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B. Burns
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ACTION

MEMORANDUM FOR COLIN L. POWELL

FROM: ROBERT B. OAKLEY

SUBJECT: Semiannual Report to Congress on Iran

✓
The President is required by law to submit a report to Congress every six months on the Iranian emergency, which was declared on November 14, 1979. The last such message was transmitted in November 1987.

(Tab A)
The report proposed by Treasury is a straightforward summary of the work of the Iran-U.S. Claims Tribunal over the past six months. It also includes a brief review of our import ban against Iranian goods, as prescribed by Congress after issuance of the import embargo order last October.

State and Justice have cleared the proposed report.

^{W. B. R.} Danzansky, ^{Fortier} Fortier, and Rostow concur.

Prof'd OK to Burns 12/5/23 '15

Recommendation

That you sign the memorandum to the President at TAB I.

Approve _____ Disapprove _____

Attachments:

- TAB I Memorandum for the President
- TAB A Report to Congress
- TAB B Letter from Treasury dated May 18, 1988

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DECLASSIFY ON: OADR

DECLASSIFIED
Sec. 3.4(b), E.O. 12958, as amended
White House Guidelines, Sept. 11, 2008
BY NARA KW, DATE 6/24/19

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: WHITE HOUSE EXECUTIVE CLERK

FROM: COLIN L. POWELL

SUBJECT: Semiannual Report to Congress on Iran

Issue

Whether to approve the semiannual report to Congress on the Iranian emergency and our import prohibition on Iranian goods.

Facts

You are required by law to transmit a report to Congress every six months on the Iranian emergency, which was declared on November 14, 1979. Your last message on this subject was submitted in November 1987.

Discussion

The Treasury Department, supported by State and Justice, recommends that you sign the message at TAB A. It is a straightforward summary of the work of the Iran-U.S. Claims Tribunal over the past six months. The report also includes a brief review of our import ban against Iranian goods, as prescribed by Congress after issuance of the import embargo order last October.

Recommendation

OK NO That you sign the report at TAB A.

Attachments:

TAB A Report to Congress

TAB B Letter from Treasury dated May 18, 1988

TO THE CONGRESS OF THE UNITED STATES:

This report with respect to Iran is made pursuant to Section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and Section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9. This report discusses only matters concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979, and matters relating to Executive Order No. 12613 of October 29, 1987. This report covers events through April 30, 1988, including those that occurred since my last report under Executive Order No. 12170 dated November 20, 1987. That report covered events through October 15, 1987.

1. On October 29, 1987, after prior consultation with the Congress, I issued Executive Order No. 12613, invoking, inter alia, the authority of the International Security and Development Cooperation Act of 1985 to prohibit the importation of goods and services from Iran. As reported to the Congress on that date, this action was taken in response to the actions and policies of the Government of Iran in support of terrorism and acts of aggression against U.S. forces, U.S.-flag vessels, and other merchant vessels of nonbelligerent nations engaged in lawful and peaceful commerce in international waters of the Persian Gulf, and territorial waters of nonbelligerent nations of that region. The Executive order and my report noted that the import prohibi-

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Sec.3.4(b), E.O. 12958, as amended
White House Guidelines, Sept. 11, 2006
BY NARA kw, DATE 6/24/19

tion was in response to actions of the Government of Iran taken after the conclusion of the Claims Settlement Agreement of January 19, 1981 (the "Algiers Accords").

Pursuant to Executive Order No. 12613 (the "Embargo Order"), the Secretary of the Treasury, in consultation with the Secretary of State, issued the Iranian Transactions Regulations, 31 C.F.R. Part 560 (the "ITRs"), administered by the Office of Foreign Assets Control ("FAC"). A copy of these regulations is attached.

The ITRs provide, by general license, an exception to the import embargo for goods in transit at the October 29, 1987, effective date of the Embargo Order. Additionally, the ITRs provide for importation pursuant to specific FAC license for several categories of goods of Iranian origin, including those (a) imported prior to January 1, 1988, pursuant to a contract predating the Embargo Order, (b) located outside Iran as of the effective date of the Embargo Order, and for which no benefit or payment would accrue to Iran after the effective date relating to the sale or importation, or (c) received by U.S. claimants pursuant to an award of, or in settlement of claims brought before, the Iran-United States Claims Tribunal (see paragraph 2 of this report).

In the period ended April 30, 1988, FAC issued 74 specific licenses for imports of goods under preexisting contracts, and 94 specific licenses for goods located outside Iran on the effective date of the Embargo Order. We believe

that nearly all goods eligible for importation pursuant to the "in transit" exception were admitted within this reporting period.

Numerous Customs Service detentions and seizures of Iranian-origin goods (including carpets, caviar, dates, pistachios, and gold) have taken place, and a number of FAC and Customs investigations into potential violations of the ITRs are pending. Several of the seizures have led to forfeiture actions and imposition of civil monetary penalties. An indictment relating to the importation of 1.7 tons of Iranian caviar was returned on April 21, 1988 in Miami, Florida.

2. The Iran-United States Claims Tribunal (the "Tribunal"), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered 42 awards, for a total of 360 awards. Of that total, 259 have been awards in favor of American claimants: 154 of these were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties, and 105 were decisions adjudicated on the merits. The Tribunal has dismissed a total of 25 other claims on the merits, and 52 for jurisdictional reasons. Of the 24 remaining awards, two represent withdrawals and 22 were in favor of Iranian claimants. As of April 30, 1988, total payments to successful American claimants from the Security Account held by the NV Settlement Bank stood at approximately \$1.051 billion.

To date, the Security Account has fallen below the required balance of \$500 million 11 times. Each time, Iran has replenished the account, as required by the Algiers Accords, by transferring funds from the separate account held by the NV Settlement Bank in which interest on the Security Account is deposited. Iran has also replenished the account once when it was not required by the Accords, for a total of twelve replenishments. The most recent replenishment occurred on April 20, 1988, in the amount of \$500,000, bringing the total in the Security Account to \$500,367,792. The aggregate amount that has been transferred from the interest account to the Security Account is approximately \$549.5 million.

In July 1987, the Government of Iran appointed Mr. Seyed Khalil Khalilian to replace Dr. Hamid Bahrami-Ahmadi as the Iranian arbitrator to Chamber Two.

3. As stated in my last report, the Tribunal continues to make progress in the arbitration of claims of U.S. nationals for \$250,000 or more. Over 64 percent of the nonbank claims have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 184 such claims on the docket. The largest of the large claims, the progress of which has been slowed by their complexity, are finally being decided, sometimes with sizable damage awards to the U.S. claimant. Since the last report, 21 large claims have been decided. One U.S. company received an award for \$54.4 million.

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4. The Tribunal continues to process claims of U.S. nationals against Iran of less than \$250,000 each. As of April 30, 1988, a total of 210 small claims have been resolved, 71 of them since my last report, as a result of decisions on the merits, awards on agreed terms, or Tribunal orders. Eight contested claims have been decided since my previous report, raising the total number of contested claims decided to 21, twelve of which 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 25 awards on agreed terms reflecting settlements of claims under \$250,000.

Since my last report, the three Tribunal Chambers have selected 53 small claims for active arbitration, bringing the total number of small claims currently under active Tribunal consideration to 185. The Tribunal has held hearings in six of these claims since my last report. The Tribunal has recently decided three significant "wrongful expulsion" test cases. The general thrust of the holdings in this area is that claimants may recover for losses associated with expulsion from Iran only when officials of the Islamic Revolutionary Government perpetrated specific acts directed at the claimant and the claimant clearly left Iran as a result of those acts.

5. In coordination with concerned government agencies, the Department of State continues to present U.S. Government claims against Iran, as well as responses by the United States

Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in twelve government-to-government claims based on contracts for the provision of goods and services.

In five related government-to-government claims, the Tribunal awarded damages to Iran Air for aircraft services and supplies it found to be owed by U.S. agencies. With these decisions, the Tribunal to date has made five awards in favor of the United States and nine in favor of Iran. The Tribunal has dismissed twelve claims that had been filed by the United States and three claims that had been filed by Iran. In addition, Iran has withdrawn 13 of its government-to-government claims, while the United States has withdrawn five. No government-to-government claims have been finally settled since my last report, so 26 remain pending.

The Tribunal has not issued any opinions in claims concerning the interpretation or performance of various provisions of the Algiers Accords since my last report. One interpretive dispute brought by Iran was withdrawn by Iran and terminated. Iran recently filed an interpretive dispute in which it challenges a claimant's right to attach Iranian assets abroad in advance of an award by the Tribunal. The Department of State has filed two pleadings in interpretive disputes since my last report.

6. Since my last report, three bank syndicates have completed negotiations with Bank Markazi Jomhuri Islami Iran ("Bank Markazi," Iran's central bank) and have been paid a

total of \$691,912.40 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.

As indicated in my report of June 16, 1987, on May 4, 1987, the Tribunal directed that about \$454 million in Iranian funds held at the Federal Reserve Bank of New York ("FRBNY") be transferred to the Bank of England for credit to the account of Bank Markazi. These funds were transferred on May 13, 1987, with my approval. The Tribunal's May 4, 1987, order also directed that the United States and Iran pursue the settlement of remaining claims pending against the FRBNY account from which the money was transferred, and an amount was reserved for those claims. On April 13, 1988, FRBNY, acting on behalf of the United States Government, and Bank Markazi, acting on behalf of the Government of Iran, agreed on the disposition of the remaining Iranian funds held at FRBNY. As a result, on April 15, 1988, \$37.9 million not needed to cover any of the claims pending against the account at FRBNY were returned, as required under the Tribunal's order. Further, a procedure was established for the disposition of the remaining claims -- which are claims of bank syndicates of which a U.S. bank is a member -- against the remainder of these funds (approximately \$31.6 million).

7. Since my last report, there has been one amendment to the Iranian Assets Control Regulations, 31 C.F.R. Part 535 (the "Regulations"), administered by the Office of Foreign Assets Control. On January 26, 1988, FAC established

administrative procedures for the imposition of civil monetary penalties for violation of the Regulations, as provided in section 206 of the International Emergency Economic Powers Act, 50 U.S.C. 1705. 53 Fed. Reg. 7355 (March 8, 1988). A copy of these amendments to the Regulations is attached. The new prepenalty and penalty procedures do not alter substantive obligations imposed by the Regulations.

There have been no amendments to the Iranian Transactions Regulations since their publication on November 17, 1988.

8. The situation reviewed above 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. 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. Similarly, the Iranian Transactions Regulations issued pursuant to Executive Order No. 12613 continue to advance important objectives in combatting international terrorism. 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,

May __, 1988.



THE SECRETARY OF THE TREASURY
WASHINGTON

May 18, 1988

Dear Mr. President:

Under the International Emergency Economic Powers Act, you are required every six months to submit a report to the Congress concerning the Iranian emergency declared in Executive Order No. 12170 on November 14, 1979. In addition, the International Security and Development Cooperation Act of 1985 requires that you submit a semiannual report on actions taken under the import prohibition on Iranian goods ordered in Executive Order No. 12613 of October 29, 1987.

Enclosed is a proposed report covering events under the Iranian emergency declaration and the 1987 Iranian import embargo order during the period from October 15, 1987, through April 30, 1988. The proposed report indicates in its initial paragraph that it is not intended to report on all activities regarding Iran. The current report was due May 14, 1988.

Your last report to Congress on Iran under the International Emergency Economic Powers Act, dated November 20, 1987, is also enclosed for your reference.

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

Respectfully,

M. Peter McPherson
Acting Secretary

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

Enclosures

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 560

Iranian Transactions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: On October 29, 1987, the President issued Executive Order No. 12613, invoking the authority, *inter alia*, of section 505 of the International Security and Development Cooperation Act of 1985 (22 U.S.C. 2349a-9), prohibiting Iranian imports and delegating his authority under that Act to the Secretary of the Treasury. In implementation of that Order, the Treasury Department is issuing the Iranian Transactions Regulations. These Regulations prohibit importation into the United States of goods and services of Iranian origin, and certain related transactions.

EFFECTIVE DATE: 12:01 p.m., Eastern Standard Time, October 29, 1987.

FOR FURTHER INFORMATION CONTACT: Marilyn L. Muench, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, DC Tel.: (202) 376-0382.

SUPPLEMENTARY INFORMATION: The Government of Iran is actively supporting terrorism as an instrument of state policy, and has conducted aggressive and unlawful military action against U.S. flag vessels and merchant vessels of other non-belligerent nations engaged in lawful and peaceful commerce in international waters of the Persian Gulf and territorial waters of non-belligerent nations of that region. These transactions controls are being implemented to ensure that United States import of Iranian goods and services will not contribute financial support to terrorism or to further aggressive actions against non-belligerent shipping. The measures set forth in these regulations are in response to actions of the Iranian government occurring after the conclusion of the 1981 Algiers Accords, and are intended solely as a response to those actions.

Since the regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply. Because the regulations are

issued with respect to a foreign affairs function of the United States, they are not subject to Executive Order 12291 of February 17, 1981, dealing with Federal regulations. The information collection requests contained in §§ 560.601 and 560.602 of this document are being submitted to the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Notice of OMB action on these requests will be published in the Federal Register.

List of Subjects in 31 CFR Part 560

Imports, Reporting and recordkeeping requirements, Iran.

For the reasons set forth in the preamble, 31 CFR Part 560 is added as follows:

PART 560—IRANIAN TRANSACTIONS REGULATIONS

The "Authority" citation for Part 560 reads as follows:

Authority: 22 U.S.C. 2349a-9; E.O. No. 12613, 52 FR 41940, October 30, 1987.

The table of contents reads as follows:

Subpart A—Relation of this Part to Other Laws and Regulations**Sec.**

560.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

560.201 Prohibited importation of goods and services from Iran.

560.202 Prohibited related transactions.

560.203 Evasions.

Subpart C—General Definitions

560.301 Effective date.

560.302 The Act.

560.303 Iran; Iranian.

560.304 Government of Iran.

560.305 Person.

560.306 Iranian origin goods and services.

560.307 United States.

560.308 Importation.

560.309 Publications.

560.310 License.

560.311 General license.

560.312 Specific license.

Subpart D—Interpretations

560.401 Reference to amended sections.

560.402 Effect of amendment of sections of this part or of other orders, etc.

560.403 Exports from Iran prior to the effective date.

560.404 Certain offshore transactions, and other transactions related thereto.

560.405 Goods; technical data.

560.406 Transshipment through United States prohibited.

560.407 Importation from third countries; transshipment.

560.408 Importation into and release from a bonded warehouse or foreign trade zone.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

560.501 Effect of license or authorization.

560.502 Exclusion from licenses and authorizations.

560.503 Importation pursuant to prior contractual agreements.

560.504 Iranian goods in third countries prior to effective date.

560.505 Certain services relating to participation in various events authorized.

560.506 Importation of certain gifts authorized.

560.507 Importation of accompanied baggage authorized.

560.508 Telecommunications and mail transactions authorized.

560.509 Certain services performed in Iran with respect to patents, trademarks and copyrights.

560.510 Certain goods and services relating to legal proceedings.

560.511 Importation of goods awarded by the Hague Tribunal.

560.512 Certain imports for diplomatic or official personnel authorized.

Subpart F—Reports

560.601 Required records.

560.602 Reports to be furnished on demand.

Subpart G—Penalties

560.701 Penalties.

560.702 Detention of shipments.

Subpart H—Procedures

560.801 Licensing.

560.802 Decisions.

560.803 Amendment, modification, or revocation.

560.804 Rulemaking.

560.805 Delegation by the Secretary of the Treasury.

560.806 Customs procedures: goods specified in § 560.201.

560.807 Rules governing availability of information.

New Part 560 reads as follows:

Subpart A—Relation of This Part to Other Laws and Regulations

§ 560.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter, including Part 535, "Iranian Assets Control Regulations." No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulations authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions**§ 560.201 Prohibited importation of goods and services from Iran.**

Except as authorized by regulations, rulings, instructions, licenses, or otherwise, no goods or services of Iranian origin may be imported into the United States, with the following exceptions:

(a) Iranian-origin publications and materials imported for news publications or news broadcast dissemination;

(b) Petroleum products refined from Iranian crude oil in a third country; and

(c) Articles imported directly from Iran prior to the effective date.

§ 560.202 Prohibited related transactions.

No person may order, buy, act as broker or facilitator for, receive, conceal, store, use, sell, loan, dispose of, transfer, transport, finance, forward, or otherwise service, in whole or in part, any goods or services subject to the prohibitions of this part, with knowledge or reason to know that a violation of this part, or any regulation, order, or license issued pursuant hereto or to Section 505 of the Act, has occurred, is about to occur, or is intended to occur with respect to such goods or services.

§ 560.203 Evasions.

Any transaction for the purpose of, or which has the effect of, evading or avoiding any of the prohibitions set forth in this subpart is hereby prohibited.

Subpart C—General Definitions**§ 560.301 Effective date.**

The term "effective date" means 12:01 p.m., Eastern Standard Time, October 29, 1987.

§ 560.302 The Act.

For purposes of this part, the term "Act" means the International Security and Development Cooperation Act of 1985 (Pub. L. 99-83).

§ 560.303 Iran; Iranian.

The term "Iran" means the country of Iran and any Iranian territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof, or any territory which, at the time of the relevant transaction, is controlled or occupied by the military, naval or police forces or other authorities of Iran. The term "Iranian" means pertaining to Iran as defined in this section.

§ 560.304 Government of Iran.

(a) The "Government of Iran" includes:

(1) The state and the Government of Iran, as well as any political subdivision, agency, or instrumentality thereof;

(2) Any partnership, association, corporation, or other organization substantially owned or controlled by the foregoing;

(3) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date acting or purporting to act directly or indirectly on behalf of any of the foregoing.

§ 560.305 Person.

The term "person" means an individual, partnership, association, corporation or other organization.

§ 560.306 Iranian origin goods and services.

The term "goods or services of Iranian origin" includes:

(a) Goods grown, produced, manufactured, extracted, or processed in Iran;

(b) Goods which have entered into Iranian commerce; and

(c) Services performed in Iran or by the Government of Iran, as defined in § 560.304, where the benefit of such services will be received in the United States. Services of Iranian origin are not imported into the United States when such services are provided in the United States by an Iranian national resident in the United States. The term "services of Iranian origin" does not include:

(1) Diplomatic and consular services performed by or on behalf of the Government of Iran, or

(2) Diplomatic and consular services performed by or on behalf of the Government of the United States.

§ 560.307 United States.

The term "United States" means the United States, including its territories and possessions.

§ 560.308 Importation.

The term "importation" means the bringing of any goods into the United States, except that in the case of goods transported by vessel, "importation" shall mean the bringing of any goods into the United States with the intent to unladen it.

§ 560.309 Publications.

The term "publications" includes, but is not limited to, books, newspapers, magazines, films, phonograph records, tape recordings, photographs, microfilm, microfiche, videotapes, and posters, as well as items described in the following:

(a) 15 CFR 399.1, Commodity Control List, Group 5, CCL No. 7599; microfilm

that reproduces the content of certain publications, and similar materials.

(b) 15 CFR 399.1, Commodity Control List, Group 9, CCL No. 7999; certain publications and related materials.

§ 560.310 License.

Except as otherwise specified, the term "license" means any license or authorization contained in or issued pursuant to this part.

§ 560.311 General license.

The term "general license" means any license or authorization the terms of which are set forth in this part.

§ 560.312 Specific license.

The term "specific license" means any license or authorization not set forth in this part but issued pursuant to this part in response to a written application.

Subpart D—Interpretations**§ 560.401 Reference to amended sections.**

Reference to any section of this part or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part shall be deemed to refer to the same as currently amended unless otherwise so specified.

§ 560.402 Effect of amendment of sections of this part or of other orders, etc.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Secretary of the Treasury pursuant to section 505 of the Act shall not, unless otherwise specifically provided, be deemed to affect any act done or omitted to be done, or any suit or proceeding had or commenced in any civil or criminal case prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 560.403 Exports from Iran prior to the effective date.

Goods may be imported pursuant to exception (c) in § 560.201 if, prior to the effective date, the goods were loaded on board a vessel or aircraft in Iran or a third country ready for export to the United States, or were in transit from Iran or a third country for direct importation into the United States.

§ 560.404 Certain offshore transactions and other transactions related thereto.

The prohibitions contained in § 560.201 do not apply to the importation into locations outside the United States

of goods or services of Iranian origin. The prohibitions also do not extend to payments or other transactions, wherever concluded, by any person relating to such transactions outside the United States, such as U.S. financial, service, or brokerage transactions involving offshore transactions with Iran. Payments relating to such non-prohibited transactions, and payments relating to the exceptions designated in § 560.201, are not prohibited.

§ 560.405 Goods; technical data.

The term "goods" shall include merchandise; articles; and technical data in tangible form including, but not limited to, a model, prototype, blueprint, drawing, operating manual, computer software, tape recording, microfiche, or other material in machine readable form. The term "goods" does not apply to oral transmission of technical data in the course of performance of services, telephone communications, lectures, seminars, or plant visits.

§ 560.406 Transshipment through United States prohibited.

The prohibitions in § 560.201 apply to the importation into the United States, for transshipment or transit, of goods of Iranian origin which are intended or destined for third countries.

§ 560.407 Importation from third countries; transshipment.

(a) Importation into the United States from third countries of goods containing raw materials or components of Iranian origin is not prohibited if those raw materials or components have been incorporated into manufactured products or substantially transformed in a third country.

(b) Importation into the United States of goods of Iranian origin that have been transhipped through a third country without being incorporated into manufactured products or substantially transformed in a third country is prohibited.

§ 560.408 Importation into and release from a bonded warehouse or foreign trade zone.

The prohibitions in § 560.201 apply to importation into a bonded warehouse or a foreign trade zone of the United States. However, § 560.201 does not prohibit the release from a bonded warehouse or a foreign trade zone of goods of Iranian origin imported into a bonded warehouse or a foreign trade zone prior to the effective date.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 560.501 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Secretary of the Treasury pursuant to section 505 of the Act, shall be deemed to authorize or validate any transaction effected prior to the issuance of the license, unless specifically provided in such license or other authorization.

(b) No regulation, ruling, instruction, or license authorizes a transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Treasury Department and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transactions prohibited by any provision of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction or license authorizing a transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions in Subpart B from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 560.502 Exclusion from licenses and authorizations.

The Secretary of the Treasury reserves the right to exclude any person from the operation of any license, or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, transactions or property or classes thereof. Such action shall be binding upon all persons receiving actual or constructive notice thereof.

§ 560.503 Importation pursuant to prior contractual agreements.

Specific licenses may be issued, on a case-by-case basis, authorizing the importation of goods of Iranian origin into the United States after the effective date and before January 1, 1988, if the importer furnishes the Office with a certification supported by written evidence establishing that—

(a) Payment for the goods was made, or payment was irrevocably committed to be made, prior to the effective date, or

(b) A written agreement to purchase the goods was entered into prior to the effective date; and

(c) Prior to the effective date, the goods were intended for importation into the United States.

§ 560.504 Iranian goods in third countries prior to effective date.

(a) Specific licenses may be issued authorizing the importation of non-fungible goods of Iranian origin, such as carpets and artwork, provided the applicant submits satisfactory documentary proof that the goods are located outside Iran prior to the effective date and that no payment or other benefit has accrued or will accrue to Iran after the effective date. For purposes of this section, a payment or other economic benefit accruing to the Government of Iran or to a person or persons residing or located in Iran.

(b) Fungible goods of Iranian origin, such as oil and agricultural products, may qualify for importation after the effective date only under the provisions of §§ 560.201 and 560.503.

(c) The type of documentation that would constitute satisfactory proof of the location of non-fungible goods outside Iran as of the effective date may vary depending upon the facts of a particular case. However, independent corroborating documentary evidence issued and certified by a disinterested party will be required. This might include contracts, insurance documents, shipping documents, warehouse receipts, and appropriate customs documents, accompanied by a certification of an insurance agent, warehouse agent, or other appropriate person, identifying with particularity the goods sought to be imported and attesting that the goods concerned were located outside Iran at a time prior to the effective date. In general, affidavits, statements, and other documents prepared by the applicant or another interested party will not, by themselves, constitute satisfactory proof.

Example: A Persian carpet stored in a warehouse in Europe since January 1986, and purchased by a U.S. resident in November 1987, may be licensed for importation into the United States if the importer provides, for example, (1) a warehouse receipt dated prior to the effective date, and a certification from the warehouse that the carpet sought to be imported is the same carpet that was in storage, identifying such characteristics as predominant colors and design by description or photograph; and (2) insurance documents dated prior to the effective date and containing sufficient information to identify the specific carpet insured in a location outside Iran.

§ 560.505 Certain services relating to participation in various events authorized.

The importation of services of Iranian origin into the United States is authorized where an Iranian national enters the United States on a visa issued by the State Department for the purpose of participating in a public conference, performance, exhibition or similar event.

§ 560.506 Importation of certain gifts authorized.

The importation into the United States is authorized for goods of Iranian origin sent as gifts to persons in the United States where the value of the gift is not more than \$100.

§ 560.507 Importation of accompanied baggage authorized.

Persons entering the United States directly or indirectly from Iran are authorized to import into the United States Iranian-origin accompanied baggage normally incident to travel. This authorization does not extend to Iranian-origin goods the value of which exceeds the personal exemption from Customs duty, currently at \$400 per individual, or for Iranian-origin goods brought to the United States from third countries as accompanied baggage.

Example: Under this section, a U.S. resident returning from Iran may import personal effects acquired in Iran such as clothing and small purchases, provided their value is below the personal exemption amount, currently \$400. A U.S. tourist returning from a vacation in Canada with a Persian carpet purchased there is not eligible for the general license in this section, as the individual would not be entering the United States directly or indirectly from Iran. In the latter case, the carpet could be imported only under a specific license issued pursuant to another section, such as §§ 560.503 or 560.504.

§ 560.508 Telecommunications and mail transactions authorized.

All transactions of common carriers incident to the receipt or transmission of telecommunications and mail between the United States and Iran are authorized. For purposes of this section, the term "mail" shall include parcels only to the extent the parcels contain goods excepted from these Regulations or otherwise eligible for importation from Iran under a general or specific license.

§ 560.509 Certain services performed in Iran with respect to patents, trademarks and copyrights.

(a) All transactions incident to the following services rendered by a resident of Iran to or on behalf of a U.S. person are hereby authorized:

(1) The filing and prosecution of any application in Iran to obtain a patent,

trademark, copyright or other form of intellectual property protection.

(2) The receipt of an Iranian patent, trademark, copyright or other form of intellectual property protection.

(3) The renewal of maintenance of a patent, trademark, copyright or other form of intellectual property protection in Iran.

(4) The filing and prosecution of opposition or infringement proceedings in Iran with respect to a patent, trademark, copyright or other form of intellectual property protection; or the entrance of a defense to any such proceedings.

(b) Nothing in this section affects obligations under any other provision of law.

§ 560.510 Certain goods and services relating to legal proceedings.

All transactions are authorized pertaining to the importation of goods and services necessary for the conduct of legal proceedings, including administrative, judicial, and arbitral proceedings.

§ 560.511 Importation of goods awarded by the Hague Tribunal.

(a) Specific licenses will be issued on a case-by-case basis to permit the importation of goods of Iranian origin in connection with awards, decisions, or orders of the Iran-United States Claims Tribunal in the Hague, established pursuant to the Algiers Accords of January 18, 1981.

(b) Specific licenses may be issued on a case-by-case basis to permit the importation of Iranian origin goods in connection with agreements settling claims brought before the Iran-United States Claims Tribunal.

§ 560.512 Certain imports for diplomatic or official personnel authorized.

All transactions ordinarily incident to the importation of any goods or services into the United States from Iran are authorized if such imports are destined for official or personal use by personnel employed by Iranian missions to international organizations located in the United States, and such imports are not for resale.

Subpart F—Reports

§ 560.601 Required records.

Every person engaging in any transaction subject to the provisions of this part shall keep a full and accurate record of each transaction in which he engages, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at

least two years after the date of such transaction.

§ 560.602 Reports to be furnished on demand.

Every person is required to furnish under oath, in the form of reports or otherwise, from time to time and at any time as may be required, complete information relative to any transaction, regardless of whether such transaction is effected pursuant to license or otherwise, subject to the provisions of this part. Such reports may be required to include the production of any books of account, contracts, letters or other papers, connected with any such transaction or property, in the custody or control of the persons required to make such reports. Reports with respect to transactions may be required either before or after such transactions are completed. The Secretary of the Treasury may, through any person or agency, conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation, regardless of whether any report has been required or filed in connection therewith.

Subpart G—Penalties

§ 560.701 Penalties.

(a) Attention is directed to 18 U.S.C. 845, which provides:

Whoever knowingly and willfully, with intent to defraud the United States, smuggles, or clandestinely introduces into the United States any merchandise which should have been invoiced, or makes out or passes, or attempts to pass, through the customhouse any false, forged, or fraudulent invoice, or other document or paper; or

Whoever fraudulently or knowingly imports or brings into the United States, any merchandise contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law—

Shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

Proof of defendant's possession of such goods, unless explained to the satisfaction of the jury, shall be deemed evidence sufficient to authorize conviction for violation of this section.

Merchandise introduced into the United States in violation of this section, or the value thereof, to be recovered from any person described in the first or second paragraph of this section, shall be forfeited to the United States.

(b) Attention is directed to 18 U.S.C. 1001, which provides:

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

(c) Attention is directed to 19 U.S.C. 1592, which provides, in part:

(a) Prohibition.—
(1) General rule.—Without regard to whether the United States is or may be deprived of all or a portion of any lawful duty thereby, no person, by fraud, gross negligence, or negligence—

(A) may enter, introduce, or attempt to enter or introduce any merchandise into the commerce of the United States by means of—

(i) any document, written or oral statement, or act which is material and false, or

(ii) any omission which is material, or

(B) may aid or abet any other person to violate subparagraph (A) * * *

(c) Maximum penalties.—

(1) Fraud.—A fraudulent violation of subsection (a) of this section is punishable by a civil penalty in an amount not to exceed the domestic value of the merchandise.

(2) Gross negligence.—A grossly negligent violation of subsection (a) of this section is punishable by a civil penalty in an amount not to exceed—

(A) the lesser of—

(i) the domestic value of the merchandise,

or
(ii) four times the lawful duties of which the United States is or may be deprived, or

(B) if the violation did not affect the assessment of duties, 40 percent of the dutiable value of the merchandise.

(3) Negligence.—A negligent violation of subsection (a) of this section is punishable by a civil penalty in an amount not to exceed—

(A) the lesser of—

(i) the domestic value of the merchandise,

or
(ii) two times the lawful duties of which the United States is or may be deprived, or

(B) if the violation did not affect the assessment of duties, 20 percent of the dutiable value of the merchandise.

(d) Attention is also directed to 19 U.S.C. 1595a, which provides:

(a) * * * [E]very vessel, vehicle, animal, aircraft, or other thing used in, to aid in, or to facilitate, by obtaining information or in any other way, the importation, bringing in, unloading, landing, removal, concealing, harboring, or subsequent transportation of any article which is being or has been introduced, or attempted to be introduced, into the United States contrary to law, whether upon such vessel, vehicle, animal, aircraft or other thing or otherwise, may be seized and forfeited together with its tackle, apparel, furniture, harness, or equipment.

(b) Every person who directs, assists financially or otherwise, or is in any way concerned in any unlawful activity mentioned in the preceding subsection shall be liable to a penalty equal to the value of the article or articles introduced or attempted to be introduced.

(c) Any merchandise that is introduced or attempted to be introduced into the United States contrary to law (other than in violation of section 1592 of this title) may be seized and forfeited.

§ 560.702 Detention of shipments.

Import shipments into the United States of goods of Iranian origin in violation of § 560.201 shall be detained. No such import shall be permitted to proceed, except as specifically authorized by the Secretary of the Treasury. Such shipments shall be subject to licensing, penalties, or seizure and forfeiture action, under the Customs laws or other applicable provisions of law, depending on the circumstances.

Subpart H—Procedures

§ 560.801 Licensing.

(a) *General licenses.* General licenses have been issued authorizing under appropriate terms and conditions certain types of transactions which are subject to the prohibitions contained in Subpart B of this part. All such licenses are set forth in Subpart E of this part. It is the policy of the Office of Foreign Assets Control not to grant applications for specific licenses authorizing transactions to which the provisions of an outstanding general license are applicable. Persons availing themselves of certain general licenses may be required to file reports and statements in accordance with the instructions specified in those licenses.

(b) *Specific licenses—(1) General course of procedure.* Transactions subject to the prohibitions contained in Subpart B of this part which are not authorized by general license may be effected only under specific licenses. The specific licensing activities of the Office of Foreign Assets Control are performed by its Washington Office and by the Foreign Assets Control Division of the Federal Reserve Bank of New York.

(2) *Applications for specific licenses.* Applications for specific licenses to engage in any transactions prohibited by or pursuant to this part may be filed in duplicate by letter or on an application form with the Office of Foreign Assets Control or the Federal Reserve Bank of New York. Any person having an interest in a transaction or proposed transaction may file an application for a license authorizing such transaction, and there is no requirement that any

other person having an interest in such transaction shall or should join in making or filing such application.

(3) *Information to be supplied.* The applicant must supply all information specified by relevant instructions and/or forms. Such documents as may be relevant shall be attached to each application as a part of such application except that documents previously filed with the Office of Foreign Assets Control may, where appropriate, be incorporated by reference. Applicants may be required to furnish such further information as is deemed necessary to a proper determination by the Office of Foreign Assets Control. If an applicant or other party in interest desires to present additional information or discuss or argue the application, he may do so at any time before or after decision. Arrangements for oral presentation should be made with the Office of Foreign Assets Control.

(4) *Effect of denial.* The denial of a license does not preclude the reopening of an application or the filing of a further application. The applicant or any other party in interest may at any time request explanation of the reasons for a denial by correspondence or personal interview.

(5) *Reports under specific licenses.* As a condition upon the issuance of any license, the licensee may be required to file reports with respect to the transaction covered by the license, in such form and at such times and places as may be prescribed in the license or otherwise.

(6) *Issuance of license.* Licenses will be issued by the Office of Foreign Assets Control acting on behalf of the Secretary of the Treasury, or by the Federal Reserve Bank of New York acting in accordance with such regulations, rulings and instructions as the Secretary of the Treasury or the Office of Foreign Assets Control may from time to time prescribe, or licenses may be issued by the Secretary of the Treasury acting directly or through any specifically designated person, agency, or instrumentality.

§ 560.802 Decisions.

The Office of Foreign Assets Control or the Federal Reserve Bank of New York will advise each applicant of the decision respecting filed applications. The decision of the Office of Foreign Assets Control acting on behalf of the Secretary of the Treasury with respect to an application shall constitute final agency action.

§ 560.803 Amendment, modification, or revocation.

The provisions of this part and any rulings, licenses, whether general or specific; authorizations; instructions; orders; or forms issued hereunder may be amended, modified, or revoked at any time.

§ 560.804 Rulemaking.

(a) All rules and other public documents are issued by the Secretary of the Treasury upon recommendation of the Director of the Office of Foreign Assets Control. In general, rulemaking by the Office of Foreign Assets Control involves foreign affairs functions of the United States, and for that reason is exempt from the requirements under the Administrative Procedure Act (5 U.S.C. 553) for notice of proposed rulemaking, opportunity for public comment, and delay in effective date. Wherever possible, however, it is the practice of the Office of Foreign Assets Control to receive written submissions or hold informal consultations with interested parties before the issuance of any rule or other public document.

(b) Any interested person may petition the Director of the Office of Foreign Assets Control in writing for the issuance, amendment, or repeal of any rule.

§ 560.805 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to Executive Order No. 12613 or section 505 of the Act may be taken by the Director, Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

§ 560.806 Customs procedures: Goods specified in § 560.201.

(a) With respect to goods specified in Section 560.201, and not otherwise licensed or excepted from the scope of that section, appropriate Customs officers shall not accept or allow any:

(1) Entry for consumption or warehouse (including any appraisalment entry, any entry of goods imported in the mails, regardless of value, and any informal entries);

(2) Entry for immediate exportation;

(3) Entry for transportation and exportation;

(4) Withdrawal from warehouse;

(5) Admission, entry, transfer or withdrawal to or from a foreign trade zone; or

(6) Manipulation or manufacture in a warehouse or in a foreign trade zone.

(b) Customs officers shall accept or allow the importation of Iranian-origin goods under the procedures listed in subsection (a) if:

(1) The merchandise was imported prior to 12:01 p.m., October 29, 1987.

(2) A specific license pursuant to this part is presented, or

(3) Instructions authorizing the transaction are received from the Office of Foreign Assets Control, either directly or through the Federal Reserve Bank of New York.

(c) Whenever a specific license is presented to an appropriate Customs officer in accordance with this section, one additional legible copy of the entry, withdrawal or other appropriate document with respect to the merchandise involved shall be filed with the appropriate Customs officers at the port where the transaction is to take place. Each copy of any such entry, withdrawal or other appropriate document, including the additional copy, shall bear plainly on its face the number of the license pursuant to which it is filed. The original copy of the specific license shall be presented to the appropriate Customs officers in respect of each such transaction and shall bear a notation in ink by the licensee or person presenting the license showing the description, quantity and value of the merchandise to be entered, withdrawn or otherwise dealt with. This notation shall be so placed and so written that there will exist no possibility of confusing it with anything placed on the license at the time of its issuance. If the license in fact authorizes the entry, withdrawal, or other transaction with regard to the merchandise, the appropriate Customs officer, or other authorized Customs employee, shall verify the notation by signing or initialing it after first assuring himself that it accurately describes the

merchandise it purports to represent. The license shall thereafter be returned to the person presenting it and the additional copy of the entry, withdrawal or other appropriate document shall be forwarded by the appropriate Customs officer to the Office of Foreign Assets Control.

(d) If it is unclear whether an entry, withdrawal or other action affected by this section requires a specific Foreign Assets Control license, the appropriate Customs officer shall withhold any action thereon and shall advise such person to communicate directly with the Federal Reserve Bank of New York, Foreign Assets Control Division, 33 Liberty Street, New York, New York 10045, to request that instructions be sent to the Customs officer to authorize him to take action with regard thereto.

§ 560.807 Rules governing availability of information

(a) The records of the Office of Foreign Assets Control which are required by 5 U.S.C. 552 to be made available to the public shall be made available in accordance with the definitions, procedures, payment of fees, and other provisions of the regulations on the Disclosure of Records of the Office of the Secretary and of other bureaus and offices of the Department issued under 5 U.S.C. 552 and published as Part 1 of this Title 31 of the Code of Federal Regulations.

(b) Any form issued for use in connection with the Iranian Transactions Regulations may be obtained in person or by writing to the Office of Foreign Assets Control, Treasury Department, Washington, DC 20220, or the Foreign Assets Control Division, Federal Reserve Bank of New York, 33 Liberty Street, New York, NY 10045.

Dated: November 13, 1987.

R. Richard Newcomb,
Director Office of Foreign Assets Control.

Approved: November 13, 1987.

Francis A. Keating II,
Assistant Secretary, (Enforcement).

[FR Doc. 87-28394 Filed 11-13-87; 4:55 pm]

SALES CODE 010-02-01

31 CFR Parts 535, 540, 545, and 550**Iran, Nicaragua, South Africa, and Libya; Prepenalty and Penalty Procedures**

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the regulations concerning Iran (31 CFR Part 535), Nicaragua (31 CFR Part 540), South Africa (31 CFR Part 545), and Libya (31 CFR Part 550) by the addition of prepenalty and penalty procedures to Subparts G of these regulations. The amendments establish a procedure for imposition of civil monetary penalties for violations as provided in section 206(a) of the International Emergency Economic Powers Act, 50 U.S.C. 1705(a), and section 603(b)(1) of the Comprehensive Anti-Apartheid Act of 1986, 22 U.S.C. 5113(b)(1). These changes do not alter any substantive obligations imposed by the regulations, but set forth an additional enforcement tool to secure compliance with those obligations.

EFFECTIVE DATE: March 8, 1988.

FOR FURTHER INFORMATION CONTACT: Thomas F. Baker, Enforcement Advisor, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, 202/376-0870.

SUPPLEMENTARY INFORMATION: The Office of Foreign Assets Control of the Department of the Treasury (FAC) is entrusted with the responsibility of enforcing economic sanctions and restrictions imposed pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.*, and the Comprehensive Anti-Apartheid Act of 1986, 22 U.S.C. 5001 *et seq.* Although both statutes provide explicitly for civil penalties, no procedural regulations have previously been issued, and only criminal prosecutions have been brought against violators. Establishment of a civil administrative procedure will provide additional flexibility in enforcement. The following regulations establish a system of administrative enforcement that will permit FAC directly to assess civil monetary penalties, with referral to the Department of Justice for collection when necessary.

Since the regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply. Because the regulations are issued with respect to a foreign affairs function of the United States, they are not subject to Executive Order 12291 of February 17, 1981, dealing with Federal regulations.

List of Subjects in 31 CFR Part 535, 540, 545, and 550

Foreign assets, Foreign trade, Penalties.

For the reasons set out in the preamble, Title 31, Chapter V of the Code of Federal Regulations, is amended as set forth below.

31 CFR Part 535 is amended as follows:

PART 535—IRANIAN ASSETS CONTROL REGULATIONS

1. The authority citation for Part 535 continues to read as follows:

Authority: Secs. 201-207, 91 Stat. 1628; 50 U.S.C. 1701-1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 28685

2. Section 535.702 is added to read as follows:

§ 535.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control (hereinafter "Director") has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International

Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, he shall issue to the person concerned a notice of his intent to impose a monetary penalty. The prepenalty notice shall be issued whether or not another agency has taken any action with respect to this matter.

(b) Contents—(1) Facts of violation.

The prepenalty notice shall: (i) Describe the violation.

(ii) Specify the laws and regulations allegedly violated.

(iii) State the amount of the proposed monetary penalty.

(2) Right to make presentations. The prepenalty notice also shall inform the person of his right to make a written presentation within thirty (30) days of mailing of the notice as to why a monetary penalty should not be imposed, or, if imposed, why it should be in a lesser amount than proposed.

3. Section 535.703 is added to read as follows:

§ 535.703 Presentation responding to prepenalty notice.

(a) Time within which to respond. The named person shall have 30 days from the date of mailing of the prepenalty notice to make a written presentation to the Director.

(b) Form and contents of written presentation. The written presentation need not be in any particular form, but shall contain information sufficient to indicate that it is in response to the prepenalty notice. It should contain responses to the allegations in the prepenalty notice and set forth the reasons why the person believes the penalty should not be imposed or, if imposed, why it should be in a lesser amount than proposed.

4. Section 535.704 is added to read as follows:

§ 535.704 Penalty notice.

(a) No violation. If, after considering any presentations made in response to the prepenalty notice, the Director determines that there was no violation by the person named in the prepenalty notice, he promptly shall notify the person in writing of that determination and that no monetary penalty will be imposed.

(b) Violation. If, after considering any presentations made in response to the prepenalty notice, the Director determines that there was a violation by the person named in the prepenalty notice, he promptly shall issue a written notice of the imposition of the monetary penalty to that person.

5. Section 535.705 is added to read as follows:

§ 535.705 Referral to United States Department of Justice.

In the event that the person named does not pay the penalty imposed pursuant to this subpart or make payment arrangements acceptable to the Director within thirty days of the mailing of the written notice of the imposition of the penalty, the matter shall be referred to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Continuance of Iran Emergency

*Message to the Congress.
November 20, 1987*

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. 1703(c), and, as with 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 events through October 15, 1987, including those that occurred since my last report on June 16, 1987.

1. The Iran-United States Claims Tribunal (the "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 14 awards, for a total of 318 awards. Of that total, 237 have been awards in favor of American claimants; 142 of these were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties, and 95 were decisions adjudicated on the merits. The Tribunal has dismissed a total of 21 other claims on the merits and 44 for jurisdictional reasons. Of the 16 remaining awards, one represented a withdrawal and 15 were in favor of the Iranian claimant. As of October 9, 1987, total payments to successful American claimants from the Security Account held by the NV Settlement Bank stood at approximately \$983 million.

To date, the Security Account has fallen below the required balance of \$500 million seven times. Each time, Iran has replenished the account, as required by the Algiers Accords, by transferring funds from the separate account held by the NV Settlement Bank in which interest on the Security Account is deposited. Iran has also replenished the account once when it was not required by the Accords, for a total of eight replenishments. The most recent replenishment occurred on October 13, 1987, in the amount of \$170,000, bringing the total in the Security Account to \$500,000,000.00. The aggregate amount that has been transferred is approximately \$483 million.

In claims between the two governments based on contracts, the Tribunal to date has made four awards in favor of the United States and four in favor of Iran. The Tribu-

nal has dismissed two claims that had been filed by the United States and dismissed 11 claims that had been filed by Iran. In addition, Iran has withdrawn 13 of its government-to-government claims, while the United States has withdrawn three.

In July, the Government of Iran appointed Mr. Assadollah Nouri to replace Dr. Mohsen Mostafavi as the Iranian arbitrator in Chamber One.

2. As stated in my last report, the Tribunal continues to make progress in the arbitration of claims of U.S. nationals for \$250,000 or more. Over 60 percent of the non-bank claims have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 207 such claims on the docket. The largest of the large claims, whose progress has been slowed by their complexity, are finally being decided, sometimes with huge damage awards to the U.S. claimant. In one recent decision, a U.S. company received an award for \$117 million, while another U.S. company was awarded \$58 million. The Tribunal rendered interlocutory decisions on legal issues in two large oil company claims, finding liability on the part of Iran in both instances. These decisions pave the way for determinations of damages and an ultimate resolution of these cases.

3. The Tribunal also continues to process claims of U.S. nationals against Iran of less than \$250,000 each. As of October 15, 1987, a total of 139 small claims have been resolved, 12 of them since my last report, as a result of decisions on the merits, awards on agreed terms, or Tribunal orders. Two contested claims were decided in awards issued by the Tribunal since my previous report, raising the total number of contested claims decided to 13, eight favoring 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 20 awards on agreed terms reflecting settlement of claims under \$250,000.

Since my last report, the three Tribunal Chambers have selected 65 claims for active arbitration, bringing the total number of small claims currently under active Tribunal consideration to 206. The Tribunal has held hearings in two of these claims since my last report, and the Department of State has filed additional pleadings in 45 such claims.

4. The Department of State continues to coordinate efforts of concerned governmental agencies in presenting U.S. claims against Iran, as well as the response of the United States Government to claims

brought against it by Iran. Since my last report, the Department has filed six pleadings in government-to-government claims based on contracts for the provision of goods and services. Two such claims have been settled, so 35 government-to-government claims remain pending.

Since my last report, the Tribunal has held two hearings on government-to-government contract claims. On October 5-8, 1987, it heard Iran's claim against the United States for allegedly defective helicopters sold to Iran under the Foreign Military Sales program. On November 4-5, a hearing was held on Iran's claim for the return of military property held by the United States Government.

The Tribunal has recently issued opinions in two claims brought by Iran concerning the interpretation and/or performance of various provisions of the Algiers Accords. On May 4, 1987, the Tribunal denied Iran's request to find the United States responsible for the payment of Tribunal awards in favor of Iran against nationals of the United States. On September 30, 1987, the Tribunal issued a decision holding that it has the authority, inherent in the Algiers Accords, to award interest as compensation for damages suffered. This was the position advocated by the United States. The Tribunal further stated that each of its three chambers may decide in each case whether interest should be awarded and how it should be calculated.

5. Since my last report, two bank syndicates have been paid a total of \$989,751.88 for interest accruing for the period January 1-18, 1981 ("January Interest"), on the basis of settlements reached with Bank Markazi Jomhuri Islami Iran ("Bank Markazi," Iran's central bank). These payments were made from Dollar Account No. 2 at the Bank of England. Settlements have been signed between Bank Markazi and three other bank syndicates for the payment of \$691,912.40 from Dollar Account No. 2. Apparently there are certain other settlements awaiting Bank Markazi's approval.

6. Since my last report, there have been no amendments to the Iranian Assets Control Regulations, 31 C.F.R. Part 535, administered by the Office of Foreign Assets Control at the Treasury Department.

7. The situation reviewed above 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 20, 1987.

NATIONAL SECURITY COUNCIL
WASHINGTON, D C 20505

ACTION

June 11, 1987

MEMORANDUM FOR FRANK C. CARLUCCI

FROM: PAUL SCHOTT STEVENS *PS*

SUBJECT: President's Intelligence Oversight Board

On June 8, Bretton G. Sciaroni, Counsel to the President's Intelligence Oversight Board (PIOB), testified before the Senate and House Select Committees on Iran about the legal opinion he prepared on the Boland Amendments' applicability to the NSC. According to Warren Rudman and Dick Cheney, who telephoned A.B. Culvahouse in the wake of the hearing, Sciaroni's testimony has prompted a movement on the Hill to legislate the creation of a more effective intelligence oversight entity -- a move that will require decisive action by the Administration if it is to be preempted. Options for this purpose should be developed in advance of your and Senator Baker's and Director Webster's planned meeting with PIOB members.

One option Culvahouse floated: fold the functions of PIOB into those of the President's Foreign Intelligence Advisory Board (PFIAB), the prestige of whose members make it more highly regarded on the Hill and better able to attract staff of a caliber equal to oversight functions. Other options, of a nature that signal real presidential determination to upgrade the oversight role, should also be considered.

Barry Kelly and Allison Fortier concur.

RECOMMENDATION:

That you authorize Barry Kelly, Allison Fortier and me to develop an options paper on PIOB for your consideration upon return to the United States.

APPROVE _____

DISAPPROVE _____

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THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

June 16, 1987

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. 1703(c), and, as with 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 events through May 14, 1987, including those that occurred since my last report on November 21, 1986.

1. The Iran-United States Claims Tribunal (the "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 44 awards, for a total of 304 awards. Of that total, 228 have been awards in favor of American claimants: 139 of these were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties, and 89 were decisions adjudicated on the merits. The Tribunal has dismissed a total of 20 other claims on the merits and 44 for jurisdictional reasons. Of the 12 remaining awards, one was withdrawn and 11 were in favor of the Iranian claimant. As of April 30, 1987, total payments to successful American claimants from the Security Account held by the NV Settlement Bank stood at approximately \$854 million.

To date, the Security Account has fallen below the required balance of \$500 million five times. Each time, Iran has replenished the account, as required by the Algiers Accords, by transferring funds from the separate account held by the NV Settlement Bank in which interest on the Security Account is deposited. The most recent replenishment occurred on April 8, 1987, in the amount of \$20 million, bringing the total in the Security Account to \$516,532,511.28. Prior replenishments were for \$100 million, \$100 million, \$50 million, and \$100 million.

In claims between the two governments based on contracts, the Tribunal to date has made four awards in favor of the United States and three in favor of Iran. The Tribunal has dismissed two claims that had been filed by the United States and dismissed ten claims that had been filed by Iran. In addition, Iran has withdrawn 13 of its government-to-government claims (prior reports have overstated this number by two as a result of a clerical error), while the United States has withdrawn three.

American arbitrator Charles N. Brower was temporarily absent from the Tribunal in January, February, and March due to his appointment as Deputy Special Counsellor to the President. During his absence, American substitute arbitrator Carl Salans served in his place for several hearings. The Tribunal accepted the resignation of Iranian arbitrator Mohsen Mostafavi, to become effective upon the appointment by Iran of a replacement. Mr. Koorosh-Hosseini Ameli served as the Iranian arbitrator on an ad hoc basis in a number of cases.

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(OVER)

2. The Tribunal continues to make progress in the arbitration of claims of U.S. nationals for \$250,000 or more. Over 57 percent of the non-bank claims have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 220 such claims on the docket. Among recent cases, two U.S. companies received awards in excess of \$36 million each, and one U.S. company received an award for \$8.5 million. Other decisions were notable for the legal precedents set by the Tribunal. In one case, a claimant born in Iran of United States parents, who had lived most of his life in the United States, served in the U.S. military, and had other substantial contacts with the United States, was found to possess dominant and effective United States nationality, so as to bring his case within the Tribunal's jurisdiction, notwithstanding his contacts with Iran. In another case, an American subcontractor's claim for recovery directly against an Iranian respondent was upheld based on unjust enrichment, where the Iranian entity had not paid the general contractor for the work. Such favorable 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. While the Tribunal's progress is slower than we would like, a total of 127 small claims have been resolved, 15 of them since my last report, as a result of decisions on the merits, awards on agreed terms, or Tribunal orders. Six contested claims were decided in three awards issued by the Tribunal since my previous report, raising the total number of contested claims decided to 11, eight favoring 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 20 awards on agreed terms reflecting settlements of claims under \$250,000.

There remain 139 small claims currently under active Tribunal consideration. The Tribunal has held hearings in five of these claims since my last report, and the Department of State has filed additional pleadings in more than 50 such claims. The Tribunal has recently assigned the remaining small claims, totaling more than 2,500, to three-person chambers. We expect these chambers to make further selections of claims for active arbitration in the near future.

4. The Department of State continues to coordinate efforts of concerned governmental agencies in presenting U.S. claims against Iran, as well as response by the United States Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in five government-to-government claims based on contracts for the provision of goods and services. The Tribunal finally dismissed a number of Iranian claims against the United States based on alleged violations of Iranian customs regulations. Thirty-seven 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 five pleadings in disputes concerning the interpretation and/or performance of various provisions of the Algiers Accords. Since my last report, the Tribunal has held three hearings on interpretive disputes.

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As noted in my last report, in August 1986 the Tribunal ordered the United States and Iran to negotiate in good faith on the terms of a transfer to Iran of some \$500 million of Iranian funds that have been held by the Federal Reserve Bank of New York since 1981, and to transfer the funds as soon as an agreement had been reached. Following remarks by high-level Iranian officials linking U.S. compliance with the Tribunal order to the fate of hostages in Lebanon, the United States requested the Tribunal in January 1987 to take appropriate steps to clarify that no such linkage exists. On the following day, Iran filed a written submission with the Tribunal, accusing the United States of bad faith in the negotiations and requesting the Tribunal to resolve the technical issues.

On May 4, 1987, the Tribunal issued an award in which it orders the United States to retain about \$65 million at the Federal Reserve Bank of New York to pay outstanding claims, and immediately to transfer the balance (about \$454 million) to Iran's account at the Bank of England. The Tribunal adopted the substance of the release proposed by the United States that protects the United States against any possible future claims in connection with its administration of the account. The Tribunal stated that Iran has already publicly affirmed that there is no linkage between the United States' transfer of the funds and Iran's efforts to secure the release of hostages in Lebanon, and itself declared that "there can be no room for any doubt that this Case . . . [has] no relation or link whatsoever to the issue of hostages held in Lebanon or any other political matter." The United States complied with the Tribunal's award on May 13, 1987.

5. Since my last report, three bank syndicates have completed negotiations with Bank Markazi Jomhuri Islami Iran ("Bank Markazi," Iran's central bank) and have been paid a total of \$622,807.26 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 \$1,222,306.11 is pending for January Interest owed to three other bank syndicates, and Bank Markazi and additional bank syndicates are now negotiating January Interest settlements, with agent banks requesting the necessary participant consents.

6. Since my last report, there have been no amendments to the Iranian Assets Control Regulations, 31 C.F.R. Part 535, administered by the Office of Foreign Assets Control at the Treasury Department.

7. The situation reviewed above 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,
June 16, 1987.

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File Iran - Drag

NATIONAL SECURITY COUNCIL

July 19, 1988

TO: BOB OAKLEY
BILL BURNS
DENNIS ROSS

FROM: MIKE ANDRICOS *MA*

The attached is provided for
your information.

cc: Alison Fortier

27
H. Mike Andric's
News from Senator 395-5221

BOB DOLE



(R - Kansas) SH 141 Hart Building, Washington, D.C. 20510-1601

FOR IMMEDIATE RELEASE
JULY 18, 1988

CONTACT: WALT RIKER, DALE TATE
(202) 224-3135

DOLE CALLS IRAQ-IRAN CEASE-FIRE A "POTENTIAL BREAKTHROUGH"

SENATE REPUBLICAN LEADER BOB DOLE TODAY CALLED IRAN'S ANNOUNCED WILLINGNESS TO ACCEPT A U.N.-SPONSORED CEASEFIRE OF THE PERSIAN GULF WAR "A POTENTIAL BREAKTHROUGH, DEMONSTRATING AGAIN THAT PRESIDENT REAGAN'S STRATEGY OF DEALING FROM STRENGTH WORKS -- IN THE GULF, JUST AS EFFECTIVELY AS IN GENEVA AND MOSCOW."

"When you're dealing with the Ayatollah, of course, you want to see action, not just words. So let's not assume anything, yet. But if this turns out to be the real thing, no strings attached; if the fighting and the attacks on innocent shipping stop," Dole said, "it will permit us to substantially reduce the American military presence in the Gulf -- something we all want."

"Moreover, the success of our steadfast policy ought to win us even more confidence and support from our friends, greater influence in the region, and an expanded opportunity to tackle some of the other tough problems there."


"Our next priority -- and Secretary Shultz has been hard at work on it already, in Beijing -- is getting outside powers to stop shipping destabilizing offensive weapons into the region. That must include the Soviets."

"With our enhanced credibility, we may also be in a stronger position to play the credible 'honest broker' role between Israel and the Arabs, to give some new impetus to the Middle East peace process, and perhaps even to offer some useful counsel on the Palestine question."

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NATIONAL SECURITY CO 

July 19, 1988

TO: Ambassador Negroponte
FROM: Mike Andricos 
SUBJ: Senator Dole's Press
Statement on Iran

The attached is provided per
your request.

Attachment

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Pls send copy
to Bill Burns

ric
lrag

A.

United States Senate
COMMITTEE ON FOREIGN RELATIONS

PRESS RELEASE

For release September 8, 1988

Contact: Frank Sieverts
224-5220

PELL INTRODUCES KURDISH GENOCIDE LEGISLATION

Senator Claiborne Pell (D-R.I.), Chairman of the Senate Foreign Relations Committee, will today introduce legislation imposing sanctions on Iraq in response to Iraq's use of poisonous gas against the country's Kurdish population. Attached are Senator Pell's remarks and proposed legislation.

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THE PREVENTION OF GENOCIDE ACT OF 1988
Statement by Senator Claiborne Pell

Mr. President:

On the Iraqi-Turkish border evidence of a crime of unthinkable proportions is emerging. For the second time in this century a brutal dictatorship is using deadly gas to exterminate a distinct ethnic minority. In this case the victims are the Kurdish minority of Iraq and the perpetrators are the Iraqi army.

The Kurds are a distinct ethnic group, with an ancient history and rich culture, comprising some 20 million people. Although many have long aspired to an independent Kurdish homeland, the Kurds have the great misfortune to be divided among Iraq, Iran, Turkey, Syria and the Soviet Union. It is hard to imagine a less agreeable set of masters.

While Iraq's treatment of its Kurdish minority has in the past been somewhat better than that of its neighbors, the condition of the Iraqi Kurds has in recent years taken a turn for the catastrophic. With the onset of the Iran-Iraq War, Kurdish insurgents in both countries saw an opportunity for greater autonomy, if not independence. In Iraq the Kurdish insurgency made great progress, taking effective control of much of the countryside in mountainous northeast Iraq.

However, with the tides of war changing in Iraq's favor early this year, the Iraqi army launched a major offensive against the Kurds. The offensive was accompanied by the dynamiting of Kurdish villages throughout the region. Poisonous gas was used on the people. In March in the Kurdish town of Halabja, some five thousand Kurdish civilians were gassed.

With the August 20 ceasefire in the Iran-Iraq war, the Iraqi army has turned its fire power and its ample stocks of poison gas almost entirely against the Kurds. Refugee accounts provide incontrovertible evidence of massive use of poison gas. Because the region is closed to all foreign observers we can only speculate at the death toll, but it clearly is in the tens of thousands.

The campaign against the Kurdish people is continuing as we speak. There can be no doubt but that the Iraqi regime of Saddam Hussein intends this campaign to be a final solution to the Kurdish problem.

While a people are gassed, the world is largely silent. There are reasons for this: Iraq's great oil wealth, its military strength, a desire not to upset the delicate negotiations seeking an end to the Iran-Iraq war.

Silence, however, is complicity. A half century ago, the world was also silent as Hitler began a campaign that culminated in the near extermination of Europe's Jews. We cannot be silent to genocide again.

I am today introducing legislation that would cut off credits to Iraq, require the United States to vote against loans to Iraq in the international financial institutions, and prohibit the importation of Iraqi oil. These sanctions will continue as long as Iraq uses poisonous gas in violation of the 1925 Geneva Protocols and as long as Iraq's campaign of genocide against the Kurdish people continues.

It is said we do not have much influence over Iraq. This may be true, but I believe we must use whatever means at our disposal to get their attention. The Iraqi regime is a vicious dictatorship toughened by years of conflict. Hand wringing alone will not change their course; immediate action is essential.

IN THE SENATE OF THE UNITED STATES
To impose sanctions on Iraq as long as Iraq continues to use chemical weapons and to pursue a campaign of genocide against the Kurdish people.

Mr. FELL

introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

The Prevention of Genocide Act of 1988

(Insert title of bill here)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title. This act may be cited as "The Prevention of Genocide Act of 1988."

Section 2. Findings. The Congress finds:

- (i) The Kurdish people constitute a distinct ethnic group of some 20 million, with an ancient history and a rich cultural heritage;
- (ii) Three to four million Kurds are citizens of Iraq, residing in the northern part of that country;
- (iii) The Iraqi army has undertaken a campaign to depopulate the Kurdish regions of Iraq by destroying all Kurdish villages in a large part of northern Iraq and by killing the civilian population;
- (iv) Conclusive evidence exists that the Iraqi army has used and is continuing to use chemical weapons against Kurdish insurgents and unarmed Kurdish civilians;
- (v) Tens of thousands of Kurdish survivors of the Iraqi army assaults have taken refuge in Turkey;
- (vi) Iraq's use of chemical weapons is a gross violation of international law; and
- (vii) Iraq's campaign against the Kurdish people appears to constitute an act of genocide, a crime abhorred by civilized people everywhere and banned under international law.

Section 3. Sanctions against Iraq. (a) The United States Executive Director or representative at all international financial institutions of which the United States is a member is instructed to vote against all loans to Iraq.

(b) The United States shall provide no assistance, shall make no sales of any kind of military equipment, shall provide no credits, and shall provide no guarantees of any credits to Iraq.

(c) No item subject to export controls by any agency of the United States shall be sold or otherwise transferred to Iraq.

(d) No oil or petroleum products produced in Iraq shall be imported into the United States.

Section 4. Waiver. The President may waive the sanctions contained in Section 3 if he determines and so certifies in writing to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the United States Senate that:

(i) Iraq is not committing genocide against the Kurdish population of Iraq; and

(ii) Iraq is not using chemical weapons banned by the 1925 Geneva Conventions and has provided reliable assurances that it will not use such weapons.

Section 5. Commendation of Turkey. The Congress commends the government of Turkey for its humanitarian decision to host thousands of Kurdish people fleeing extermination in Iraq. The President is requested to convey to the government of Turkey this commendation.

Section 6. Assistance to Kurdish Refugees. It is the sense of the Congress that the United States should provide assistance to Kurdish refugees in need of medical treatment and other humanitarian aid.

Section 7. Effective date. This act shall take effect on enactment.