similar small claims. To date, American claimants have also received 15 awards on agreed terms reflecting settlements.

4. The Department of State continues to coordinate the efforts of concerned governmental agencies in presenting U.S. claims against Iran as well as responses by the U.S. Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in nine government-to-government claims based on contracts for the provision of goods and services. The Tribunal issued a decision holding the U.S. Atomic Energy Commission liable for simple interest at the rate of 10 percent per annum on a previously issued principal award of approximately \$8 million in favor of the Atomic Energy Organization of Iran. The Tribunal dismissed two major claims brought by the Ministry of Defense of Iran against the U.S. Government based on the alleged breach of contract by a U.S. defense contractor, finding that the U.S. Government was not a proper respondent. Forty-two government-to-government claims remain pending.

In addition to work on the government-to-government claims, the Department of State, working together with the Department of the Treasury and the Department of Justice, filed four pleadings in disputes concerning the interpretation and/or performance of various provisions of the Algiers Accords. Since my last report, the Tribunal has held no hearings on interpretive disputes. However, it did render its decision on Iran's request that different, and more stringent, standards be established by the Full Tribunal for proof of nationality of corporate claimants. Iran had contended that, under earlier decisions by the individual Chambers, some publicly held corporate claimants had been permitted to establish their United States nationality through insufficient evidence. The Full Tribunal held that no general rule is required and that none would be feasible given the widely varying fact situations in which corporate nationality must be determined. Thus, the individual Chambers can continue to approach each determination flexibly and pragmatically, as urged by the United States.

In August, following Iran's first replenishment of the Security Account, the Tribunal issued its decision on Iran's claim for the balance remaining from the \$3.667 billion transferred in January 1981 to the Federal Reserve Bank of New York, as fiscal agent for the United States, for the payment of Iran's syndicated indebtedness. The Tribunal determined that Iran is entitled to so much of the remaining balance as is not needed to satisfy outstanding claims against the fund, as soon as the two governments reach agreement on three points: 1) the amount of claims remaining against the fund; 2) the amount not needed for any such claims and thus

available for transfer to Iran; and 3) the terms of a release of all claims by Iran against the United States for administration of the fund. If the two governments are not able to reach such agreement within four months from the date of the order, either government may apply to the Tribunal for further action.

5. Since my last report, two bank syndicates have completed negotiations with Bank Markazi Jomhuri Islami Iran (Iran's central bank) and have been paid a total of \$252,723.67 for interest accruing for the period January 1 - 18, 1981 ("January Interest"). These payments were made from Dollar Account No. 2 at the Bank of England. Negotiations have been completed and payment of \$482,175.27 is pending for January Interest owed to two other bank syndicates, and Bank Markazi and additional bank syndicates are now negotiating January Interest settlements.

6. Since my last report, there has been one change in the Iranian Assets Control Regulations. In response to the Tribunal's decision on Iran's claim to any excess monies held by the Federal Reserve Bank of New York over those required to pay Iran's syndicated indebtedness, a new regulation has been issued, requiring registration of all claims against the fund, all claims against Dollar Account No. 2, and all claims for January Interest (which, as my previous reports have indicated, are arguably payable out of either fund). 51 Fed. Reg. 37568 (Oct. 23, 1986).

7. The ongoing claims settlement process created by the Algiers Accords continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. In particular, the Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States properly to implement the Algiers Accords. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

Sincerely,

The Honorable Thomas P. O'Neill, Jr.  
Speaker of the  
House of Representatives  
Washington, D.C. 20515



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Sincerely,

The Honorable George Bush  
President of the Senate  
Washington, D.C. 20510



# NATIONAL SECURITY COUNCIL EXECUTIVE SECRETARY REFERRAL

TIME STAMP

86 NOV 17 P 3: 22

SYSTEM I LOG NUMBER: 8277

(FIRST DRAFT OF REMARKS)

ACTION OFFICER: TAHIR-KHELI DUE: 1800, 11/18

- Prepare Memo McDaniel to Chew
- Prepare Memo McDaniel to Dolan
- Prepare Memo McDaniel to Speakes
- Prepare Memo \_\_\_\_\_ to \_\_\_\_\_

URGENT

\*\*\* PUT RESPECTIVE STAFF OFFICER'S NAME IN MARGIN BESIDE CHANGES.

CONCURRENCES/COMMENTS\*

DUE: IMMEDIATELY

\*PHONE to action officer at ext. 5650

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Brooks<br><input type="checkbox"/> Burghardt<br><input checked="" type="checkbox"/> Burns <i>OK</i><br><input type="checkbox"/> Cannistraro<br><input type="checkbox"/> Childress<br><input type="checkbox"/> Cobb<br><input type="checkbox"/> Danzansky<br><input type="checkbox"/> deGraffenreid<br><input type="checkbox"/> Dobriansky<br><input type="checkbox"/> Donley<br><input type="checkbox"/> Douglass<br><input type="checkbox"/> Farrar<br><input type="checkbox"/> Grimes<br><input type="checkbox"/> Hanley<br><input type="checkbox"/> Kelly<br><input type="checkbox"/> Kissell<br><input type="checkbox"/> Kraemer<br><input type="checkbox"/> Laux | <input type="checkbox"/> Lavin<br><input type="checkbox"/> Linhard<br><input type="checkbox"/> Lenczowski<br><input type="checkbox"/> Levine<br><input type="checkbox"/> Mahley<br><input type="checkbox"/> Major<br><input type="checkbox"/> Mandel<br><input type="checkbox"/> Matlock<br><input type="checkbox"/> May<br><input type="checkbox"/> Mingle<br><input type="checkbox"/> Morton<br><input type="checkbox"/> Murdock<br><input type="checkbox"/> North<br><input type="checkbox"/> Perry<br><input type="checkbox"/> Platt<br><input type="checkbox"/> Pugliaresi<br><input type="checkbox"/> Raymond<br><input type="checkbox"/> Reger | <input checked="" type="checkbox"/> Ross <i>OK</i><br><input checked="" type="checkbox"/> Sable <i>OK</i><br><input type="checkbox"/> Sachs<br><input type="checkbox"/> Saunders<br><input type="checkbox"/> Sestanovich<br><input type="checkbox"/> Small<br><input type="checkbox"/> Sommer<br><input type="checkbox"/> Soos<br><input checked="" type="checkbox"/> Stark <i>OK</i><br><input type="checkbox"/> Steiner<br><input type="checkbox"/> St Martin<br><input type="checkbox"/> Tahir-Kheli<br><input checked="" type="checkbox"/> Teicher <i>OK</i><br><input checked="" type="checkbox"/> Thompson<br><input type="checkbox"/> Tillman<br><input type="checkbox"/> _____<br><input type="checkbox"/> _____<br><input type="checkbox"/> _____ |
|--|---|--|

INFORMATION

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> McDaniel             | <input checked="" type="checkbox"/> Pearson | <input checked="" type="checkbox"/> Secretariat <span style="float: right;">CRW<br/>8215</span> |
| <input checked="" type="checkbox"/> Rodman    | <input checked="" type="checkbox"/> Cockell | <input checked="" type="checkbox"/> Exec. Sec. Desk   |
| <input type="checkbox"/> Poindexter (advance) | <input type="checkbox"/> Keel (advance)     |   |
| <input type="checkbox"/> _____                | <input type="checkbox"/> _____              |   |

National Security Council  
The White House

27

36 NOV 18 P 6: 20

System # I

Package # 8277

DOCLOG 27 A/O \_\_\_\_\_

	SEQUENCE TO	HAS SEEN	DISPOSITION
Bob Pearson	<u>1</u>	<input checked="" type="checkbox"/>	<u>✓</u>
Rodney McDaniel	<u>2</u>	<u>✓</u>	
Rodman/Cockell			
Al Keel			
Paul Thompson			
Florence Gantt			
John Poindexter			
Rodney McDaniel			
NSC Secretariat	<u>3</u>	<u>27 11/19</u>	<u>D</u>
Situation Room			

I = Information    A = Action    R = Retain    D = Dispatch    N = No further Action

cc: VP Regan Buchanan Other WRP

COMMENTS

Should be seen by: \_\_\_\_\_  
(Date/Time)

USCIB  
- DVE Dispatch  
- Close out  
- McDaniel Self



National Security Council  
The White House

AR

86 NOV 18 P 1: 53

System # \_\_\_\_\_

Package # 8277

DOCLOG AR A/O \_\_\_\_\_

	SEQUENCE TO	HAS SEEN	DISPOSITION
Bob Pearson	<u>1</u>	<u>P</u>	<u>A</u>
Rodney McDaniel	_____	_____	_____
Rodman/Cockell	_____	_____	_____
Al Keel	_____	_____	_____
Paul Thompson	_____	_____	_____
Florence Gantt	_____	_____	_____
John Poindexter	_____	_____	_____
Rodney McDaniel	_____	_____	_____
NSC Secretariat	_____	_____	_____
Situation Room	_____	_____	_____
<u>TAHIR-KHELI</u>	<u>2</u>		<u>FFA</u>

I = Information    A = Action    R = Retain    D = Dispatch    N = No further Action

cc: VP    Regan    Buchanan    Other \_\_\_\_\_

COMMENTS                      Should be seen by: \_\_\_\_\_  
(Date/Time)

To: Executive Secretariat 11/18  
~~Lacks several concurrences.~~

Needs only Bob  
P. Thompson. Please get  
in w/w. Thanks. Jim

NSC/S PROFILE

UNCLASSIFIED

ID 8608277

RECEIVED 17 NOV 86 15

POINDEXTER

FROM CHEW, D

DOCDATE 17 NOV 86

TAHIRKHELI

18 NOV 86

KEYWORDS: IRAN

CONGRESSIONAL

SUBJECT: RPT TO CONGRESS RE IRAN EMERGENCY

ACTION: MEMO MCDANIEL TO CHEW

DUE: 18 NOV 86 STATUS X FILES WH

FOR ACTION

FOR CONCURRENCE

FOR INFO

TAHIRKHELI

BURNS

ROSS

RODMAN

SABLE

STARK

PEARSON

TEICHER

THOMPSON

COCKELL

COMMENTS

EF#

LOG 8608215

NSCIFID

( DR *DR* )

ACTION OFFICER (S)

ASSIGNED

ACTION REQUIRED

DUE

COPIES TO

*C*

*11/18*

*McDaniel sgd memo*

*JPS, HRT, EBM, SRT, Burns, DBR, etc*

SPATCH

W/ATTCH

FILE

*W/ATT (C) DR*



# WHITE HOUSE STAFFING MEMORANDUM

DATE: 11/17/86 ACTION/CONCURRENCE/COMMENT DUE BY: 11/18/86

SUBJECT: REPORT TO CONGRESS ON THE IRAN EMERGENCY

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	MILLER - ADMIN.	<input type="checkbox"/>	<input type="checkbox"/>
REGAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	POINDEXTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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BALL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BARBOUR	<input type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input type="checkbox"/>
BUCHANAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SVAHN	<input type="checkbox"/>	<input type="checkbox"/>
CHEW	<input type="checkbox"/>	<input checked="" type="checkbox"/>	THOMAS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DANIELS	<input type="checkbox"/>	<input type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
HENKEL	<input type="checkbox"/>	<input type="checkbox"/>	WALLISON	<input checked="" type="checkbox"/>	<input type="checkbox"/>
KING	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
KINGON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MASENG	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS: Please provide your comments/recommendation by close of business Tuesday, November 18th. Thank you.

RESPONSE:

*Clarey  
Davis  
Stucky*

David L. Chew  
Staff Secretary  
Ext. 2702



THE SECRETARY OF THE TREASURY  
WASHINGTON

November 13, 1986

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I recommend that you sign and transmit the proposed report to the Congress.

Respectfully,

A handwritten signature in cursive script, appearing to read "Jim", is written over the typed name.

James A. Baker, III

The President  
The White House  
Washington, D.C. 20500

Enclosures

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Sincerely,

The Honorable Thomas P. O'Neill, Jr.  
Speaker of the  
House of Representatives  
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

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Sincerely,

The Honorable George Bush  
President of the Senate  
Washington, D.C. 20510

PP

THE WHITE HOUSE  
WASHINGTON

November 21, 1986

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IT120  
JL009  
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FG006-12  
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WS

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Letter also to George Bush  
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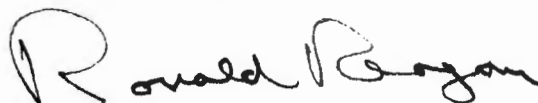
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November 21, 1986

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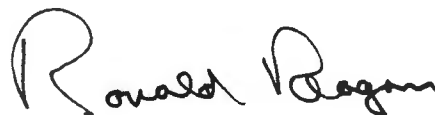
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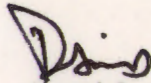
THE WHITE HOUSE  
WASHINGTON

November 21, 1986

MR. PRESIDENT:

Attached for your approval is the regular six-month report to Congress on the Iran Emergency.

Approval of the report is recommended by the NSC and the Office of Legislative Affairs. Counsel's Office has no objection to the report.



David Chew





THE SECRETARY OF THE TREASURY  
WASHINGTON

November 13, 1986

Dear Mr. President:

Under the International Emergency Economic Powers Act, you are required to submit every six months a report to the Congress concerning the Iranian emergency declared in Executive Order No. 12170 on November 14, 1979. The next report is due on November 14, 1986.

Enclosed is a proposed report covering the six-month period since your last submission on this subject. The proposed report indicates in its initial paragraph that it covers only matters concerning the national emergency with respect to Iran that was declared on November 14, 1979. It is not intended to report on all activities regarding Iran.

Your last report to Congress on this matter, dated May 23, 1986, is also enclosed for your reference.

I recommend that you sign and transmit the proposed report to the Congress.

Respectfully,

James A. Baker, III

The President  
The White House  
Washington, D.C. 20500

Enclosures

## WHITE HOUSE STAFFING MEMORANDUM

DATE: 11/17/86 ACTION/CONCURRENCE/COMMENT DUE BY: 11/18/86

SUBJECT: REPORT TO CONGRESS ON THE IRAN EMERGENCY

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	MILLER - ADMIN.	<input type="checkbox"/>	<input type="checkbox"/>
REGAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	POINDEXTER <i>Concur</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MILLER - OMB	<input type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input type="checkbox"/>
BALLOK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BARBOUR	<input type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input type="checkbox"/>
BUCHANAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	SVAHN	<input type="checkbox"/>	<input type="checkbox"/>
CHEW	<input type="checkbox"/> P	<input checked="" type="checkbox"/> SS	THOMAS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DANIELS	<input type="checkbox"/>	<input type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
HENKEL	<input type="checkbox"/>	<input type="checkbox"/>	WALLISON <i>no sig</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
KING	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
KINGON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MASENG	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS: Please provide your comments/recommendation by close of business Tuesday, November 18th. Thank you.

RESPONSE:

David L. Chew  
Staff Secretary  
Ext. 2702



NATIONAL SECURITY COUNCIL  
WASHINGTON, D.C. 20506

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November 15, 1986

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Received

MEMORANDUM FOR DAVID L. CHEW

FROM: RODNEY B. McDANIEL *RBm*

SUBJECT: Report to the Congress on the  
Iran Emergency

The NSC has reviewed the subject report (Tab A) and recommends that it be forwarded to the Congress without change.

Attachment

Tab A Report to Congress

Dear Mr. Speaker / Pres. :

~~TO THE CONGRESS OF THE UNITED STATES:~~

This report is made pursuant to Section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. ~~Section~~ 1703(c), and, like previous reports, discusses only matters concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979. This report covers matters that have occurred since the report I made on May 23, 1986.

1. The Iran-United States Claims Tribunal, established at The Hague pursuant to the Claims Settlement Agreement of January 19, 1981, continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered 37 more decisions for a total of 260 final decisions. Of that total, 197 have been awards in favor of American claimants; 119 were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties, and 78 were adjudicated decisions. The Tribunal has dismissed a total of 17 claims on the merits, and 33 for jurisdictional reasons. As of November 1, 1986, total payments to successful American claimants from the Security Account, held by the NV Settlement Bank, stood at approximately \$681 million.

In January 1986, the payment of awards in favor of U.S. nationals caused the balance of the Security Account to fall for the first time below \$500 million, thus triggering Iran's

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obligation to replenish. Iran acted quickly in instructing replenishment from interest earned on the Security Account, which is also held by the NV Settlement Bank. Although technical difficulties involving the concerned central banks delayed actual replenishment for several months, a procedure has now been established ~~which~~ <sup>that</sup> should make future transfers administratively simple. On October 10, 1986, replenishment was again triggered, and the second replenishment occurred on October 27, 1986.

In cases between the two governments, the Tribunal ~~has~~ to date <sup>has</sup> issued three decisions in favor of each government, dismissed one claim that had been filed by the United States, and dismissed four claims that had been filed by Iran. In addition, Iran has withdrawn ~~fifteen~~ <sup>15</sup> of its government-to-government claims, while the United States has withdrawn three.

2. The Tribunal continues to make progress in the arbitration of claims of U.S. nationals for \$250,000 or more. More than 50 percent of the claims have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 251 such claims on the docket. Among recent cases, two U.S. claimant companies received large awards totalling approximately \$91 million. Other decisions were notable for the legal precedents set by the Tribunal: In one case, the Tribunal valued an expropriated service company at its going concern value, taking into account the negative impacts of the Iranian revolution on its business, rather than using the net book value of the

business as advocated by Iran. In a second legally significant decision, the Tribunal held that an order by a local Iranian court prohibiting an Iranian company from making lease payments or returning equipment to the U.S. claimant constituted a taking by the Government of Iran requiring compensation under international law. Both these decisions should prove helpful to other U.S. claimants before the Tribunal.

3. The Tribunal continues to process claims of U.S. nationals against Iran of less than \$250,000 each. Iran has not to date been willing to negotiate a lump sum settlement of these claims. While the Tribunal's progress is slower than we would like, 50 additional claims have been selected by the Tribunal for active arbitration, making the total number of active small claims 170. The Department of State has submitted more than 44,000 pages of text and evidence in support of these claims, and additional pleadings are being filed weekly.

Since my last report, the Tribunal has held seven hearings on claims under \$250,000, and issued awards in three contested claims, raising the total number of such decisions to five, of which four favored the American claimant. These decisions will help in establishing guidelines for the adjudication or settlement of similar small claims. To date, American claimants have also received <sup>15</sup>~~fifteen~~ awards on agreed terms reflecting settlements.



4. The Department of State continues to coordinate the efforts of concerned governmental agencies in presenting U.S. claims against Iran as well as responses by the U.S. Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in nine government-to-government claims based on contracts for the provision of goods and services. The Tribunal issued a decision holding the U.S. Atomic Energy Commission liable for simple interest at the rate of 10% per annum on a previously-issued principal award of approximately \$8 million in favor of the Atomic Energy Organization of Iran. The Tribunal dismissed two major claims brought by the Ministry of Defense of Iran against the U.S. Government based on the alleged breach of contract by a U.S. defense contractor, finding that the U.S. Government was not a proper respondent. Forty-two government-to-government claims remain pending.

In addition to work on the government-to-government claims, the Department of State, working together with the Department of the Treasury and the Department of Justice, filed four pleadings in disputes concerning the interpretation and/or performance of various provisions of the Algiers Accords. Since my last report, the Tribunal has held no hearings on interpretive disputes. <sup>However,</sup> It did, ~~however,~~ render its decision on Iran's request that different, and more stringent, standards be established by the Full Tribunal for proof of nationality of corporate claimants. Iran had contended that, under <sup>g</sup>earlier decisions by the individual Chambers, some publicly-held corporate claimants had been

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permitted to establish their United States nationality through insufficient evidence. The Full Tribunal held that no general rule is required, and that none would be feasible given the widely-varying fact situations in which corporate nationality must be determined. Thus, the individual Chambers can continue to approach each determination flexibly and pragmatically, as urged by the United States.

In August, following Iran's first replenishment of the Security Account, the Tribunal issued its decision on Iran's claim for the balance remaining from the \$3.667 billion transferred in January 1981 to the Federal Reserve Bank of New York, as fiscal agent for the United States, for the payment of Iran's syndicated indebtedness. The Tribunal determined that Iran is entitled to so much of the remaining balance as is not needed to satisfy outstanding claims against the fund, as soon as the two governments reach agreement on three points: 1) the amount of claims remaining against the fund; 2) the amount not needed for any such claims and thus available for transfer to Iran; and 3) the terms of a release of all claims by Iran against the U.S. for administration of the fund. If the two governments are not able to reach such agreement within four months from the date of the order, either government may apply to the Tribunal for further action.

5. Since my last report, two bank syndicates have completed negotiations with Bank Markazi Jomhuri Islami Iran



(Iran's central bank) and have been paid a total of \$252,723.67 for interest accruing for the period January 1-18, 1981 ("January Interest"). These payments were made from Dollar Account No. 2 at the Bank of England. Negotiations have been completed and payment of \$482,175.27 is pending for January <sup>stet</sup> Interest owed to two other bank syndicates, and Bank Markazi and additional bank syndicates are now negotiating January Interest settlements.

6. Since my last report, there has been one change in the Iranian Assets Control Regulations. In response to the Tribunal's decision on Iran's claim to any excess monies held by the Federal Reserve Bank of New York over those required to pay Iran's syndicated indebtedness, a new regulation has been issued, requiring registration of all claims against the fund, all claims against Dollar Account No. 2, and all claims for January Interest (which, as my previous reports have indicated, are arguably payable out of either fund). 51 Fed. Reg. 37568 (Oct. 23, 1986).

7. The on-going claims settlement process created by the Algiers Accords continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals, and presents an unusual challenge to the national security and foreign policy of the United States. In particular, the Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States properly to implement the Algiers Accords. I shall

continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

/Ronald Reagan/

The White House

November \_\_, 1986

## Continuation of Iran Emergency

*Message to the Congress. May 23, 1986*

*To the Congress of the United States:*

Pursuant to Section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. Section 1703(c), I hereby report to the Congress on developments since my last report of November 13, 1985, concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979.

1. The Iran-United States Claims Tribunal, established at The Hague pursuant to the Claims Settlement Agreement of January 19, 1981 (the "Algiers Accords"), continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered 29 more decisions for a total of 223 final decisions. Of that total, 167 have been awards in favor of American claimants; 110 were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties, and 57 were adjudicated decisions. As of April 1, 1986, total payments to successful American claimants from the Security Account stood at approximately \$538 million. In cases between the governments, the Tribunal has issued two decisions in favor of each government, dismissed one claim that had been filed by the United States, and dismissed four claims that had been filed by Iran. In addition, Iran has withdrawn fifteen of its government-to-government claims, while the United States has withdrawn three.

2. The Tribunal continues to make progress in the arbitration of claims of U.S. nationals for \$250,000 or more. More than 40 percent of the claims for over \$250,000 have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 292 such claims on the docket. In recent decisions that should prove favorable for many American claimants, the Tribunal decided that principles of international law and the Treaty of Amity, Economic Relations and Consular Rights between the United States and Iran require that Iran provide compensation for the full value of expropriated property, regardless of the legality of the act of expropriation. In two major recent awards on agreed terms, two U.S. oil companies settled their claims against Iran for a total of \$115 million. Settlement discussions continue to proceed between numerous American claimants and Iranian respondents.

3. The Tribunal continues to make progress on claims of U.S. nationals against Iran of less than \$250,000 each. While this process is slower than we would like, more than 120 claims are in active arbitration. The Department of State has submitted more than 34,000 pages of text and evidence in support of these claims. Additional pleadings are being filed weekly. The Tribunal held the first hearings on these claims

in December, and the first two decisions—which may provide a basis for more rapid disposition of many other claims—have recently been filed. Iran has not to date been willing to negotiate a lump sum settlement of these claims. Since my last report, another three small claimants (including one whose claims had been scheduled for a hearing) have received awards on agreed terms, bringing the total number of such awards to fifteen.

4. The Department of State continues to coordinate the efforts of concerned governmental agencies in presenting U.S. claims against Iran as well as responses by the U.S. Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in eight government-to-government claims based on contracts for the provision of goods and services. The Tribunal recently issued a decision holding that the contractual time limitation on the filing of claims under the Foreign Military Sales program is applicable to FMS-based cases at the Tribunal, but leaving unresolved the question of the evidentiary requirements applicable in proving shipment of goods under the contracts.

In addition to work on the government-to-government claims, the Department of State, working together with the Department of the Treasury and the Department of Justice, filed five pleadings in disputes concerning the interpretation and/or performance of various provisions of the Algiers Accords. The Tribunal held two hearings on interpretive disputes. The first dealt with the standard of proof that a corporate claimant must satisfy to establish that it enjoys the requisite U.S. or Iranian nationality for bringing a claim before the Tribunal. The second hearing dealt with the disposition of the balance remaining from the \$3.667 billion transferred in January 1981 to the Federal Reserve Bank of New York, as fiscal agent for the United States, for the payment of Iran's syndicated indebtedness.

5. The "Agreed Clarification on Payment of January Interest out of Dollar Account No. 2," which I mentioned in my previous report, was signed on November 20, 1985, by the Federal Reserve Bank of New York, as fiscal agent of the United States, and by Bank Markazi Jomhuri Islami Iran (Iran's