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PRESIDENT'S SPECIAL REVIEW BOARD

New Executive Office Building - Room 5221

Washington, D.C. 20506

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Director
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General Counsel

The Honorable Ronald W. Reagan
The President of the United States
Washington, D.C. 20500

Dear Mr. President:

We respectfully submit to you the Report of the Special Review Board. This Report is the product of our study of the National Security Council, its operation and its staff.

For the last three months, we have reviewed the evolution of the NSC system since its creation forty years ago. We had extensive discussions with almost every current and former senior official involved in national security affairs. Case studies from several Administrations were also conducted to inform our judgments.

At your direction, we also focused on the Iran/Contra matter and sought to follow your injunction that "all the facts come out." We attempted to do this as fairly as we knew how so that lessons for the future could be learned.

The Report is based in large part on information and documentation provided to us by U.S. departments and agencies and interviews of current and former officials. We relied upon others in the Executive Branch to conduct the search for materials or information we requested. In general, we received a positive response to our inquiries from every agency, including the White House, although the Independent Counsel and the Federal Bureau of Investigation responded negatively to our request for material. We found that the individuals from agencies that appeared before us generally did so in a forthcoming manner.

The portions of this Report that recite facts were reviewed by appropriate agency representatives in order to identify classified material. This was done to enable you to make the Report public. These representatives performed this security

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review without regard for domestic political consequences. No material was deleted on the grounds that it might prove embarrassing to your Administration. There was, however, some information that we concluded had to remain in the classified domain. The appropriate Congressional committees may find this information of use.

While the publication of the material in this Report may be troublesome to some in the short term, we believe that, over time, the nation will clearly benefit by your decision to commission this review. We commend this Report to you and to future Presidents in the hope that it will enhance the effectiveness of the National Security Council.

We are honored to have had the opportunity to serve on this Board.

Sincerely,

Edmund S. Muskie
Edmund S. Muskie
John Tower
John Tower
Brant Scowcroft
Brant Scowcroft

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Introduction

In November, 1986, it was disclosed that the United States had, in August, 1985, and subsequently, participated in secret dealings with Iran involving the sale of military equipment. There appeared to be a linkage between these dealings and efforts to obtain the release of U.S. citizens held hostage in Lebanon by terrorists believed to be closely associated with the Iranian regime. After the initial story broke, the Attorney General announced that proceeds from the arms transfers may have been diverted to assist U.S.-backed rebel forces in Nicaragua, known as Contras. This possibility enlarged the controversy and added questions not only of policy and propriety but also violations of law.

These disclosures became the focus of substantial public attention. The secret arms transfers appeared to run directly counter to declared U.S. policies. The United States had announced a policy of neutrality in the six-year old Iran/Iraq war and had proclaimed an embargo on arms sales to Iran. It had worked actively to isolate Iran and other regimes known to give aid and comfort to terrorists. It had declared that it would not pay ransom to hostage-takers.

Public concern was not limited to the issues of policy, however. Questions arose as to the propriety of certain actions taken by the National Security Council staff and the manner in which the decision to transfer arms to Iran had been made. Congress was never informed. A variety of intermediaries, both private and governmental, some with motives open to question, had central roles. The NSC staff rather than the CIA seemed to be running the oper-

ation. The President appeared to be unaware of key elements of the operation. The controversy threatened a crisis of confidence in the manner in which national security decisions are made and the role played by the NSC staff.

It was this latter set of concerns that prompted the President to establish this Special Review Board on December 1, 1986. The President directed the Board to examine the proper role of the National Security Council staff in national security operations, including the arms transfers to Iran. The President made clear that he wanted "all the facts to come out."

The Board was not, however, called upon to assess individual culpability or be the final arbiter of the facts. These tasks have been properly left to others. Indeed, the short deadline set by the President for completion of the Board's work and its limited resources precluded a separate and thorough field investigation. Instead, the Board has examined the events surrounding the transfer of arms to Iran as a principal case study in evaluating the operation of the National Security Council in general and the role of the NSC staff in particular.

The President gave the Board a broad charter. It was directed to conduct "a comprehensive study of the future role and procedures of the National Security Council (NSC) staff in the development, coordination, oversight, and conduct of foreign and national security policy."¹

It has been forty years since the enactment of the National Security Act of 1947 and the creation of the National Security Council. Since that time the NSC staff has grown in impor-

¹ See Appendix A, Executive Order No. 12575.

tance and the Assistant to the President for National Security Affairs has emerged as a key player in national security decision-making. This is the first Presidential Commission to have as its sole responsibility a comprehensive review of how these institutions have performed. We believe that, quite aside from the circumstances which brought about the Board's creation, such a review was overdue.

The Board divided its work into three major inquiries: the circumstances surrounding the Iran/Contra matter, other case studies that might reveal strengths and weaknesses in the operation of the National Security Council system under stress, and the manner in which that system has served eight different Presidents since its inception in 1947.

At Appendix B is a narrative of the information obtained from documents and interviews regarding the arms sales to Iran. The narrative is necessarily incomplete. As of the date of this report, some key witnesses had refused to testify before any forum. Important documents located in other countries had yet to be released, and important witnesses in other countries were not available. But the appended narrative tells much of the story. Although more information will undoubtedly come to light, the record thus far developed provides a sufficient basis for evaluating the process by which these events came about.

During the Board's work, it received evidence concerning the role of the NSC staff in support of the Contras during the period that such support was either barred or restricted by Congress. The Board had neither the time nor the resources to make a systematic inquiry into this area. Notwithstanding, substantial evidence came before the Board. A narrative of that evidence is contained at Appendix C.

The Board found that the issues raised by the Iran/Contra matter are in most instances not new. Every Administration has faced similar issues, although arising in different factual contexts. The Board examined in some detail the performance of the National Security Council system in 12 different crises dating back to the Truman Administration.² Former government

² A list of those case studies is contained in Appendix E.

officials participating in many of these crises were interviewed. This learning provided a broad historical perspective to the issues before the Board.

Those who expect from us a radical prescription for wholesale change may be disappointed. Not all major problems—and Iran/Contra has been a major one—can be solved simply by rearranging organizational blocks or passing new laws.

In addition, it is important to emphasize that the President is responsible for the national security policy of the United States. In the development and execution of that policy, the President is the decision-maker. He is not obliged to consult with or seek approval from anyone in the Executive Branch. The structure and procedures of the National Security Council system should be designed to give the President every assistance in discharging these heavy responsibilities. It is not possible to make a system immune from error without paralyzing its capacity to act.

At its senior levels, the National Security Council is primarily the interaction of people. We have examined with care its operation in the Iran/Contra matter and have set out in considerable detail mistakes of omission, commission, judgment, and perspective. We believe that this record and analysis can warn future Presidents, members of the National Security Council, and National Security Advisors of the potential pitfalls they face even when they are operating with what they consider the best of motives. We would hope that this record would be carefully read and its lessons fully absorbed by all aspirants to senior positions in the National Security Council system.

This report will serve another purpose. In preparing it, we contacted every living past President, three former Vice Presidents, and every living Secretary of State, Secretary of Defense, National Security Advisor, most Directors of Central Intelligence, and several Chairmen of the Joint Chiefs of Staff to solicit their views. We sought to learn how well, in their experience, the system had operated or, in the case of past Presidents, how well it served them. We asked all former participants how

they would change the system to make it more useful to the President.³

Our review validates the current National Security Council system. That system has been utilized by different Presidents in very different ways, in accordance with their individual work habits and philosophical predilections. On occasion over the years it has functioned with real brilliance; at other times serious mistakes have been made. The problems we examined in the case of Iran/Contra caused us deep concern. But their solution does not lie in revamping the National Security Council system.

³ A list of the witnesses interviewed by the Board is contained in Appendix I.

That system is properly the President's creature. It must be left flexible to be molded by the President into the form most useful to him. Otherwise it will become either an obstacle to the President, and a source of frustration; or an institutional irrelevance, as the President fashions informal structures more to his liking.

Having said that, there are certain functions which need to be performed in some way for any President. What we have tried to do is to distill from the wisdom of those who have participated in the National Security Council system over the past forty years the essence of these functions and the manner in which that system can be operated so as to minimize the likelihood of major error without destroying the creative impulses of the President.

Organizing for National Security

Ours is a government of checks and balances, of shared power and responsibility. The Constitution places the President and the Congress in dynamic tension. They both cooperate and compete in the making of national policy.

National security is no exception. The Constitution gives both the President and the Congress an important role. The Congress is crucial in formulating national policies and in marshalling the resources to carry them out. But those resources—the nation's military personnel, its diplomats, its intelligence capability—are lodged in the Executive Branch. As Chief Executive and Commander-in-Chief, and with broad authority in the area of foreign affairs, it is the President who is empowered to act for the nation and protect its interests.

A. The National Security Council

The present organization of the Executive Branch for national security matters was established by the National Security Act of 1947. That Act created the National Security Council. As now constituted, its statutory members are the President, Vice President, Secretary of State, and Secretary of Defense. The President is the head of the National Security Council.

Presidents have from time to time invited the heads of other departments or agencies to attend National Security Council meetings or to participate as *de facto* members. These have included the Director of Central Intelligence (the "DCI") and the Chairman of the Joint Chiefs of Staff (the "CJCS"). The President (or, in his absence, his designee) presides.

The National Security Council deals with the most vital issues in the nation's national security policy. It is this body that discusses recent developments in arms control and the Strategic Defense Initiative, that discussed whether or not to bomb the Cambodia mainland after the *Mayaguez* was captured; that debated the timetable for the U.S. withdrawal from Vietnam; and that considered the risky and daring attempt to rescue U.S. hostages in Iran in 1980. The National Security Council deals with issues that are difficult, complex, and often secret. Decisions are often required in hours rather than weeks. Advice must be given under great stress and with imperfect information.

The National Security Council is not a decision-making body. Although its other members hold official positions in the Government, when meeting as the National Security Council they sit as advisors to the President. This is clear from the language of the 1947 Act:

"The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security."

The National Security Council has from its inception been a highly personal instrument. Every President has turned for advice to those individuals and institutions whose judgment he has valued and trusted. For some Presidents,

such as President Eisenhower, the National Security Council served as a primary forum for obtaining advice on national security matters. Other Presidents, such as President Kennedy, relied on more informal groupings of advisors, often including some but not all of the Council members.

One official summarized the way the system has been adjusted by different Presidents:

"The NSC is going to be pretty well what a President wants it to be and what he determines it should be. Kennedy—and these are some exaggerations and generalities of course—with an anti-organizational bias, disestablished all [the Eisenhower created] committees and put a tight group in the White House totally attuned to his philosophic approach . . . Johnson didn't change that very much, except certain difficulties began to develop in the informality which was [otherwise] characterized by speed, unity of purpose, precision . . . So it had great efficiency and responsiveness. The difficulties began to develop in . . . the informality of the thing."

The Nixon Administration saw a return to the use of the National Security Council as a principal forum for national security advice. This pattern was continued by President Ford and President Carter, and in large measure by President Reagan.

Regardless of the frequency of its use, the NSC has remained a strictly advisory body. Each President has kept the burden of decision for himself, in accordance with his Constitutional responsibilities.

B. The Assistant to the President for National Security Affairs

Although closely associated with the National Security Council in the public mind, the Assistant to the President for National Security Affairs is not one of its members. Indeed, no mention of this position is made in the National Security Act of 1947.

The position was created by President Eisenhower in 1953. Although its precise title has varied, the position has come to be known (somewhat misleadingly) as the National Security Advisor.

Under President Eisenhower, the holder of this position served as the principal executive officer of the Council, setting the agenda, briefing the President on Council matters, and supervising the staff. He was not a policy advocate.

It was not until President Kennedy, with McGeorge Bundy in the role, that the position took on its current form. Bundy emerged as an important personal advisor to the President on national security affairs. This introduced an element of direct competition into Bundy's relationship with the members of the National Security Council. Although President Johnson changed the title of the position to simply "Special Assistant," in the hands of Walt Rostow it continued to play an important role.

President Nixon relied heavily on his National Security Advisor, maintaining and even enhancing its prominence. In that position, Henry Kissinger became a key spokesman for the President's national security policies both to the U.S. press and to foreign governments. President Nixon used him to negotiate on behalf of the United States with Vietnam, China, the Soviet Union, and other countries. The role of spokesman and negotiator had traditionally been the province of the Secretary of State, not of the National Security Advisor. The emerging tension between the two positions was only resolved when Kissinger assumed them both.

Under President Ford, Lt Gen Brent Scowcroft became National Security Advisor, with Henry Kissinger remaining as Secretary of State. The National Security Advisor exercised major responsibility for coordinating for the President the advice of his NSC principals and overseeing the process of policy development and implementation within the Executive Branch.

President Carter returned in large part to the early Kissinger model, with a resulting increase in tensions with the Secretary of State. President Carter wanted to take the lead in matters of foreign policy, and used his National Security Advisor as a source of information, ideas, and new initiatives.

The role of the National Security Advisor, like the role of the NSC itself, has in large measure been a function of the operating style of the President. Notwithstanding, the National

Security Advisor has come to perform, to a greater or lesser extent, certain functions which appear essential to the effective discharge of the President's responsibilities in national security affairs.

- He is an "honest broker" for the NSC process. He assures that issues are clearly presented to the President; that all reasonable options, together with an analysis of their disadvantages and risks, are brought to his attention; and that the views of the President's other principal advisors are accurately conveyed.
- He provides advice from the President's vantage point, unalloyed by institutional responsibilities and biases. Unlike the Secretaries of State or Defense, who have substantial organizations for which they are responsible, the President is the National Security Advisor's only constituency.
- He monitors the actions taken by the executive departments in implementing the President's national security policies. He asks the question whether these actions are consistent with Presidential decisions and whether, over time, the underlying policies continue to serve U.S. interests.
- He has a special role in crisis management. This has resulted from the need for prompt and coordinated action under Presidential control, often with secrecy being essential.
- He reaches out for new ideas and initiatives that will give substance to broad Presidential objectives for national security.
- He keeps the President informed about international developments and developments in the Congress and the Executive Branch that affect the President's policies and priorities.

But the National Security Advisor remains the creature of the President. The position will be largely what he wants it to be. This presents any President with a series of dilemmas.

- The President must surround himself with people he trusts and to whom he can speak in confidence. To this end, the National Security Advisor, unlike the Secretaries of State and Defense, is not subject to confirmation by the Senate and does not testify before Congress. But the more

the President relies on the National Security Advisor for advice, especially to the exclusion of his Cabinet officials, the greater will be the unease with this arrangement.

- As the "honest broker" of the NSC process, the National Security Advisor must ensure that the different and often conflicting views of the NSC principals are presented fairly to the President. But as an independent advisor to the President, he must provide his own judgment. To the extent that the National Security Advisor becomes a strong advocate for a particular point of view, his role as "honest broker" may be compromised and the President's access to the unedited views of the NSC principals may be impaired.
- The Secretaries of State and Defense, and the Director of Central Intelligence, head agencies of government that have specific statutory responsibilities and are subject to Congressional oversight for the implementation of U.S. national security policy. To the extent that the National Security Advisor assumes operational responsibilities, whether by negotiating with foreign governments or becoming heavily involved in military or intelligence operations, the legitimacy of that role and his authority to perform it may be challenged.
- The more the National Security Advisor becomes an "operator" in implementing policy, the less will he be able objectively to review that implementation—and whether the underlying policy continues to serve the interests of the President and the nation.
- The Secretary of State has traditionally been the President's spokesman on matters of national security and foreign affairs. To the extent that the National Security Advisor speaks publicly on these matters or meets with representatives of foreign governments, the result may be confusion as to what is the President's policy.

C. The NSC Staff

At the time it established the National Security Council, Congress authorized a staff headed by an Executive Secretary appointed by

the President. Initially quite small, the NSC staff expanded substantially under President Eisenhower.

During the Eisenhower Administration, the NSC staff assumed two important functions: coordinating the executive departments in the development of national policy (through the NSC Planning Board) and overseeing the implementation of that policy (through the Operations Coordination Board). A systematic effort was made to coordinate policy development and its implementation by the various agencies through an elaborate set of committees. The system worked fairly well in bringing together for the President the views of the other NSC principals. But it has been criticized as biased toward reaching consensus among these principals rather than developing options for Presidential decision. By the end of his second term, President Eisenhower himself had reached the conclusion that a highly competent individual and a small staff could perform the needed functions in a better way. Such a change was made by President Kennedy.

Under President Kennedy, a number of the functions of the NSC staff were eliminated and its size was sharply reduced. The Planning and Operations Coordinating Boards were abolished. Policy development and policy implementation were assigned to individual Cabinet officers, responsible directly to the President. By late 1962 the staff was only 12 professionals, serving largely as an independent source of ideas and information to the President. The system was lean and responsive, but frequently suffered from a lack of coordination. The Johnson Administration followed much the same pattern.

The Nixon Administration returned to a model more like Eisenhower's but with something of the informality of the Kennedy/Johnson staffs. The Eisenhower system had emphasized coordination; the Kennedy-Johnson system tilted to innovation and the generation of new ideas. The Nixon system emphasized both. The objective was not inter-departmental consensus but the generation of policy options for Presidential decision, and then ensuring that those decisions were carried out. The staff grew to 50 professionals in 1970 and became a major factor in the national security decision-making process. This approach was largely continued under President Ford.

The NSC staff retained an important role under President Carter. While continuing to have responsibility for coordinating policy among the various executive agencies, President Carter particularly looked to the NSC staff as a personal source of independent advice. President Carter felt the need to have a group loyal only to him from which to launch his own initiatives and to move a vast and lethargic government. During his time in office, President Carter reduced the size of the professional staff to 35, feeling that a smaller group could do the job and would have a closer relationship to him.

What emerges from this history is an NSC staff used by each President in a way that reflected his individual preferences and working style. Over time, it has developed an important role within the Executive Branch of coordinating policy review, preparing issues for Presidential decision, and monitoring implementation. But it has remained the President's creature, molded as he sees fit, to serve as his personal staff for national security affairs. For this reason, it has generally operated out of the public view and has not been subject to direct oversight by the Congress.

D. The Interagency Committee System

The National Security Council has frequently been supported by committees made up of representatives of the relevant national security departments and agencies. These committees analyze issues prior to consideration by the Council. There are generally several levels of committees. At the top level, officials from each agency (at the Deputy Secretary or Under Secretary level) meet to provide a senior level policy review. These senior-level committees are in turn supported by more junior interagency groups (usually at the Assistant Secretary level). These in turn may oversee staff level working groups that prepare detailed analysis of important issues.

Administrations have differed in the extent to which they have used these interagency committees. President Kennedy placed little stock in them. The Nixon and Carter Administrations, by contrast, made much use of them.

E. The Reagan Model

President Reagan entered office with a strong commitment to cabinet government. His principal advisors on national security affairs were to be the Secretaries of State and Defense, and to a lesser extent the Director of Central Intelligence. The position of the National Security Advisor was initially downgraded in both status and access to the President. Over the next six years, five different people held that position.

The Administration's first National Security Advisor, Richard Allen, reported to the President through the senior White House staff. Consequently, the NSC staff assumed a reduced role. Mr. Allen believed that the Secretary of State had primacy in the field of foreign policy. He viewed the job of the National Security Advisor as that of a policy coordinator.

President Reagan initially declared that the National Security Council would be the principal forum for consideration of national security issues. To support the work of the Council, President Reagan established an interagency committee system headed by three Senior Interagency Groups (or "SIGs"), one each for foreign policy, defense policy, and intelligence. They were chaired by the Secretary of State, the Secretary of Defense, and the Director of Central Intelligence, respectively.

Over time, the Administration's original conception of the role of the National Security Advisor changed. William Clark, who succeeded Richard Allen in 1982, was a long-time associate of the President and dealt directly with him. Robert McFarlane, who replaced Judge Clark in 1983, although personally less close to the President, continued to have direct access to him. The same was true for VADM John Poindexter, who was appointed to the position in December, 1985.

President Reagan appointed several additional members to his National Security Council and allowed staff attendance at meetings. The resultant size of the meetings led the President to turn increasingly to a smaller group (called the National Security Planning Group or "NSPG"). Attendance at its meetings was more restricted but included the statutory principals of the NSC. The NSPG was supported by the SIGs, and new SIGs were occasionally created

to deal with particular issues. These were frequently chaired by the National Security Advisor. But generally the SIGs and many of their subsidiary groups (called Interagency Groups or "IGs") fell into disuse.

As a supplement to the normal NSC process, the Reagan Administration adopted comprehensive procedures for covert actions. These are contained in a classified document, NSDD-159, establishing the process for deciding, implementing, monitoring, and reviewing covert activities.

F. The Problem of Covert Operations

Covert activities place a great strain on the process of decision in a free society. Disclosure of even the existence of the operation could threaten its effectiveness and risk embarrassment to the Government. As a result, there is strong pressure to withhold information, to limit knowledge of the operation to a minimum number of people.

These pressures come into play with great force when covert activities are undertaken in an effort to obtain the release of U.S. citizens held hostage abroad. Because of the legitimate human concern all Presidents have felt over the fate of such hostages, our national pride as a powerful country with a tradition of protecting its citizens abroad, and the great attention paid by the news media to hostage situations, the pressures on any President to take action to free hostages are enormous. Frequently to be effective, this action must necessarily be covert. Disclosure would directly threaten the lives of the hostages as well as those willing to contemplate their release.

Since covert arms sales to Iran played such a central role in the creation of this Board, it has focused its attention in large measure on the role of the NSC staff where covert activity is involved. This is not to demigrate, however, the importance of other decisions taken by the government. In those areas as well the National Security Council and its staff play a critical role. But in many respects the best test of a system is its performance under stress. The conditions of greatest stress are often found in the crucible of covert activities.

Arms Transfers to Iran, Diversion, and Support for the Contras

The Iran/Contra matter has been and, in some respects, still is an enigma. For three months the Board sought to learn the facts, and still the whole matter cannot be fully explained. The general outlines of the story are clear. The story is set out here as we now know it.

Given the President's injunction that he wanted "all the facts to come out," the Board sought to include all relevant materials. The Board tried to be faithful to the testimony and documents that came before it. This Board was not established, however, as an investigative body nor was it to determine matters of criminal culpability. Rather, the Board was established to gather the facts, to place them in their proper historical context, and to make recommendations about what corrective steps might be taken.

The limits of time, resources, and legal authority were handicaps but not unreasonable ones.

The Board had no authority to subpoena documents, compel testimony, swear witnesses, or grant immunity.

But these limitations did not prevent the Board from assembling sufficient information to form a basis for its fundamental judgments. The Board received a vast quantity of documents and interviewed over 80 witnesses. The Board requested all affected departments and agencies to provide all documents relevant to the Board's inquiry. The Board relied upon these agencies to conduct thorough searches for all relevant materials in their possession. In addition, the Board reviewed the results and relevant portions of working files from both the

CIA and Department of the Army Inspectors General reports.

Several individuals declined our request to appear before the Board: VADM John Poindexter, General Richard Secord, USAF Ret.; LtCol Oliver North, LtCol Robert Earl; Mr. Albert Hakim; and Miss Fawn Hall. The Board requested that the President exercise his powers as Commander-in-Chief and order VADM Poindexter and LtCol North to appear. The President declined.¹

Despite the refusal of VADM Poindexter and LtCol North to appear, the Board's access to other sources of information filled much of this gap. The FBI provided documents taken from the files of the National Security Advisor and relevant NSC staff members, including messages from the PROF system² between VADM Poindexter and LtCol North. The PROF messages were conversations by computer, written at the time events occurred and presumed by the writers to be protected from disclosure. In this sense, they provide a first-hand, contemporaneous account of events.

In the closing days of the Board's inquiry, we gained access to a considerable number of additional exchanges on PROFs between VADM Poindexter, LtCol North, and Mr. McFarlane.

¹ The correspondence to the President from the Board's Chairman and the reply, on his behalf, of White House Counsel Peter Wallison, are at Appendix G.

² The "PROF" system, The Professional Office System, is an interoffice mail system run through an IBM main frame computer and managed by the White House Communications Agency for the NSC. All NSC officers have personal passwords which enable them to send and receive messages to each other from terminals at their desks.

The Board had access to another contemporaneous record of events. The President keeps a diary in which he chronicles, in long hand, key events that occurred during the day. President Reagan reviewed his notes and, at the Board's request, culled from them the relevant notes he had made on particular dates requested by the Board. The Board was permitted to review but not to retain a typewritten copy of these diary entries.

No one interviewed by the Board seemed able to provide a unified account of the events in August independent of calendars or meeting notes. In the lives of these particularly busy individuals this should not be surprising. This lack of a total and accurate recall may suggest an equally important point: when these events occurred, they were not treated by many of the participants as sufficiently important.

Those that are present at meetings or privy to conversations will retain different impressions of what occurred. That certainly happened here. Many of these events occurred almost two years ago, and memories fade. There is also the chance that, for whatever reason, individuals concealed evidence or deliberately misled the Board. In any event, the Board's mandate was not to resolve conflicts among various recollections but to attempt to ascertain the essential facts as they affect conclusions about the national security process.

The Independent Counsel at various points denied the Board access to some materials in which he had established an interest. The Government of Israel was asked to make certain individuals available in any way that would be convenient to them. They declined to do so. They agreed to answer written interrogatories. We dispatched those to the Government of Israel but no response has, as yet, been received.

The first section of this Part III summarizes the evidence before the Board concerning the arms transfers to Iran. A more detailed narrative of this evidence is set out in Appendix B.

The second section summarizes the evidence before the Board concerning a diversion of funds from the arms sales to the support of the Contras fighting in Nicaragua.

The third section summarizes the evidence accumulated by the Board concerning the role of the NSC staff in the support of the Contras during the period that support from the U.S.

government was either barred or restricted by Congress. A more detailed narrative of this evidence is set out in Appendix C.

Section A: The Arms Transfers to Iran

Two persistent concerns lay behind U.S. participation in arms transfers to Iran.

First, the U.S. government anxiously sought the release of seven U.S. citizens abducted in Beirut, Lebanon, in seven separate incidents between March 7, 1984, and June 9, 1985. One of those abducted was William Buckley, CIA station chief in Beirut, seized on March 16, 1984. Available intelligence suggested that most, if not all, of the Americans were held hostage by members of Hezbollah, a fundamentalist Shiite terrorist group with links to the regime of the Ayatollah Khomeini.

Second, the U.S. government had a latent and unresolved interest in establishing ties to Iran. Few in the U.S. government doubted Iran's strategic importance or the risk of Soviet meddling in the succession crisis that might follow the death of Khomeini. For this reason, some in the U.S. government were convinced that efforts should be made to open potential channels to Iran.

Arms transfers ultimately appeared to offer a means to achieve both the release of the hostages and a strategic opening to Iran.

The formulation, development, and implementation of the Iran initiative passed through seven distinct stages. Each is analyzed in this section of the report. For the purposes of the Board's mandate, the critical questions for each stage are: What was U.S. policy? How were decisions made? What action was authorized and by whom? How was this action carried out? What happened as a result?

Stage 1: The NSC Staff Seeks a New Look at U.S. Policy on Iran

The Shah of Iran was overthrown on January 16, 1979, ending an intimate, twenty-five year relationship between the United States and Iran. Mutual hostility and tension characterized U.S. relations with the regime of the Ayatollah Khomeini, which, after some months, succeeded the Shah's rule. On November 4, 1979, radi-

cal Iranian elements seized the U.S. embassy in Tehran and held its staff hostage. The United States responded by blocking the transfer of all property of the Iranian government, imposing a trade embargo, freezing all other Iranian assets, and breaking diplomatic relations. In addition, the United States imposed an embargo on all arms shipments to Iran, including arms that had been purchased under the Shah but not yet delivered.

On January 19, 1981, many of these restrictions were lifted, as part of the agreement that led to the release of the embassy staff. However, this did not extend to the embargo on arms transfers. Iraq had attacked Iran on September 22, 1980. The United States had adopted a policy of neutrality and refused to ship arms to either side. The result was a continuation of the arms embargo against Iran.

The Reagan Administration had adopted a tough line against terrorism. In particular, the United States adamantly opposed making any concessions to terrorists in exchange for the release of hostages—whether by paying ransom, releasing prisoners, changing policies, or otherwise. Some time in July of 1982, the United States became aware of evidence suggesting that Iran was supporting terrorist groups, including groups engaged in hostage-taking. On January 20, 1984, the Secretary of State designated Iran a sponsor of international terrorism.⁹ Thereafter, the United States actively pressured its allies not to ship arms to Iran, both because of its sponsorship of international terrorism and its continuation of the war with Iraq.

The NSC Staff Instigates a Reevaluation. By early 1984, Robert McFarlane, the National Security Advisor, and members of the NSC staff, had become concerned about future U.S. policy toward Iran. They feared that the death of Khomeini would touch off a succession struggle which would hold important consequences for U.S. interests. They believed that the United States lacked a strategy and capability for dealing with this prospect.

Initially, Mr. McFarlane tried to use the formal interagency policy process to address

⁹ On August 27, 1980, a new section was added to the Arms Export Control Act which prohibited the export of arms to countries which the Secretary of State has determined support acts of international terrorism. Such a determination was in effect at that time for Iran.

this issue. On August 31, 1984, he requested an interagency study of U.S. relations with Iran after Khomeini. On October 19, 1984, the State Department sent Mr. McFarlane the interagency response to his request. It concluded that the United States had "no influential contacts" within the Iranian government or Iranian political groups. The study suggested little that the United States could do to establish such contacts. Separately, in a letter dated December 11, 1984, to Mr. McFarlane's deputy, VADM John Poindexter, the CIA professed only a limited capability to influence events in Iran over the near term.

The Reevaluation Yields No New Ideas. Howard Teicher, one of the NSC staff members involved, told the Board that the interagency effort failed to identify any new ideas for significantly expanding U.S. influence in Iran. It resulted in no change in U.S. policy. The U.S. government continued aggressively to discourage arms transfers by other nations to Iran under a program called "Operation Staunch."

Stage 2: The NSC Staff Tries a Second Time

Mr. Teicher, Donald Fortier, and perhaps other NSC staff members were unhappy with the result of the interagency effort. They placed a high priority on fashioning a strategy for acquiring influence and checking the Soviets in Iran. Graham Fuller, then the National Intelligence Officer for the Near East and South Asia, told the Board that in early 1985 the U.S. intelligence community began to believe that serious factional fighting could break out in Iran even before Khomeini died. This change in the community's assessment provided a second opportunity for a policy review.

The NSC Staff Suggests Limited Arms Sales. Mr. Teicher, and to a lesser extent Mr. Fortier, worked closely with CIA officials to prepare an update of a previous "Special National Intelligence Estimate" (or "SNE") on Iran. Dated May 20, 1985, the update portrayed the Soviets as well positioned to take advantage of chaos inside Iran. The United States, by contrast, was unlikely to be able directly to influence events. Our European and other allies could, however, provide a valuable presence to help protect Western interests. The update concluded that the degree to which these allies "can fill a mili-

tary gap for Iran will be a critical measure of the West's ability to blunt Soviet influence."

On June 11, 1985, Mr. Fortier and Mr. Teicher submitted to Mr. McFarlane a draft Presidential decision document (a National Security Decision Directive or "NSDD") drawing on the intelligence update. The draft set out immediate and long-term U.S. goals and listed specific steps to achieve them. First on the list was to "[e]ncourage Western allies and friends to help Iran meet its import requirements * * * includ[ing] provision of selected military equipment * * *."

The memorandum from Mr. Fortier and Mr. Teicher transmitting the draft NSDD to Mr. McFarlane suggested that "[b]ecause of the political and bureaucratic sensitivities," Mr. McFarlane should provide copies of the NSDD only to Secretary of State Shultz and Secretary of Defense Weinberger. "Whether to proceed with a restricted SIG [Senior Interagency Group], NSPG [National Security Planning Group], or other forum [for consideration of the draft] would depend on their reactions."

Mr. McFarlane circulated the draft on June 17, 1985, to Secretary Shultz, Secretary Weinberger, and Director of Central Intelligence Casey. His transmittal memorandum requested that further distribution remain limited to lessen the risk of leaks. In letters to Mr. McFarlane dated June 29, 1985, and July 16, 1985, respectively, both Secretary Shultz and Secretary Weinberger objected sharply to the suggestion that the United States should permit or encourage transfers of Western arms to Iran. By contrast, in his reply of July 18, 1985, Director Casey "strongly endorse[d]" the thrust of the draft NSDD and particularly its emphasis on the need to take "concrete and timely steps to enhance U.S. leverage." He did not specifically address the issue of arms sales.

The Suggestion Dies. Mr. Teicher told the Board that the strong objections from Secretary Shultz and Secretary Weinberger apparently killed the draft NSDD. In mid-August he was told to "stand down" on the effort. The draft was never submitted to the President for his consideration or signature.

The abandonment of the draft NSDD marked the end of efforts by Mr. McFarlane and the NSC staff to use the formal interagency policy process to obtain an explicit change in U.S.

policy toward Iran. From this point on, the matter moved along a different track.

Stage 3: The Israelis Provide a Vehicle

While the NSC staff was seeking a reexamination of U.S. policy toward Iran, several staff members were growing ever more concerned about the hostage issue. On June 14, 1985, TWA flight 847 was hijacked enroute from Athens to Rome, with 135 U.S. citizens aboard. It was not until June 29 that all the hostages were released. One U.S. citizen was executed. The event dominated the news in the United States and dramatized the hostage issue. Frustration at the lack of progress in freeing the hostages in Beirut grew perceptibly within the U.S. government, especially in the face of pleas to the President for action by the families of the hostages. In the summer of 1985, a vehicle appeared that offered the prospect of progress both on the release of the hostages and a strategic opening to Iran.

Israel had long-standing interests in a relationship with Iran and in promoting its arms export industry. Arms sales to Iran could further both objectives. It also offered a means of strengthening Iran against Israel's old adversary, Iraq. Much of Israel's military equipment came originally from the United States, however. For both legal and political reasons, Israel felt a need for U.S. approval of, or at least acquiescence in, any arms sales to Iran. In addition, elements in Israel undoubtedly wanted the United States involved for its own sake so as to distance the United States from the Arab world and ultimately to establish Israel as the only real strategic partner of the United States in the region.

Iran badly wanted what Israel could provide. The United States had been the primary source of arms for the Shah, but U.S. shipments to Iran were now barred by the embargo. Iran desperately wanted U.S. origin TOW and HAWK missiles,* in order to counter Iraq's

* The acronym TOW stands for tube launched, optically tracked, air guided missile. It is a man portable anti tank missile. A HAWK is a type of ground launched, air-to-air missile.

chief areas of superiority—armor and air forces. Since Israel had these weapons in its inventory, it was an alternative source of supply. Israel was more than willing to provide these weapons to Iran, but only if the United States approved the transfer and would agree to replace the weapons.

Iranian interest in these weapons was widely known among those connected with the arms trade. These included Manucher Ghorbanifar, an Iranian businessman living in France, and Adolph Schwimmer and Yaacov Nimrodi, private Israeli arms dealers with contacts throughout the Middle East including Israel. Since September, 1984, Mr. Schwimmer had also been a consultant to then-Prime Minister of Israel Shimon Peres. In a series of meetings beginning in January, 1985, these men had discussed using arms sales to obtain the release of the U.S. citizens held hostage in Beirut and to open a strategic dialogue with Iran. Some of those meetings included Amiram Nir, since September, 1984, an advisor to Prime Minister Peres on counterterrorism. Also involved was Saudi businessman Adnan Khashoggi, a man well-connected in the Middle East and enjoying a special relationship with key Israeli officials. All these men subsequently played a role in the brokering of the arms deals that later did occur.

These men believed that the United States, Israel, and Iran, though with different interests, were susceptible to a relationship of convenience involving arms, hostages, and the opening of a channel to Iran. The catalyst that brought this relationship into being was the proffering by Israel of a channel for the United States in establishing contacts with Iran.

An Opening to Iran. On the 4th or 5th of May, 1985, Michael Ledeen, an NSC staff consultant, with the knowledge of Mr. McFarlane, went to Israel and met with Prime Minister Peres. Mr. Ledeen told the Board that he asked about the state of Israeli intelligence on Iran and whether Israel would be willing to share its intelligence with the United States. Two months later, the United States received the first of three separate requests regarding Iran from the Israeli government. The first two occurred in July, 1985.

(i) *The July Requests.* On July 3, 1985, David Kimche, the Director General of the Israeli Foreign Ministry, met at the White House with

Mr. McFarlane. Mr. McFarlane told the Board that Mr. Kimche asked the position of the U.S. government toward engaging in a political discourse with Iranian officials. He recalled Mr. Kimche as saying that these Iranian officials had conveyed to Israel their interest in a discourse with the United States. Contact was to be handled through an intermediary (later disclosed to be Mr. Ghorbanifar) who was represented as having good connections to Iranian officials.

This was not the first time that Mr. Ghorbanifar had come to the attention of the U.S. government. The CIA knew of Mr. Ghorbanifar and had a history of contacts with him. CIA's first contact with Ghorbanifar was through a European intelligence service in January 1980. From the beginning, CIA found it "difficult to filter out the bravado and exaggeration from what actually happened." Other intelligence services had similar experiences with Mr. Ghorbanifar. By September of 1980, CIA decided to drop efforts at recruiting Ghorbanifar. It considered him neither reliable nor trustworthy. In addition, Theodore Shackley, a former CIA official, had met Mr. Ghorbanifar in Hamburg, West Germany, between November 19-21, 1984. Mr. Ghorbanifar at that time suggested payment of a cash ransom for the hostages in Beirut, with himself as middleman. This proposal, contained in a memorandum prepared by Mr. Shackley dated November 22, 1984, apparently reached the State Department where it elicited no interest. A memorandum from Mr. Shackley dated June 7, 1985, containing a later suggestion by Mr. Ghorbanifar that the ransom involve items "other than money," also drew no response. At the time of his meeting with Mr. Kimche, Mr. McFarlane apparently did not know this background or even that Mr. Ghorbanifar was the intermediary Mr. Kimche had in mind. He learned this later in the month from Mr. Ledeen.

Mr. McFarlane told the Board that Mr. Kimche told him the Iranians understood that they would have to demonstrate their "bona fides" and that the Iranians believed they could influence Hizballah to release the hostages in Beirut. But Mr. McFarlane also recalled Mr. Kimche expressing the view that ultimately the Iranians would need something to show for the

dialogue, and that this would "probably" be weapons.

Mr. McFarlane testified that he informed the President of his conversation with Mr. Kimche within three or four days after the meeting, shortly before the President entered the hospital for his cancer operation. Mr. McFarlane also stated that on July 13, 1985, he briefed Secretary Shultz, Secretary Weinberger, and Director Casey in separate conversations. Mr. McFarlane told the Board that the President was interested in the proposal and said that he believed we should explore it. Mr. McFarlane said this may have occurred in the first week of July, before the President entered the hospital.

On July 13, 1985, Mr. McFarlane apparently received a second request, this time brought by an emissary directly from Israeli Prime Minister Peres. The "emissary" was Mr. Schwimmer, who delivered the request to Mr. McFarlane through Mr. Ledeen. The emissary carried word of a recent meeting with Mr. Ghorbanifar and another Iranian in which the Iranians had said that others inside Iran were interested in more extensive relations with the West, and particularly, the United States. The Iranians reportedly said that their contacts in Iran could achieve the release of the seven Americans held in Lebanon but in exchange sought 100 TOW missiles from Israel. This was to be part of a "larger purpose" of opening a "private dialogue" on U.S./Iranian relations. The emissary asked for a prompt response. Mr. McFarlane stated that he passed the President's decision to David Kimche by telephone.

On July 14, 1985, Mr. McFarlane cabled this proposal to Secretary Shultz, who was traveling in Asia. Mr. McFarlane recommended a tentative show of interest in a dialogue but with no commitment to the arms exchange. He asked for Secretary Shultz's guidance and indicated he would "abide fully" by the Secretary's decision. By return cable on the same day, Secretary Shultz agreed to "a tentative show of interest without commitment." He said this was consistent with U.S. policy of "maintaining contact with people who might eventually provide information or help in freeing hostages." Secretary Shultz advised Mr. McFarlane to "handle this probe personally" but asked that he stay in close contact.

White House Chief of Staff Regan told the Board that he and Mr. McFarlane met with the

President on this issue in the hospital a few days after the President's cancer operation on July 13. Mr. Regan told the Board that the matter was discussed for 20 to 25 minutes, with the President asking quite a few questions. He recalled the President then saying "yes, go ahead. Open it up."

In his meeting with the Board on February 11, 1987, the President said he had no recollection of a meeting in the hospital in July with Mr. McFarlane and that he had no notes that would show such a meeting.

(ii) *The August Request.* On August 2, 1985, Mr. McFarlane again met at the White House with Mr. Kimche. According to Mr. McFarlane, Mr. Kimche said that the Iranians had asked whether the United States would supply arms to Iran. Mr. McFarlane recalled responding that he thought not. He told the Board that Mr. Kimche then asked what the U.S. reaction would be if Israel shipped weapons to Iran, and whether the United States would sell replacements "whether it's HAWKs or TOWs or whatever else." Mr. McFarlane recalled telling Mr. Kimche he would "get you our position."

What followed is quite murky.

Most NSC principals apparently had an opportunity to discuss this request with the President in and around the first two weeks of August. There clearly was a series of meetings with one or more of the principals in attendance. In addition, a number of the participants seem to recall a single meeting at which all the principals were present. White House records, however, show no meetings of the NSC principals in August scheduled for the purpose of discussing this issue. Other evidence suggests that there were meetings of the NSC principals in August at which this issue could have been discussed.

It is also unclear what exactly was under consideration at this time. No analytical paper was prepared for the August discussions and no formal minutes of any of the discussions were made.

Mr. McFarlane said that Mr. Kimche made a special proposal that 100 TOWs to Iran would establish good faith and result in the release of all the hostages. Mr. McFarlane told the Board that he discussed this proposal with the President several times and, on at least one occasion, with all the "full" members of the NSC.

Within days after the meeting, the President communicated his decision to Mr. McFarlane by telephone. He said the President decided that, if Israel chose to transfer arms to Iran, in modest amounts not enough to change the military balance and not including major weapon systems, then it could buy replacements from the United States. Mr. McFarlane said that the President also indicated that the United States was interested in a political meeting with the Iranians. Mr. McFarlane said he reminded the President of the opposition expressed by Secretary Shultz and Secretary Weinberger, but that the President said he wanted to go ahead—that he, the President, would take "all the heat for that."

Mr. McFarlane told the Board that he subsequently conveyed the President's decision to Mr. Kimche. He said that he emphasized to Mr. Kimche that the U.S. purpose was a political agenda with Iran, not an exchange of arms for hostages. Mr. McFarlane told the Board that he also conveyed this decision to the NSC principals.

Secretary Shultz told the Board that on August 6, 1985, during one of his regularly scheduled meetings with the President, he discussed with the President a proposal for the transfer of 100 TOW missiles from Israel. The Iranians were for their part to produce the release of four or more hostages. Secretary Shultz told the Board that he opposed the arms sales at the meeting with the President. He said that Mr. McFarlane was present at this meeting. Secretary Shultz did not recall a telephone call from Mr. McFarlane regarding a decision by the President.

Secretary Weinberger recalled a meeting with the President at his residence after the President's return from the hospital. He told the Board that he argued forcefully against arms transfers to Iran, as did George Shultz. He said he thought that the President agreed that the idea should not be pursued.

Mr. Regan also recalled an August meeting with the President. He told the Board that the President expressed concern with any one-for-one swap of arms for hostages and indicated "we should go slow on this but develop the contact." Mr. Regan also told the Board that in early September, Mr. McFarlane informed the President that Israel had sold arms to the Iranians and hoped to get some hostages out. Mr.

Regan stated that the President was "upset" at the news and that Mr. McFarlane explained that the Israelis had "simply taken it upon themselves to do this." Mr. Regan said that after some discussion, the President decided to "leave it alone."

In his meeting with the Board on January 26, 1987, the President said that sometime in August he approved the shipment of arms by Israel to Iran. He was uncertain as to the precise date. The President also said that he approved replenishment of any arms transferred by Israel to Iran. Mr. McFarlane's testimony of January 16, 1986, before the Senate Foreign Relations Committee, which the President embraced, takes the same position. This portion of Mr. McFarlane's testimony was specifically highlighted on the copy of testimony given by the President to the Board.

In his meeting with the Board on February 11, the President said that he and Mr. Regan had gone over the matter a number of times and that Mr. Regan had a firm recollection that the President had not authorized the August shipment in advance. The President said he did not recall authorizing the August shipment in advance. He noted that very possibly, the transfer was brought to him as already completed. He said that subsequently there were arms shipments he authorized that may have had to do with replenishment, and that this approval for replenishment could have taken place in September. The President stated that he had been "surprised" that the Israelis had shipped arms to Iran, and that this fact caused the President to conclude that he had not approved the transfer in advance.

In a subsequent letter to the Board received on February 20, 1987, the President wrote: "In trying to recall events that happened eighteen months ago I'm afraid that I let myself be influenced by others' recollections, not my own . . .

... I have no personal notes or records to help my recollection on this matter. The only honest answer is to state that try as I might, I cannot recall anything whatsoever about whether I approved an Israeli sale in advance or whether I approved replenishment of Israeli stocks around August of 1985. My answer therefore and the simple truth is, 'I don't remember—period.'"

The Board tried to resolve the question of whether the President gave prior approval to Israel's transfer of arms to Iran. We could not do so conclusively.

We believe that an Israeli request for approval of such a transfer was discussed before the President in early August. We believe that Secretary Shultz and Secretary Weinberger expressed at times vigorous opposition to the proposal. The President agreed to replenish Israeli stocks. We are persuaded that he most likely provided this approval prior to the first shipment by Israel.

In coming to this conclusion, it is of paramount importance that the President never opposed the idea of Israel transferring arms to Iran. Indeed, four months after the August shipment, the President authorized the United States government to undertake directly the very same operation that Israel had proposed. Even if Mr. McFarlane did not have the President's explicit prior approval, he clearly had his full support.

A Hostage Comes Out. On August 30, 1985, Israel delivered 100 TOWs to Iran. A subsequent delivery of 408 more TOWs occurred on September 14, 1985.⁸ On September 15, 1985, Reverend Benjamin Weir was released by his captors.

Mr. Ghorbanifar told the Board that the 100 TOWs were not linked to a hostage release. They were to evidence U.S. seriousness in reestablishing relations with Iran. The next step was to be the delivery of 400 more TOWs, for which Iran was to free a hostage. The goal was to establish a new relationship between the two countries, which would include a pledge by Iran of no further terrorist acts against the United States or its citizens by those under Iran's control.

Mr. McFarlane said that he received a telephone call from Mr. Kimche informing him of Rev. Weir's impending release about a week before it occurred. LtCol North, the NSC staff officer with responsibility for terrorism policy, made arrangements for receiving and debriefing Rev. Weir.

Although it appears that Israel and the United States expected the release of the re-

maining hostages to accompany or follow the release of Rev. Weir, this did not occur.

Stage 4: The Initiative Appears to Founder

The United States had only a supporting role in the August and September deliveries to Iran. Israel managed the operation. The next three months saw an increasing U.S. role.

A number of important developments regarding the Iran initiative occurred between September and December, 1985. However, it proved difficult for the Board to establish precisely what happened during this period. This is in part because the period was one of great activity for the President, the NSC principals, and Mr. McFarlane. Issues that seemed to be both more important and more urgent than the Iran initiative clearly preoccupied them.

Mr. McFarlane described the foreign policy agenda for the period. The Soviet foreign minister visited Washington. Preparations for the Geneva Summit with General Secretary Gorbachev were under way; this included four Presidential speeches on arms control, human rights, regional issues, and U.S./Soviet bilateral relations. The President delivered an address to the United Nations on the occasion of its 40th Anniversary. The President met with twelve to fifteen heads of State in New York and Washington. In the middle of this hectic schedule, on October 7, 1985, the Achille Lauro was seized by four Palestinian hijackers.

An Arms for Hostages Deal. On October 8, 1985, LtCol North's calendar indicated that he met with Mr. Ledeer, Mr. Schwimmer, Mr. Nimrodi, and Mr. Ghorbanifar (using the alias of Nicholas Kralis). Other meetings may have occurred. There is little evidence of what exactly went on in these meetings. All that is known for sure is that shortly after those meetings, David Kimche advanced a third proposal.

Mr. Kimche met with Mr. McFarlane and LtCol North on November 9, 1985. John McMahon, the Deputy Director of Central Intelligence, told the Board that Mr. McFarlane spoke with him on November 14. Mr. McFarlane told Mr. McMahon that Mr. Kimche had indicated that the Israelis planned to provide some arms to moderates in Iran who would oppose Khomeini. Mr. McFarlane suggested that the Israelis interpreted the Presidential au-

thorization as an open charter for further arms shipments as long as the shipments were modest and did not alter the military balance between Iran and Iraq. Indeed, he did not recall any specific request by Israel in the late fall. He did, however, remember that early in November, Yitzhak Rabin, Israel's Defense Minister, asked whether U.S. policy would still permit Israel to buy replacements from the U.S. for arms it transferred to Iran. Mr. McFarlane confirmed that it would, although he indicated U.S. reservations about any trade of arms for hostages. They asked nothing further.

In a message to VADM Poindexter on November 20, 1985, LtCol North described the following plan. The Israelis were to deliver 80 HAWK missiles to a staging area in a third country, at noon on Friday, November 22. These were to be loaded aboard three chartered aircraft, which would take off at two hour intervals for Tabriz, Iran. Once launch of the first aircraft had been confirmed by Mr. Ghorbanifar, directions would be given to release the five U.S. citizens held hostage in Beirut. No aircraft was to land in Tabriz until all the hostages had been delivered to the U.S. embassy in Beirut. Israel would deliver forty additional HAWKs at a later time. The Iranians would commit to seeing that there were no further hostages seized.

Secretary Shultz told the Board that Mr. McFarlane told him on November 18, 1985, about a plan that would produce the release of the hostages on Thursday, November 21. Secretary Shultz told the Board he told Mr. McFarlane that had he known of it earlier, he would have stopped it. He nonetheless expressed the hope to Mr. McFarlane that the hostages would be released. It is not clear what other NSC principals, if any, were told in advance about the plan.

Secretary Shultz said he told an associate on November 22 that "Bud says he's cleared with the President" on the plan. Chief of Staff Regan told the Board that the President was informed in advance of the Israeli HAWK shipment but was not asked to approve it. He said that Mr. McFarlane told the President early in the month on the margins of his briefings for the Geneva Summit to expect that a shipment of missiles would come from Israel through a third country to Iran, and that the hostages would come out.

In his first meeting with the Board on January 16, 1987, the President said he did not remember how the November shipment came about. The President said he objected to the shipment, and that, as a result of that objection, the shipment was returned to Israel.

In his second meeting with the Board on February 11, 1987, the President stated that both he and Mr. Regan agreed that they cannot remember any meeting or conversation in general about a HAWK shipment. The President said he did not remember anything about a call-back of the HAWKs.

Nonetheless, that the United States would sell replacement HAWKs to Israel seems to have been assumed at least by VADM Poindexter from the start. LtCol North informed VADM Poindexter on November 20, 1985, that "IAW [in accordance with] your instructions I have told their [Israel's] agent that we will sell them 120 items [HAWKs] at a price that they can meet."

Failure. In contrast to the August TOW shipment, the United States became directly involved in the November transfer of the HAWK missiles. Sometime on November 17 or 18, 1985, while Mr. McFarlane was in Geneva for the November summit, Mr. Rabin called Mr. McFarlane to say that a problem had arisen. Mr. McFarlane referred the matter to LtCol North.

North signed a letter for Mr. McFarlane dated November 19, 1985, requesting Richard Secord, a retired U.S. Air Force general officer, to proceed to a foreign country, to arrange for the transfer of "sensitive material" being shipped from Israel. That day Mr. Secord made arrangements for transshipment of the Israeli HAWKs.

But late in the day on November 21, these arrangements began to fall apart. The foreign government denied landing clearance to the aircraft bringing the HAWKs from Israel. LtCol North contacted Duane Clarridge of the CIA for assistance in obtaining the required landing clearance. When the CIA's efforts failed, LtCol North asked Mr. Clarridge to find a reliable commercial carrier to substitute for the Israeli flight. Mr. Clarridge put Mr. Secord in contact with a carrier that was a CIA proprietary.

The plan went awry again on November 22, when Mr. Schwimmer allowed the lease to

⁸ The financing of these and other arms transactions discussed in this Part III is described in detail in the charts annexed to the end of Appendix B.

expire on the three aircraft they had chartered to take the HAWKs to Tabriz. Mr. Secord was able to provide an aircraft for this leg of the journey, however. The CIA arranged for over-flight rights over a third country. On November 25 the aircraft left a European country. Delivery was three days late, however, and the aircraft carried only 18 HAWKs. Contrary to LtCol North's description of this plan, the aircraft delivered the HAWKs before the release of any hostages. In fact, no hostages were ever released as a result of this delivery.

Not only were just 18 of the initial shipment of HAWKs delivered, the HAWKs did not meet Iranian military requirements. In addition they bore Israeli markings. Mr. Ghorbanifar told the Board that this caused great unhappiness in Iran and had disastrous consequences for the emerging relationship. Ultimately the Iranians returned 17 of the HAWKs to Israel. The eighteenth had been test-fired at an Iraqi aircraft flying over Kharg Island to determine the missile's effectiveness.

When Deputy Director McMahon learned of the CIA role in the shipment some three or four days after the fact, he directed the CIA General Counsel to prepare a Covert Action Finding⁶ providing Presidential authorization for the CIA's past support and any future support to the Iran initiative. A Finding was drafted and delivered to VADM Poindexter, but the evidence strongly suggests it was never signed by the President.

Stage 5: The United States Sells Directly to Iran

On November 30, 1985, Mr. McFarlane resigned as National Security Advisor. VADM Poindexter was named National Security Advisor on December 4. That same day, LtCol North raised with VADM Poindexter a new proposal for an arms-for-hostages deal. It involved the transfer of 3,300 Israeli TOWs and 50 Israeli HAWKs in exchange for release of all the hostages. The arms were to be delivered in five installments, spread over a 24-hour period. Each installment was to result in the release of one or two hostages, so that in the end all five

⁶ Section 662 of the Foreign Assistance Act, the so-called Hughes-Ryan Amendment, prohibits covert operations by the CIA unless and until the President "finds such operation is important to the national security of the United States."

U.S. citizens held in Beirut and a French hostage would be freed.⁷ If any installment did not result in a hostage release, all deliveries would stop.

An Attempt to Break the Arms/Hostages Link. This proposal was considered at a meeting with the President on December 7 in the White House residence. The President, Secretary Shultz, Secretary Weinberger, Mr. Regan, Mr. McMahon, Mr. McFarlane, and VADM Poindexter attended. Secretary Shultz described the meeting as the first "formal meeting" on the Iran initiative where the participants were informed in advance of the subject and had time to prepare. Mr. McFarlane said that the participants reviewed the history of the program. However, no analytical paper was circulated for discussion at the meeting, the Board was not able to acquire any minutes of this meeting. State Department notes of Secretary Shultz's contemporaneous report of a conversation he had with VADM Poindexter on December 5 indicate that VADM Poindexter asked that Secretary Shultz's calendar not show the meeting.

Recollections of the meeting are quite diverse. In his meeting with the Board on January 26, 1987, the President said he recalled discussing a complex Iranian proposal for weapons delivered by the Israelis in installments prior to the release of the hostages. The President said that Secretary Shultz and Secretary Weinberger objected to the plan, and that this was the first time he "noted down" their disapproval. The President said that the discussion at the meeting produced a stalemate.

Secretary Weinberger told the Board he argued strongly against the complicated arms and hostages plan, and that he was joined in his opposition by Secretary Shultz. Mr. Regan told the Board that he supported the plan. But notes written that day by the President and State Department notes of Secretary Shultz's contemporaneous report of the meeting indicate that Mr. Regan joined Secretary Shultz and Secretary Weinberger in opposing the plan. Whatever disagreements were expressed at the meeting, a consensus emerged that Mr. McFarlane should go to London and deliver a message to the Iranians.

⁷ In October, 1985, the United States obtained reliable evidence that William Buckley had died the preceding June.

No written Presidential decision resulted from the meeting. Immediately after the meeting, Mr. McFarlane left for London to meet with Mr. Ghorbanifar and others to discuss the plan. There is no evidence that Mr. McFarlane was given any written instructions for the trip.

Mr. McFarlane's message at the London meeting was that, while the United States wanted the U.S. hostages released, and would be interested in better relations with Iran, it was making no offer of arms. According to a memorandum written by LtCol North, Mr. Ghorbanifar refused to transmit this message to his Iranian contacts, reportedly stating that to do so would endanger the lives of the hostages. There appears to be no formal record of the London meeting.

Mr. McFarlane reported the results of his trip directly to the President at a meeting held in the Oval Office on December 10. Once again, no analytical paper was distributed in advance, no minutes were kept, and no formal Presidential decision resulted. The President, Secretary Weinberger, Director Casey, Chief of Staff Regan, and VADM Poindexter were present. Secretary Weinberger has no recollection of the meeting though Mr. McFarlane recalled that the Secretary asserted his opposition to the operation. Secretary Shultz was in Europe, but his staff reported to him on the meeting apparently after talking to VADM Poindexter.

Mr. McFarlane reported that an impasse in the talks developed when he refused to discuss the transfer of arms to Iran. Mr. McFarlane also told the Board he recommended against any further dealings with Mr. Ghorbanifar or these arms transfers and left government thinking the initiative had been discontinued.

The President also noted on December 9 that Mr. McFarlane had returned from London. He had met with an Iranian agent described as "a devious character." The President noted that the Iranian agent had said that Mr. McFarlane's message would kill the hostages. The President told the Board at the meeting on December 10, Mr. McFarlane expressed no confidence in the Iranian intermediary he met in London (Mr. Ghorbanifar). The President noted that Mr. McFarlane recommended rejection

of the latest plan.⁸ The President said he agreed. "I had to."

Mr. Regan told the Board that at the meeting the President said the United States should try something else or abandon the whole project. Mr. Regan also said that the President noted that it would be another Christmas with hostages still in Beirut, and that he [the President] was looking powerless and inept because he was unable to do anything to get the hostages out.

Director Casey prepared a memorandum of the meeting dated the same day (December 10). It states that the President "argued mildly" for letting the Israelis sell the equipment but without any commitment from the United States other than replenishment. It reports that the President was concerned that terminating the ongoing discussions could lead to early action against the hostages. Director Casey ended the memorandum by saying that as the meeting broke up: "I had the idea that the President had not entirely given up on encouraging the Israelis to carry on with the Iranians. I suspect he would be willing to run the risk and take the heat in the future if this will lead to springing the hostages."

The Arms/Hostages Link Reestablished. The President was clearly quite concerned about the hostages. Mr. McFarlane told the Board that the President inquired almost daily about the welfare of the hostages. Chief of Staff Regan is reported to have told reporters on November 14, 1986, that "the President brings up the hostages at about 90 percent of his briefings." Mr. Regan is reported to have said that each morning at the daily intelligence briefing, the President asked VADM Poindexter: "John, anything new on the hostages?"

The premise of the McFarlane December 7 trip had been to try to break the arms/hostage link. However, on December 9, LtCol North submitted to VADM Poindexter a memorandum proposing direct U.S. deliveries of arms to Iran in exchange for release of the hostages, using Mr. Secord to control Mr. Ghorbanifar and the delivery operation. The December 9 memorandum raises at least a question as to whether LtCol North, who accompanied Mr. McFarlane to the London meeting, fully sup-

⁸ This appears to be the plan discussed at the meeting on December 7, 1985.

ported the thrust of McFarlane's instructions in his own conversations in London with Mr. Ghorbanifar and others.

During the rest of December, LtCol North, Mr. Ghorbanifar, Mr. Ledeen, Mr. Secord, and Mr. Nir met variously among themselves. Again we know little of the proceedings. It is not clear who took the lead in developing the arms-for-hostages proposal that was soon presented by the Israelis. It is clear, however, that on January 2, 1986, Mr. Nir advanced a proposal just when the initiative seemed to be dying.

Mr. Nir met with VADM Poindexter in his office on January 2. Secretary Shultz recalls being told by VADM Poindexter that Mr. Nir proposed an exchange of certain Hizballah prisoners held by Israeli-supported Lebanese Christian forces, together with 3000 Israeli TOWs, for the release of the U.S. citizens held hostage in Beirut. On January 7, 1986, this proposal was discussed with the President at a meeting, probably held in the Oval Office, attended by the Vice President, Secretary Shultz, Secretary Weinberger, Attorney General Meese, Director Casey, Mr. Regan, and VADM Poindexter. Although the President apparently did not make a decision at this meeting, several of the participants recall leaving the meeting persuaded that he supported the proposal. Secretary Shultz told the Board that the President, the Vice-President, Mr. Casey, Mr. Meese, Mr. Regan, and VADM Poindexter "all had one opinion and I had a different one and Cap shared it."

At his meeting with the Board on January 26, 1987, the President said he approved a convoluted plan whereby Israel would free 20 Hizballah prisoners, Israel would sell TOW missiles to Iran, the five U.S. citizens in Beirut would be freed, and the kidnappings would stop. A draft Covert Action Finding had already been signed by the President the day before the meeting on January 6, 1986. Mr. Regan told the Board that the draft Finding may have been signed in error. The President did not recall signing the January 6 draft.

The President told the Board that he had several times asked for assurances that shipments to Iran would not alter the military balance with Iraq. He did not indicate when this occurred but stated that he received such assurances. The President also said he was warned by Secretary Shultz that the arms sales would

undercut U.S. efforts to discourage arms sales by its allies to Iran.

The President did not amplify those remarks in his meeting with the Board on February 11. He did add, however, that no one ever discussed with him the provision of intelligence to Iran.

On January 17, a second draft Finding was submitted to the President. It was identical to the January 6 Finding but with the addition of the words "and third parties" to the first sentence.

The President told the Board that he signed the Finding on January 17. It was presented to him under cover of a memorandum from VADM Poindexter of the same date. The President said he was briefed on the contents of the memorandum but stated that he did not read it. This is reflected in VADM Poindexter's handwritten note on the memorandum. That note also indicates that the Vice President, Mr. Regan, and Donald Fortier were present for the briefing.

Although the draft Finding was virtually identical to that signed by the President on January 6, the cover memorandum signaled a major change in the Iran initiative. Rather than accepting the arrangement suggested by Mr. Nir, the memorandum proposed that the CIA purchase 4000 TOWs from DoD and, after receiving payment, transfer them directly to Iran. Israel would still "make the necessary arrangements" for the transaction.

This was an important change. The United States became a direct supplier of arms to Iran. The President told the Board that he understood the plan in this way. That day, President Reagan wrote in his diary: "I agreed to sell TOWs to Iran."

It is important to note, however, that this decision was made at a meeting at which neither Secretary Shultz, Secretary Weinberger, nor Director Casey were present. Although Secretary Weinberger and Director Casey had been present at a meeting with Attorney General Meese, General Counsel Sporkin, and VADM Poindexter the preceding day to review the draft Finding, the new U.S. role does not appear in the text of the Finding. Attorney General Meese told the Board he did not recall any discussion of the implications of this change. Secretary Weinberger told the Board

he had no recollection of attending the meeting.

The President made the point to the Board that arms were not given to Iran but sold, and that the purpose was to improve the stature within Iran of particular elements seeking ties to the Iranian military. The President distinguished between selling to someone believed to be able to exert influence with respect to the hostages and dealing directly with kidnapers. The President told the Board that only the latter would "make it pay" to take hostages.

The President told the Board that he had not been advised at any time during this period how the plan would be implemented. He said he thought that Israeli government officials would be involved. He assumed that the U.S. side would be on its guard against people such as Mr. McFarlane had met in London in early December. He indicated that Director Casey had not suggested to him at any time that the CIA assume operational responsibility for the initiative, nor was he advised of the downside risks if the NSC staff ran the operation. He recalls understanding at the time that he had a right to defer notice to Congress, and being concerned that any leaks would result in the death of those with whom the United States sought to deal in Iran.

The January 17 Finding was apparently not given or shown to key NSC principals. In particular, Secretary Shultz, Secretary Weinberger, and Mr. Regan stated that they did not see the signed Finding until after the Iran initiative became public. The Finding marked, however, a major step toward increasingly direct U.S. participation in, and control over, the Iran initiative.

Stage 6: The NSC Staff Manages the Operation

In the months that followed the signing of the January 17th Finding, LtCol North forwarded to VADM Poindexter a number of operational plans for achieving the release of all the hostages. Each plan involved a direct link between the release of hostages and the sale of arms. LtCol North, with the knowledge of VADM Poindexter and the support of selected individuals at CIA, directly managed a network of private individuals in carrying out these plans. None of the plans, however, achieved

their common objective—the release of all the hostages.

Plans for "Operation Recovery." The plan described in the cover memorandum to the January 17 Finding called for Israel to arrange for the sale of 4000 U.S. TOW missiles to Iran. The memorandum stated that both sides had agreed that the hostages would be released "immediately" upon commencement of the operation. It provided, however, that if all the hostages were not released after the first shipment of 1000 TOWs, further transfers would cease.

At this point elements of the CIA assumed a much more direct role in the operation. On January 18, 1986, VADM Poindexter and LtCol North met with Clair George, Deputy Director of Operations at CIA, Stanley Sporkin, CIA General Counsel and one of the primary authors of the January 17 Finding, the Chief of the Near East Division with the Operations Directorate at CIA. They began planning the execution of the plan. Because of an NSC request for clearance of Mr. Ghorbanifar, on January 11, 1986, the CIA had administered a polygraph test to Mr. Ghorbanifar during a visit to Washington. Although he failed the test, and despite the unsatisfactory results of the program to date, Mr. Ghorbanifar continued to serve as intermediary. A CIA official recalls Director Casey concurring in this decision.

On January 24, LtCol North sent to VADM Poindexter a lengthy memorandum containing a notional timeline for "Operation Recovery." The complex plan was to commence January 24 and conclude February 25. It called for the United States to provide intelligence data to Iran. Thereafter, Mr. Ghorbanifar was to transfer funds for the purchase of 1000 TOWs to an Israeli account at Credit Suisse Bank in Geneva, Switzerland. It provided that these funds would be transferred to an account in the same bank controlled by Mr. Secord; that \$6 million of that amount would be transferred to a CIA account in that bank; and that the CIA would then wire the \$6 million to a U.S. Department of Defense account in the United States.⁹ The 1000 TOWs would then be transferred from the DoD to the CIA.

⁹ The financing of this and the other transactions involved in the arms sale initiative is covered in the charts annexed to the end of Appendix B.

Mr. Secord and his associates, rather than the CIA, had the more substantial operational role. He would arrange for the shipment of the TOWs to Eilat, Israel. From there, an Israeli 707, flown by a crew provided by Mr. Secord, would deliver the TOWs to Bandar Abbas, Iran. On the return flight, the aircraft would stop in Tehran to pick up the HAWK missiles delivered in November of 1985 but later rejected by Iran. The plan anticipated that the next day (February 9) all U.S. citizens held hostage in Beirut would be released to the U.S. embassy there. Thereafter, 3000 more TOWs would be delivered. The plan anticipated that Khomeini would step down on February 11, 1985, the fifth anniversary of the founding of the Islamic Republic.¹⁰

Mr. Ghorbanifar's recollection of the terms of the arrangements are radically different. Mr. Ghorbanifar stated adamantly that the 1000 TOWs were to reestablish U.S. good faith after the disastrous November shipment of HAWK missiles. Mr. Ghorbanifar said there was no agreement that the U.S. hostages would be released as a result of the sale.

On February 18, the first 500 TOWs were delivered to Bandar Abbas, and the HAWK missiles were brought out. On February 24-27, LtCol North, a CIA official, Mr. Secord, Mr. Nir, and Mr. Albert Hakim (a business associate of Mr. Secord) held a series of meetings in Frankfurt, Germany with Mr. Ghorbanifar and other Iranians to review the details of the operation. On February 27, the second 500 TOWs were delivered to Bandar Abbas. Although a hostage release and a later meeting between senior U.S. and Iranian officials had been agreed upon at the Frankfurt meeting, the plan fell through. No hostages were released and the meeting failed to materialize until much later.

Although the cover memorandum to the January 17 Finding stated that further arms transfers would cease if all the hostages were not released after delivery of the first 1000 TOWs, the United States continued to pursue the initiative and arranged for another delivery of arms two months later.

Authorization for "Operation Recovery" LtCol North appears to have kept VADM Poindexter

¹⁰ The Board has found no evidence that would give any credence to this assumption.

fully advised of the progress of Operation Recovery. Director Casey also appears to have been kept informed both by LtCol North and by a CIA official. Both LtCol North and VADM Poindexter were in touch with Mr. McFarlane. In a message to LtCol North on February 27, 1986, Mr. McFarlane noted that he had just received a note from VADM Poindexter asking whether Mr. McFarlane could undertake the senior level meeting with the Iranians and indicating that "the President is on board." Mr. Regan told the Board that the President authorized the shipment of 1000 TOWs during one of VADM Poindexter's morning briefings to the President.

Secretary Shultz told the Board that on February 28, 1986, VADM Poindexter informed him the hostages would be released the following week. Secretary Shultz said VADM Poindexter reported nothing about arms. VADM Poindexter said that the Iranians wanted a high-level dialogue covering issues other than hostages, and that the White House had chosen Mr. McFarlane for the mission.

Preparation for the May Trip Preparation for a meeting between Mr. McFarlane and senior Iranian officials began shortly after LtCol North's return from Frankfurt on February 27. That same day, VADM Poindexter met with Director Casey, Mr. George, and another CIA official to discuss plans for the meeting. On March 5, 1986, George Cave joined the group. He was a retired CIA officer who since retirement had served as a full-time paid consultant to the agency. He was a Farsi speaker and an expert on Iran.

LtCol North, Mr. Cave, and a CIA official met with Mr. Ghorbanifar in Paris on March 8, 1986. LtCol North reported on this conversation to Mr. McFarlane on March 10. He said he told Mr. Ghorbanifar that the United States remained interested in a meeting with senior Iranian officials as long as the hostages were released during or before the meeting. He said he briefed Mr. Ghorbanifar on the Soviet threat to Iran using intelligence supplied by Mr. Robert Gates, then the CIA Deputy Director for Intelligence. Mr. Ghorbanifar responded by presenting a list of 240 different types of spare parts, in various quantities, needed by Iran for its HAWK missile units. He also emphasized the importance of an advance meeting in

Tehran to prepare for the meeting with Mr. McFarlane. This advance meeting would establish the agenda and who should participate from the Iranian side.

While further discussion occurred over the next month, it resulted in little progress. On April 3, 1986, Mr. Ghorbanifar arrived in Washington, D.C. He met with LtCol North, Mr. Allen, Mr. Cave, and another CIA official between April 3-4. In a message to Mr. McFarlane on April 7, 1986, LtCol North indicated that, at the request of VADM Poindexter, he had prepared a paper for "our boss" laying out the arrangements agreed upon at the meeting.

An unsigned, undated memorandum was found in LtCol North's files entitled "Release of American Hostages in Beirut."¹¹ It appears to have been prepared in early April.

In an interview with Attorney General Meese on November 23, 1986, LtCol North said he prepared this memorandum between April 4-7. Although in a form for transmittal by VADM Poindexter to the President, LtCol North indicated that he did not believe the President had approved the memorandum.

The memorandum provided for the following sequence of events:

—On April 9, the CIA would commence procuring \$3.641 million worth of parts for HAWK missile units.

—On April 18, a private U.S. aircraft would load the parts and fly them to an Israeli airfield. The parts would then be transferred to an Israeli military aircraft with false markings.

—On April 19, Mr. McFarlane, LtCol North, Mr. Teicher, Mr. Cave, and a CIA official would board a CIA aircraft in Frankfurt en route to Tehran.

—On April 20, they would meet with a delegation of senior Iranian officials. Seven hours later, the U.S. hostages would be released in Beirut. Fifteen hours later, the Israeli military aircraft with the HAWK missile parts would land in Bandar Abbas, Iran.

That schedule was not met. On April 16, 1986, LtCol North wrote VADM Poindexter

¹¹ This memorandum also contained a reference to the diversion of funds to the Contras, discussed in Section B of this Part III.

seeking approval for a meeting with Mr. Ghorbanifar in Frankfurt on April 18. In his reply of the same date, VADM Poindexter approved the trip but insisted that there be no delivery of parts until all the hostages had been freed. He expressly ruled out half shipments before release. "It is either all or nothing." He authorized LtCol North to tell Mr. Ghorbanifar: "The President is getting very annoyed at their continual stalling." On April 21, VADM Poindexter sent a message to Mr. McFarlane informing him of this position.

The Frankfurt meeting was not held. On May 6, 1986, LtCol North and Mr. Cave met with Mr. Ghorbanifar in London. Mr. Ghorbanifar promised a meeting with senior Iranian officials but asked that the U.S. delegation bring all the HAWK spare parts with them. Mr. Cave recalls the Americans agreeing that one-quarter of the spare parts would accompany the delegation. Notwithstanding, LtCol North informed VADM Poindexter on May 8: "I believe we have succeeded * * * Release of hostages set for week of 19 May in sequence you have specified."

On May 22, 1986, LtCol North submitted the final operating plan for the trip to VADM Poindexter. It provided that the McFarlane delegation would arrive in Tehran on May 25, 1986. The next day (but no later than May 28), the hostages would be released. One hour later, an Israeli 707 carrying the balance of the spare parts would leave Tel Aviv for Tehran.

Authorization for the May Trip. On May 3, 1986, while at the Tokyo economic summit, Secretary Shultz received word from the U.S. Ambassador to London that Mr. Khashoggi, Mr. Ghorbanifar, and Mr. Nir had sought to interest a British businessman in the shipment of spare parts and weapons to Iran. That same day, Secretary Shultz expressed his concern about any such transaction to Mr. Regan. Secretary Shultz told the Board that Mr. Regan said he was alarmed and would talk to the President. Secretary Shultz said he talked later to VADM Poindexter and was told that "that was not our deal." He recalls being told soon thereafter by both VADM Poindexter and Director Casey that the operation had ended and the people involved had been told to "stand down." The Tokyo Summit closed with a statement from all the heads of state strongly reaffirming their

condemnation of international terrorism in all its forms.

Rodney McDaniel noted that during the national security briefing on May 12, 1986, VADM Poindexter discussed with the President the hostages and Mr. McFarlane's forthcoming trip.¹² The notes indicate that the President directed that the press not be told about the trip. On May 15, 1986, Mr. McDaniel's notes indicate that the President authorized Mr. McFarlane's secret mission to Iran and the Terms of Reference for that trip. Those notes indicate that the trip was discussed again with the President on May 21.

On May 17, LtCol North "strongly urged" that VADM Poindexter include Secretary Shultz and Secretary Weinberger along with Director Casey in a "quiet" meeting with the President and Mr. McFarlane to review the proposed trip. VADM Poindexter responded, "I don't want a meeting with RR, Shultz and Weinberger."

The May Trip to Tehran. LtCol North noted in a message to VADM Poindexter on May 19 that CIA was providing "comms, beacons, and documentation for the party." All the other logistics had been arranged through Mr. Secord "or affiliates." Mr. McFarlane, along with LtCol North, Mr. Cave, and a CIA official, left the United States on May 23. Mr. Nir had pressed to be included in the delegation. The Chief of the Near East Division in the CIA operations directorate told the Board that this request was initially rejected, and that position was transmitted by the White House to Israeli Prime Minister Peres who appealed it. He said that ultimately, the decision was left to Mr. McFarlane, who decided to let Mr. Nir join the group. Mr. Ghorbanifar recalls that in meetings with Iranian officials, Mr. Nir was always presented as an American.

On May 25 the delegation arrived in Tehran. Without the prior knowledge to Mr. McFarlane, the aircraft carried one pallet of HAWK spare parts. The delegation was not met by any senior Iranian officials. No hostages were released. Because of this, a second plane carrying the rest of the HAWK spare parts was ordered not to come to Tehran. Two days of talks

¹² Mr. McDaniel became Executive Secretary of the NSM in February, 1986. Though uninvolved in both the policy and implementation of the Iran initiative, Mr. McDaniel accompanied VADM Poindexter to his morning briefings of the President as a note taker.

proved fruitless. The Iranians initially raised demands for additional concessions, but later appeared to abandon them. Mr. McFarlane demanded the prior release of all hostages and the Iranians insisted on the immediate delivery of all HAWK spare parts. On May 27, Mr. McFarlane demanded the release of the hostages by 6:30 a.m. the next day. When no hostages were released, Mr. McFarlane and his party departed, but not before the pallet of HAWK spare parts had been removed from their aircraft by the Iranians.

In a report to VADM Poindexter on May 26, Mr. McFarlane stated, "The incompetence of the Iranian government to do business requires a rethinking on our part of why there have been so many frustrating failures to deliver on their part."

Mr. Ghorbanifar placed blame for the failure of the May trip squarely on the United States. Mr. Ghorbanifar said that he had proposed that he and LtCol North go to Tehran first to prepare the way. But after Mr. Ghorbanifar had made all the arrangements, LtCol North advised that VADM Poindexter had disapproved the trip. The failure to hold this preparatory meeting may have resulted in substantial misunderstanding between the two sides as to just what would occur and be discussed at the meeting with Mr. McFarlane. Mr. Ghorbanifar stated that the Iranians failed to meet Mr. McFarlane's plane because it arrived three hours ahead of schedule. Mr. Ghorbanifar also claimed that the delegation did meet with a senior-level foreign policy advisor.

The Board found evidence that LtCol North, Mr. Cave, Mr. Allen, and another CIA official knew as early as mid-April that if all the HAWK spare parts were not delivered with the delegation, then only one U.S. hostage would be released. Mr. McFarlane may not have been advised of this. While in Tehran, he insisted upon the release of all U.S. hostages prior to more than the token delivery of HAWK spare parts. This was apparently his and VADM Poindexter's understanding of the agreed arrangements. This led Mr. McFarlane to refuse an even better Iranian offer than the one LtCol North and his associates had reason to expect, two hostages immediately and the remaining two after delivery of the rest of the spare parts.

Notes made by Mr. McDaniel indicate that on May 27 the President received a report on the McFarlane trip. Those notes also indicate that Mr. McFarlane reported on his trip in person to the President on May 29. The notes indicate that the Vice President, Mr. Regan, VADM Poindexter, Mr. Teicher, and LtCol North also attended. Mr. McFarlane told the Board, and the notes confirm, that he told the President that the program ought to be discontinued. It was his view that while political meetings might be considered, there should be no weapons transfers.

A Hostage Comes Out. Mr. McDaniel's notes indicate that on June 20, 1986, the President decided that no further meeting with the Iranians would be held until the release of the hostages. Early in July, LtCol North called Charles Allen, a CIA official, and asked him to take over the day-to-day contact with Mr. Nir. LtCol North wrote in a memorandum to VADM Poindexter about this same time that he believed he had "lost face" because of his failure to obtain the release of an American hostage. Mr. Allen recalled that Mr. Nir was alarmed at losing direct contact with LtCol North. Mr. Allen told the Board that as a result, Mr. Nir worked closely with Mr. Ghorbanifar to obtain the release of an American hostage.

Notes made by the NSC Executive Secretary indicate that on July 18, VADM Poindexter informed the President of the latest communications with the Iranian interlocutors. On July 21, LtCol North, Mr. Cave, and Mr. Nir met with Mr. Ghorbanifar in London. They discussed the release of the hostages in exchange for the HAWK spare parts that remained undelivered from the May mission to Tehran. On July 26, Father Lawrence Jenco was released.

VADM Poindexter briefed the President on the Jenco release that same day over a secure telephone. He used a memorandum prepared by LtCol North that claimed the release was "undoubtedly" a result of Mr. McFarlane's trip in May and the continuing contacts thereafter. A July 26, 1986 memorandum to VADM Poindexter from Director Casey reached the same conclusion.

In a memorandum to VADM Poindexter dated July 29, 1986, LtCol North recommended that the President approve the immediate shipment of the rest of the HAWK spare parts and a follow-up meeting with the Iranians in

Europe. Notes of the NSC Executive Secretary indicate that the President approved this proposal on July 30. Additional spare parts were delivered to Tehran on August 3.

Stage 7: The Second Channel Is Opened But the Initiative Leaks

From the start, U.S. officials had stressed to Mr. Ghorbanifar that Iran must use its influence to discourage further acts of terrorism directed against the United States and its citizens. Whether as a result of those efforts or for some other reason, from June 9, 1985, until September 9, 1986, no U.S. citizen was seized in Lebanon.¹³ But on September 9, 1986, terrorists seized Frank Reed, a U.S. educator at the Lebanese International School. Two more U.S. citizens, Joseph Cicippio and Edward Tracey, were taken hostage on September 12 and October 21.

The McFarlane mission to Tehran marked the high-water mark of U.S. efforts to deal with Iran through Mr. Ghorbanifar. For a year he had been at the center of the relationship. That year had been marked by great confusion, broken promises, and increasing frustration on the U.S. side. LtCol North and other U.S. officials apparently blamed these problems more on Mr. Ghorbanifar than on Iran. The release of Rev. Jenco did little to mitigate their unhappiness.

Sometime in July, 1986, an Iranian living in London proposed to Mr. Hakim a second Iranian channel—the relative of a powerful Iranian official. On July 25, Mr. Cave went to London to discuss this possibility. On August 26, 1986, Mr. Secord and Mr. Hakim met with the second channel and other Iranians in London. The Iranians said they were aware of the McFarlane visit, the Israeli connection, and Mr. Ghorbanifar's role. They referred to Mr. Ghorbanifar as a "crook." Notes taken by Mr. McDaniel indicate that the President was briefed about the second channel on September 9, 1986.

LtCol North, Mr. Cave, and a CIA official met with the second channel and two other Iranians in Washington between September 19 and 21, 1986. The two sides discussed the Soviet threat, cooperation in support of the

¹³ This excludes two and possibly three dual-national U.S. citizens seized during this period.

Afghan resistance, and improved relations between the United States and Iran. The bulk of the time, however, was spent discussing the "obstacle" of the hostages and Iran's urgent need (within two months) for both intelligence and weapons to be used in offensive operations against Iraq. LtCol North reviewed a list of military equipment and agreed "in principle" to provide that equipment, subject to the constraints of what was available within the United States or obtainable from abroad. The parties discussed the establishment of a secret eight-man U.S.-Iranian commission to work on future relations. Finally, LtCol North told the Iranians that unless contact came from North, Richard Secord, or George Cave, "there is no official message from the United States." Notes by Mr. McDaniel indicate that on September 23, the President was briefed on recent discussions with the second channel.

On October 5-7, 1986, LtCol North, Mr. Cave, and Mr. Secord met with the second channel in Frankfurt, Germany. They carried a Bible for the Iranians inscribed by the President on October 3. During the meeting, LtCol North misrepresented his access to the President and attributed to the President things the President never said.

In presenting the Bible, LtCol North related the following story to the Iranians:

"We inside our Government had an enormous debate, a very angry debate inside our government over whether or not my president should authorize me to say "We accept the Islamic Revolution of Iran as a fact * * *." He [the President] went off one whole weekend and prayed about what the answer should be and he came back almost a year ago with that passage I gave you that he wrote in front of the Bible I gave you. And he said to me, "This is a promise that God gave to Abraham. Who am I to say that we should not do this?"

In reality, the idea of the Bible and the choice of the inscription were contained in an October 2, 1986, memorandum from LtCol North to VADM Poindexter. The Bible was to be exchanged for a Koran at the October 5-7 meeting. VADM Poindexter approved the idea and the President inscribed the Bible the next

morning. The President told the Board that he did inscribe the Bible because VADM Poindexter told him this was a favorite passage with one of the people with whom the U.S. was dealing in Iran. The President said he made the inscription to show the recipient that he was "getting through."

At two points during the October 5-7 Frankfurt meetings, LtCol North told two stories of private discussions with the President at Camp David. The first had the President saying that he wanted an end to the Iran/Iraq war on terms acceptable to Iran. The second had the President saying that the Gulf states had to be convinced that it was Saddam Husain of Iraq that was "causing the problem."

When pressed by the Iranians for an explicit statement of what the United States means by "an honorable victory" for Iran, LtCol North replied "We also recognize that Saddam Husain must go."

The President emphasized to the Board that these statements are an "absolute fiction" and that there were no meetings as LtCol North describes. In addition, Mr. McDaniel noted that on October 3, 1986, the President reaffirmed that the United States wanted neither Iran or Iraq to win the war.

At the October 5-7 meeting, LtCol North laid out a seven-step proposal for the provision of weapons and other items in exchange for Iranian influence to secure the release of all remaining U.S. hostages, the body of William Buckley, a debrief by his captors, and the release of John Pattis, a United States citizen whom the Iranians had arrested on spying charges several months earlier. The Iranians presented a six-point counter-proposal that, in part, promised the release of one hostage following receipt of additional HAWK parts and a timetable for future delivery of intelligence information. The Iranians made clear that they could not secure the release of all the hostages. Mr. Cave recalls that the Iranians proposed exchanging 500 TOWs for the release of two hostages. He stated that the U.S. side agreed.

A second meeting was held in Frankfurt on October 26-28 at which the parties finalized the payment and delivery schedule for the TOWs. At that meeting, the parties apparently discussed a nine-point U.S. agenda with Iran. That agenda included delivery by the U.S. of

the 500 TOWs, an unspecified number of HAWKs, discussion of the 17 Da'Wa prisoners held by Kuwait, additional arms including 1000 more TOWs, and military intelligence. In exchange the Iranians promised release of one and perhaps two U.S. citizens held hostage in Beirut and "further efforts to create the condition for release of other hostages."

At a meeting between representatives of the State Department and the second channel on December 13, 1986, the Iranian said that both sides had agreed to this nine-point agenda. The Board found no evidence that LtCol North had authority to agree to such an agenda. Secretary Shultz told the Board that he informed the President the next day. He said that the President was "stricken" and could not believe anything like this had been discussed. Of particular concern was the point that the United States had consistently given strong support to Kuwait in resisting terrorist demands for the release of the Da'Wa prisoners.

At the October 26-28 meeting, the Iranian participants said the story of the McFarlane mission to Tehran had been published in a small Hezbollah newspaper in Baalbek, Lebanon. The article was based on a series of leaflets distributed in Tehran on 15 or 16 October.

Mr. Regan recalls the President authorizing the shipment of 500 TOWs on October 29, 1986.

Because of a delay in the transfer of funds the TOWs actually delivered to Iran on October 29, 1986, were Israeli TOWs. The 500 U.S. TOWs were provided to Israel as replacements on November 7.

On November 2, hostage David Jacobsen was released. The next day, a pro-Syrian Beirut magazine published the story of the McFarlane mission. On November 4, Majlis Speaker Rafsanjani publicly announced the mission.

The President, VADM Poindexter, and LtCol North hoped that more hostages would be released. Notes taken by the NSC Executive Secretary indicate that on November 7, 1986, the President decided not to respond to questions on this subject for fear of jeopardizing the remaining hostages. No further hostages were released.

Mr. Chorbaniyar told the Board that the switch to the second channel was a major error. He claimed that he had involved all three major lines or factions within the government

of Iran in the initiative, and that the second channel involved only the Rafsanjani faction thus stimulating friction among the factions and leading to the leak of the story to embarrass Rafsanjani. In addition, the price offered to this faction was lower (\$8000 per TOW) than the price charged for the earlier TOW deliveries (\$10000 per TOW).

Section B: Contra Diversion

Sizable sums of money generated by the arms sales to Iran remain unaccounted for. Determining whether these funds from the sale of arms to Iran were diverted to support the Contras proved to be extremely difficult. VADM Poindexter, LtCol North, Israeli participants, and other key witnesses refused to appear before the Board, and records for relevant bank accounts maintained in Switzerland and elsewhere could not be obtained by the Board. Notwithstanding, there was considerable evidence before the Board of a diversion to support the Contras. But the Board had no hard proof.

Early in 1986, the need to find funds for the support of the Contras was desperate. At the same time, the idea of diverting funds from the arms sales to Iran surfaced. Attorney General Meese told the Board that VADM Poindexter and LtCol North both told him that a diversion had occurred.

Money Was Available. Israel made three arms deliveries to Iran in 1985. One of these was the November shipment of HAWK missiles. After the November deal collapsed, 17 of the 18 HAWK missiles were returned to Israel and available evidence suggests that all of the money for that shipment was returned or credited to Iran. In the case of the TOW shipments in August and September 1985, the price charged to Iran by Israel was far in excess of what Israel paid the U.S. Department of Defense to replenish the arms it delivered. This excess amount was roughly \$3 million for the August/September TOW shipments. Nothing is known by the Board about the disposition of those funds.

The United States directly managed four arms deliveries in 1986. In each case, the purchase money was deposited in Swiss bank accounts held in the name of Lake Resources and

under the control of Richard Secord. Again, the price charged to Iran was far in excess of what was paid to the Department of Defense for the arms. The excess amounts totaled almost \$20 million for the four deliveries: \$6.9 million for the February shipment of TOWs, \$8.5 million for the May and August shipments of HAWK parts, and \$5 million for the October shipment of TOWs.¹⁴

Most of these monies remain unaccounted for. Mr. Khashoggi and other investors claim they are still owed \$10 million from these transactions.

The Contras Desperately Needed Funds In January, 1986, the President requested \$100 million in military aid to the Contras. The request revived the often bitter Congressional debate over whether the United States should support the Contras. The obligational authority for the \$27 million in humanitarian aid to the Contras approved by the Congress in 1985 would expire on March 31, 1986. LtCol North, who had primary NSC staff responsibility for matters relating to the Contras, became increasingly concerned. While anticipating Congressional approval of the President's January 1 request, LtCol North feared the Contras would run out of funds before then. On April 22, 1986, he wrote Mr. Fortier: "[T]he picture is dismal unless a new source of 'bridge' funding can be identified * * *. We need to explore this problem urgently or there won't be a force to help when the Congress finally acts."

A Diversion Was Suggested It is unclear who first suggested the idea of diverting funds from the arms sales to Iran to support the Contras. The evidence suggests that the idea surfaced early in 1986.

Attorney General Meese told the Board that during his interview with LtCol North on November 23, 1986, North indicated that the idea surfaced during a discussion with Mr. Nir in January, 1986, about ways Israel could help the Contras. LtCol North recalled the Israeli official suggesting that the "residuals" from the Iran arms sales be transferred to the Contras. Contemporaneous Justice Department notes of the November interview indicate that LtCol North said the diversion was an Israeli idea, that the Israelis wanted to be helpful.

¹⁴ Charts describing the various arms sales transactions involved in the initiative are annexed to Appendix B.

Mr. Ghorbanifar told the Board that he had a conversation with LtCol North and Mr. Secord sometime in February of 1986 concerning arrangements for the upcoming delivery of 1000 TOW missiles to Iran. He said that LtCol North and Mr. Secord were extremely worried about a shortfall in funding for the Contras. Mr. Ghorbanifar said that LtCol North asked him if the Iranians would pay \$10,000 per TOW missile, instead of \$6,500. When told that Iran would pay that price, Mr. Ghorbanifar said LtCol North was greatly relieved—"he was a changed man."

In a memorandum of a meeting with Mr. Ghorbanifar in Paris on March 7-8, George Cave reported that Mr. Ghorbanifar, in an aside "proposed that we use profits from these deals and others to fund support to the rebels in Afghanistan. We could do the same with Nicaragua."

Before the Board, Mr. Cave said that neither he nor Mr. Ghorbanifar made any mention of diversion.

North and Poindexter Said Diversion Occurred Attorney General Meese told the Board that during his interview with LtCol North on November 23, 1986, North said that \$3 to \$4 million was diverted to the support of the Contras after the February shipment of TOW missiles and that more (though how much LtCol North was not sure) was diverted after the May shipment of HAWK parts. Contemporaneous Justice Department staff notes of that interview indicate that LtCol North said that the Israelis handled the money and that he gave them the numbers of three accounts opened in Switzerland by Adolpho Calero, a Contra leader. The notes also indicate that LtCol North said there was no money for the Contras as a result of the shipment in October, 1986. By then Congressional funding had resumed.

Mr. McFarlane testified that while standing on the tarmac at a Tel Aviv airport after the trip to Tehran in May of 1986, LtCol North told him not to be too downhearted because "this government is availing itself of part of the money [from the Iran initiative] for application to Central America." Assistant Secretary of Defense Richard Armitage told the Board that North told him sometime in November of 1986 that: "it's going to be just fine * * * as soon as

everyone knows that * * * the Ayatollah is helping us with the Contras."

Authorization It is unclear whether LtCol North ever sought or received prior approval of any diversion of funds to the support of the Contras. LtCol North prepared in early April an unsigned memorandum entitled "Release of American Hostages in Beirut," which sought Presidential approval for what became Mr. McFarlane's May trip to Tehran. In that memo, LtCol North stated that \$12 million in "residual" funds from the transaction would "be used to purchase critically needed supplies for the Nicaraguan Democratic Resistance Forces." No evidence has emerged to suggest that this memorandum was ever placed before VADM Poindexter, the President, or any other U.S. official.

As a general matter, LtCol North kept VADM Poindexter exhaustively informed about his activities with respect to the Iran initiative. Although the Board did not find a specific communication from Lt. Col North to VADM Poindexter on the diversion question, VADM Poindexter said that he knew that a diversion had occurred. Mr. Regan told the Board that he asked VADM Poindexter on November 24, 1986, if he knew of LtCol North's role in a diversion of funds to support the Contras. VADM Poindexter replied that, "I had a feeling that something bad was going on, but I didn't investigate it and I didn't do a thing about it. * * * I really didn't want to know. I was so damned mad at Tip O'Neill for the way he was dragging the Contras around I didn't want to know what, if anything, was going on. I should have, but I didn't." Attorney General Meese told the Board that after talking to LtCol North, he asked VADM Poindexter what he knew about the diversion. "He said that he did know about it * * * Ollie North had given him enough hints that he knew what was going on, but he didn't want to look further into it. But that he in fact did generally know that money had gone to the Contras as a result of the Iran shipment."

The President said he had no knowledge of the diversion prior to his conversation with Attorney General Meese on November 25, 1986. No evidence has come to light to suggest otherwise. Contemporaneous Justice Department staff notes of LtCol North's interview with Attorney General Meese on November 23, 1986,

show North telling the Attorney General that only he, Mr. McFarlane, and VADM Poindexter were aware of the diversion.

Section C: The NSC Staff and Support for the Contras

Inquiry into the arms sale to Iran and the possible diversion of funds to the Contras disclosed evidence of substantial NSC staff involvement in a related area; private support for the Contras during the period that support from the U.S. Government was either banned or restricted by Congress.

There are similarities in the two cases. Indeed, the NSC staff's role in support for the Contras set the stage for its subsequent role in the Iran initiative. In both, LtCol North, with the acquiescence of the National Security Advisor, was deeply involved in the operational details of a covert program. He relied heavily on private U.S. citizens and foreigners to carry out key operational tasks. Some of the same individuals were involved in both. When Israeli plans for the November HAWK shipment began to unravel, LtCol North turned to the private network that was already in place to run the Contra support operation. This network, under the direction of Mr. Secord, undertook increasing responsibility for the Iran initiative. Neither program was subjected to rigorous and periodic inter-agency overview. In neither case was Congress informed. In the case of Contra support, Congress may have been actively misled.

These two operations also differ in several key aspects. While Iran policy was the subject of strong disagreement within the Executive Branch, the President's emphatic support for the Contras provoked an often bitter debate with the Congress. The result was an intense political struggle between the President and the Congress over how to define U.S. policy toward Nicaragua. Congress sought to restrict the President's ability to implement his policy. What emerged was a highly ambiguous legal environment.

On December 21, 1982, Congress passed the first "Boland amendment" prohibiting the Department of Defense and the Central Intelligence Agency from spending funds to overthrow Nicaragua or provoke conflict between

Nicaragua and Honduras. The following year, \$24 million was authorized for the Contras. On October 3, 1984, Congress cut off all funding for the Contras and prohibited DoD, CIA, and any other agency or entity "involved in intelligence activities" from directly or indirectly supporting military operations in Nicaragua.

The 1984 prohibition was subject to conflicting interpretation. On the one hand, several of its Congressional supporters believed that the legislation covered the activities of the NSC staff. On the other hand, it appears that LtCol North and VADM Poindexter received legal advice from the President's Intelligence Oversight Board that the restrictions on lethal assistance to the Contras did not cover the NSC staff.

Confusion only increased. In December 1985 Congress approved classified amounts of funds to the Contras for "communications" and "advice." The authorization was subject, however, to a classified annex negotiated by the Senate and House intelligence committees. An exchange of letters, initiated the day the law passed, evidences the extreme difficulty even the Chairmen of the two committees had in deciding what the annex permitted or proscribed.

The support for the Contras differs from the Iranian initiative in some other important respects. First, the activities undertaken by LtCol North with respect to the Contras, unlike in the Iranian case, were in support of the declared policy of at least the Executive. Second, the President may never have authorized or, indeed, even been apprised of what the NSC staff was doing. The President never issued a Covert Action Finding or any other formal decision authorizing NSC staff activities in support of the Contras. Third, the NSC staff's role in support of the Contras was not in derogation of the CIA's role because, CIA involvement was expressly barred by statute.

The Board had neither the time nor the resources to conduct a full inquiry into the role of the NSC staff in the support of the Contras that was commensurate with its work on the Iran arms sales. As a consequence, the evidence assembled by the Board was somewhat anecdotal and disconnected. The most significant evidence is summarized in this Section C. A fuller treatment is contained in Appendix C.

The Bid for Private Funding. Because of Congressional restrictions, the Executive Branch

turned to private sources to sustain the Contras militarily. In 1985 and 1986, Mr. McFarlane and the NSC staff repeatedly denied any direct involvement in efforts to obtain funds from these sources. Yet evidence before the Board suggests that LtCol North was well aware of these efforts and played a role in coordinating them. The extent of that role remains unclear.

In a memorandum to Mr. McFarlane dated April 11, 1985, LtCol North expressed concern that remaining Contra funds would soon be insufficient. He advised that efforts be made to seek \$15 to \$20 million in additional funds from the current donors which will "allow the force to grow to 30-35,000." The exact purpose to which these private funds were to be put was unambiguous. A number of memoranda from LtCol North make clear that the funds were for munitions and lethal aid.

Asked by the Board about the source of such funds, Mr. McFarlane provided a written response that indicated that "without solicitation" a foreign official offered \$1 million a month from what he described as "personal funds." At Mr. McFarlane's request, LtCol North provided the numbers of a Contra bank account in Miami. Mr. McFarlane wrote that in 1985, the foreign official doubled his contribution to \$2 million a month, a fact confirmed by two other U.S. officials.

Contributions appear to have been channeled through a series of non-profit organizations that LtCol North apparently had a hand in organizing. A diagram found in LtCol North's safe links some of these organizations to bank accounts controlled by Richard Secord and others known to be involved in purchasing and shipping arms to the Contras.

Other documents and evidence suggest that private contributions for the Contras were eventually funneled into "Project Democracy,"¹⁸ a term apparently used by LtCol North

¹⁸ We have no information linking the activities described herein as "Project Democracy" with the National Endowment for Democracy (NED). The latter was created in 1983 by Congress, is a non-profit organization, and is funded by legislation. Its purpose is to strengthen democratic institutions around the world through private and governmental efforts. NED grew out of an earlier Administration public initiative to promote democracy around the world which came to be known as "Project Democracy." It appears that North later adapted the term to refer to his own covert operations network. We believe this is the only link between the NED and North's activities.

to describe a network of secret bank accounts and individuals involved in Contra resupply and other activities. In a message to VADM Poindexter dated July 15, 1986, LtCol North described "Project Democracy" assets as worth over \$4.5 million. They included six aircraft, warehouses, supplies, maintenance facilities, ships, boats, leased houses, vehicles, ordnance, munitions, communications equipment, and a 6520-foot runway. The runway was in fact a secret airfield in Costa Rica. LtCol North indicated in a memorandum dated September 30, 1986, that the airfield was used for direct resupply of the Contras from July 1985 to February 1986, and thereafter as the primary abort base for damaged aircraft.

On September 9, 1986, following Costa Rica's decision to close the airfield, LtCol North received word that the Costa Rican government was planning to call a press conference to announce the existence of the airfield. The same day, LtCol North informed VADM Poindexter that he had held a conference call with then U.S. Ambassador to Costa Rica, Louis Tambs, and Assistant Secretary Elliott Abrams to discuss the potential public revelation of the airfield. All three participants confirm the conference. North said that they had decided North would call Costa Rican President Arias and tell him if the press conference went forward the U.S. would cancel \$80 million in promised A.I.D. assistance and Arias' upcoming visit with President Reagan. North added that both Ambassador Tambs and Assistant Secretary Abrams reinforced this message with Arias. VADM Poindexter replied: "You did the right thing, but let's try to keep it quiet."

Assistant Secretary Abrams and Ambassador Tambs told the Board that the conference call took place, but only Tambs was instructed to call Arias and that no threat to withhold U.S. assistance was made. They each doubted that North ever called the President of Costa Rica on this matter. The Costa Rican Government later announced the discovery and closure of the airfield.

Coordinating the Resupply Operation. The CIA Headquarters instructed its field stations to "cease and desist" with action which can be construed to be providing any type of support either direct or indirect to the various entities with whom we dealt under the program. The Chief of the CIA Central American Task Force

added that in other respects the interagency process on Central America was in disarray in October 1984 and that "it was Ollie North who then moved into that void and was the focal point for the Administration on Central American policy until fall 1985."

As early as April 1985, LtCol North maintained detailed records of expenditures for Contra military equipment, supplies, and operations. On April 11, 1985, LtCol North sent a memorandum to Mr. McFarlane describing two sealifts and two airlifts "[a]s of April 9, 1985." The memorandum set out the kind of munition purchased, the quantity, and in some instances the cost. LtCol North also noted that from July 1984 to April 9, 1985: "\$17,145,594 has been expended for arms, munitions, combat operations, and support activities."

Evidence suggests that at least by November 1985, LtCol North had assumed a direct operational role, coordinating logistical arrangements to ship privately purchased arms to the Contras. In a note to Poindexter on November 22, 1985, he described a prospective delivery as "our first direct flight (of ammo) to the resistance field [in] Nicaragua." This shipment was delayed when Mr. Secord was asked to use the aircraft instead to deliver the 18 HAWK missiles to Iran in November, 1985.

In 1986, North established a private secure communications network. North received 15 encryption devices from the National Security Agency from January to March 1986, provided in support of his counter-terrorist activities. One was provided to Mr. Secord and another, through a private citizen, to a CIA field officer posted in Central America. Through this mechanism, North coordinated the resupply of the Contras with military equipment apparently purchased with funds provided by the network of private benefactors. The messages to LtCol North from Mr. Secord and the CIA officer: (a) asked him to direct where and when to make Contra munitions drops; (b) informed him of arms requirements; and (c) apprised him of payments, balances, and deficits.

At least nine arms shipments were coordinated through this channel from March through June, 1986. The CIA field officer in Costa Rica outlined his involvement in the resupply network and described the shipments: "This was all lethal. Benefactors only sent lethal stuff."

The CIA officer added that the private benefactor operation was, according to his understanding, controlled by LtCol North.

Mr. Secord was in charge of arranging the actual deliveries, using at least in part Southern Air Transport ("SAT"). Assistant Commissioner William Rosenblatt told the Board that LtCol North contacted him after a SAT C-123 aircraft crashed in Nicaragua, prompting a Customs investigation. North told him that the Customs investigation was focused on "good guys" who committed "no crimes." The Customs Service then narrowed the investigation to the specific aircraft involved in the crash rather than on the activities of the whole company. U.S. Customs Commissioner William von Raab said that LtCol North had previously contacted him to complain that Custom's agents were conducting an investigation involving a Maule aircraft. A former CIA officer in Central America said that at least one Maule aircraft was used in support of the Contra forces. Mr. Rosenblatt and Mr. von Raab told the Board

that LtCol North never asked them to close out their investigations. The Board obtained evidence that at least one Maule aircraft was used in Contra military operations. This evidence was referred to the Independent Counsel.

Authorization. The evidence before the Board contained no record that LtCol North's role to support the Contras was formally authorized. It appears, however, that LtCol North did keep the National Security Advisor informed, first Mr. McFarlane and then VADM Poindexter. It is not clear to what extent other NSC principals or their departments were informed. On May 15, 1986, VADM Poindexter cautioned North: "From now on, I don't want you to talk to anybody else, including Casey, except me about any of your operational roles."

The President told the Board on January 26, 1987, that he did not know that the NSC staff was engaged in helping the Contras. The Board is aware of no evidence to suggest that the President was aware of LtCol North's activities.

What Was Wrong

The arms transfers to Iran and the activities of the NSC staff in support of the Contras are case studies in the perils of policy pursued outside the constraints of orderly process.

The Iran initiative ran directly counter to the Administration's own policies on terrorism, the Iran/Iraq war, and military support to Iran. This inconsistency was never resolved, nor were the consequences of this inconsistency fully considered and provided for. The result taken as a whole was a U.S. policy that worked against itself.

The Board believes that failure to deal adequately with these contradictions resulted in large part from the flaws in the manner in which decisions were made. Established procedures for making national security decisions were ignored. Reviews of the initiative by all the NSC principals were too infrequent. The initiatives were not adequately vetted below the cabinet level. Intelligence resources were underutilized. Applicable legal constraints were not adequately addressed. The whole matter was handled too informally, without adequate written records of what had been considered, discussed, and decided.

This pattern persisted in the implementation of the Iran initiative. The NSC staff assumed direct operational control. The initiative fell within the traditional jurisdictions of the Departments of State, Defense, and CIA. Yet these agencies were largely ignored. Great reliance was placed on a network of private operators and intermediaries. How the initiative was to be carried out never received adequate attention from the NSC principals or a tough working-level review. No periodic evaluation of

the progress of the initiative was ever conducted. The result was an unprofessional and, in substantial part, unsatisfactory operation.

In all of this process, Congress was never notified.

As noted in Part III, the record of the role of the NSC staff in support of the Contras is much less complete. Nonetheless, what is known suggests that many of the same problems plagued that effort as well.

The first section of this Part IV discusses the flaws in the process by which conflicting policies were considered, decisions were made, and the initiatives were implemented.

The second section discusses the responsibility of the NSC principals and other key national security officials for the manner in which these initiatives were handled.

The third section discusses the special problem posed by the role of the Israelis.

The fourth section of this Part IV outlines the Board's conclusions about the management of the initial public presentation of the facts of the Iran initiative.

A. A Flawed Process

1. Contradictory Policies Were Pursued.—The arms sales to Iran and the NSC support for the Contras demonstrate the risks involved when highly controversial initiatives are pursued covertly.

Arms Transfers to Iran.—The initiative to Iran was a covert operation directly at odds with important and well-publicized policies of the Executive Branch. But the initiative itself embodied a fundamental contradiction. Two ob-

jectives were apparent from the outset: a strategic opening to Iran, and release of the U.S. citizens held hostage in Lebanon. The sale of arms to Iran appeared to provide a means to achieve both these objectives. It also played into the hands of those who had other interests—some of them personal financial gain—in engaging the United States in an arms deal with Iran.

In fact, the sale of arms was not equally appropriate for achieving both these objectives. Arms were what Iran wanted. If all the United States sought was to free the hostages, then an arms-for-hostages deal could achieve the immediate objectives of both sides. But if the U.S. objective was a broader strategic relationship, then the sale of arms should have been contingent upon first putting into place the elements of that relationship. An arms-for-hostages deal in this context could become counter-productive to achieving this broader strategic objective. In addition, release of the hostages would require exerting influence with Hizballah, which could involve the most radical elements of the Iranian regime. The kind of strategic opening sought by the United States, however, involved what were regarded as more moderate elements.

The U.S. officials involved in the initiative appeared to have held three distinct views. For some, the principal motivation seemed consistently a strategic opening to Iran. For others, the strategic opening became a rationale for using arms sales to obtain the release of the hostages. For still others, the initiative appeared clearly as an arms-for-hostages deal from first to last.

Whatever the intent, almost from the beginning the initiative became in fact a series of arms-for-hostages deals. The shipment of arms in November, 1985, was directly tied to a hostage release. Indeed, the August/September transfer may have been nothing more than an arms-for-hostages trade. By July 14, 1985, a specific proposal for the sale of 100 TOWs to Iran in exchange for Iranian efforts to secure the release of all the hostages had been transmitted to the White House and discussed with the President. What actually occurred, at least so far as the September shipment was concerned, involved a direct link of arms and a hostage.

The initiative continued to be described in terms of its broader strategic relationship. But those elements never really materialized. While a high-level meeting among senior U.S. and Iranian officials continued to be a subject of discussion, it never occurred. Although Mr. McFarlane went to Tehran in May of 1986, the promised high-level Iranians never appeared. In discussions among U.S. officials, the focus seemed to be on the prospects for obtaining release of the hostages, not on a strategic relationship. Even if one accepts the explanation that arms and hostages represented only "bona fides" of seriousness of purpose for each side, that had clearly been established, one way or another, by the September exchange.

It is true that, strictly speaking, arms were not exchanged for the hostages. The arms were sold for cash, and to Iran, rather than the terrorists holding the hostages. Iran clearly wanted to buy the arms, however, and time and time again U.S. willingness to sell was directly conditioned upon the release of hostages. Although Iran might claim that it did not itself hold the hostages, the whole arrangement was premised on Iran's ability to secure their release.

While the United States was seeking the release of the hostages in this way, it was vigorously pursuing policies that were dramatically opposed to such efforts. The Reagan Administration in particular had come into office declaring a firm stand against terrorism, which it continued to maintain. In December of 1985, the Administration completed a major study under the chairmanship of the Vice President. It resulted in a vigorous reaffirmation of U.S. opposition to terrorism in all its forms and a vow of total war on terrorism whatever its source. The Administration continued to pressure U.S. allies not to sell arms to Iran and not to make concessions to terrorists.

No serious effort was made to reconcile the inconsistency between these policies and the Iran initiative. No effort was made systematically to address the consequences of this inconsistency—the effect on U.S. policy when, as it inevitably would, the Iran initiative became known.

The Board believes that a strategic opening to Iran may have been in the national interest but that the United States never should have

been a party to the arms transfers. As arms-for-hostages trades, they could not help but create an incentive for further hostage-taking. As a violation of the U.S. arms embargo, they could only remove inhibitions on other nations from selling arms to Iran. This threatened to upset the military balance between Iran and Iraq, with consequent jeopardy to the Gulf States and the interests of the West in that region. The arms-for-hostages trades rewarded a regime that clearly supported terrorism and hostage-taking. They increased the risk that the United States would be perceived, especially in the Arab world, as a creature of Israel. They suggested to other U.S. allies and friends in the region that the United States had shifted its policy in favor of Iran. They raised questions as to whether U.S. policy statements could be relied upon.

As the arms-for-hostages proposal first came to the United States, it clearly was tempting. The sale of just 100 TOWs was to produce the release of all seven Americans held in Lebanon. Even had the offer been genuine, it would have been unsound. But it was not genuine. The 100 TOWs did not produce seven hostages. Very quickly the price went up, and the arrangements became protracted. A pattern of successive bargained exchanges of arms and hostages was quickly established. While release of all the hostages continued to be promised, in fact the hostages came out singly if at all. This sad history is powerful evidence of why the United States should never have become involved in the arms transfers.

NCS Staff Support for the Contras.—The activities of the NSC staff in support of the Contras sought to achieve an important objective of the Administration's foreign policy. The President had publicly and emphatically declared his support for the Nicaragua resistance. That brought his policy in direct conflict with that of the Congress, at least during the period that direct or indirect support of military operations in Nicaragua was barred.

Although the evidence before the Board is limited, no serious effort appears to have been made to come to grips with the risks to the President of direct NSC support for the Contras in the face of these Congressional restrictions. Even if it could be argued that these restrictions did not technically apply to the NSC staff, these activities presented great political

risk to the President. The appearance of the President's personal staff doing what Congress had forbade other agencies to do could, once disclosed, only touch off a firestorm in the Congress and threaten the Administration's whole policy on the Contras.

2. The Decision-making Process Was Flawed.—Because the arms sales to Iran and the NSC support for the Contras occurred in settings of such controversy, one would expect that the decisions to undertake these activities would have been made only after intense and thorough consideration. In fact, a far different picture emerges.

Arms Transfers to Iran.—The Iran initiative was handled almost casually and through informal channels, always apparently with an expectation that the process would end with the next arms-for-hostages exchange. It was subjected neither to the general procedures for interagency consideration and review of policy issues nor the more restrictive procedures set out in NSDD 159 for handling covert operations. This had a number of consequences.

(1) The Opportunity for a Full Hearing before the President Was Inadequate.—In the last half of 1985, the Israelis made three separate proposals to the United States with respect to the Iran initiative (two in July and one in August). In addition, Israel made three separate deliveries of arms to Iran, one each in August, September, and November. Yet prior to December 7, 1985, there was at most one meeting of the NSC principals, a meeting which several participants recall taking place on August 6. There is no dispute that full meetings of the principals did occur on December 7, 1985, and on January 7, 1986. But the proposal to shift to direct U.S. arms sales to Iran appears not to have been discussed until later. It was considered by the President at a meeting on January 17 which only the Vice President, Mr. Regan, Mr. Forster, and VADM Poindexter attended. Thereafter, the only senior-level review the Iran initiative received was during one or another of the President's daily national security briefings. These were routinely attended only by the President, the Vice President, Mr. Regan, and VADM Poindexter. There was no subsequent collective consideration of the Iran initiative by the NSC principals before it became public 11 months later.

This was not sufficient for a matter as important and consequential as the Iran initiative. Two or three cabinet-level reviews in a period of 17 months was not enough. The meeting on December 7 came late in the day, after the pattern of arms-for-hostages exchanges had become well established. The January 7 meeting had earmarks of a meeting held after a decision had already been made. Indeed, a draft Covert Action Finding authorizing the initiative had been signed by the President, though perhaps inadvertently, the previous day.

At each significant step in the Iran initiative, deliberations among the NSC principals in the presence of the President should have been virtually automatic. This was not and should not have been a formal requirement, something prescribed by statute. Rather, it should have been something the NSC principals desired as a means of ensuring an optimal environment for Presidential judgment. The meetings should have been preceded by consideration by the NSC principals of staff papers prepared according to the procedures applicable to covert actions. These should have reviewed the history of the initiative, analyzed the issues then presented, developed a range of realistic options, presented the odds of success and the costs of failure, and addressed questions of implementation and execution. Had this been done, the objectives of the Iran initiative might have been clarified and alternatives to the sale of arms might have been identified.

(ii) *The Initiative Was Never Subjected to a Rigorous Review below the Cabinet Level.*—Because of the obsession with secrecy, interagency consideration of the initiative was limited to the cabinet level. With the exception of the NSC staff and, after January 17, 1986, a handful of CIA officials, the rest of the executive departments and agencies were largely excluded.

As a consequence, the initiative was never vetted at the staff level. This deprived those responsible for the initiative of considerable expertise—on the situation in Iran; on the difficulties of dealing with terrorists; on the mechanics of conducting a diplomatic opening. It also kept the plan from receiving a tough, crucial review.

Moreover, the initiative did not receive a policy review below cabinet level. Careful consideration at the Deputy/Under Secretary level might have exposed the confusion in U.S. ob-

jectives and clarified the risks of using arms as an instrument of policy in this instance.

The vetting process would also have ensured better use of U.S. intelligence. As it was, the intelligence input into the decision process was clearly inadequate. First, no independent evaluation of the Israeli proposals offered in July and August appears to have been sought or offered by U.S. intelligence agencies. The Israelis represented that they for some time had had contacts with elements in Iran. The prospects for an opening to Iran depended heavily on these contacts, yet no systematic assessment appears to have been made by U.S. intelligence agencies of the reliability and motivations of these contacts, and the identity and objectives of the elements in Iran that the opening was supposed to reach. Neither was any systematic assessment made of the motivation of the Israelis.

Second, neither Mr. Ghorbanifar nor the second channel seem to have been subjected to a systematic intelligence vetting before they were engaged as intermediaries. Mr. Ghorbanifar had been known to the CIA for some time and the agency had substantial doubts as to his reliability and truthfulness. Yet the agency did not volunteer that information or inquire about the identity of the intermediary if his name was unknown. Conversely, no early request for a name check was made of the CIA, and it was not until January 11, 1986, that the agency gave Mr. Ghorbanifar a new polygraph, which he failed. Notwithstanding this situation, with the signing of the January 17 Finding, the United States took control of the initiative and became even more directly involved with Mr. Ghorbanifar. The issues raised by the polygraph results do not appear to have been systematically addressed. In similar fashion, no prior intelligence check appears to have been made on the second channel.

Third, although the President recalled being assured that the arms sales to Iran would not alter the military balance with Iran, the Board could find no evidence that the President was ever briefed on this subject. The question of the impact of any intelligence shared with the Iranians does not appear to have been brought to the President's attention.

A thorough vetting would have included consideration of the legal implications of the initia-

tive. There appeared little effort to face squarely the legal restrictions and notification requirements applicable to the operation. At several points, other agencies raised questions about violations of law or regulations. These concerns were dismissed without, it appears, investigating them with the benefit of legal counsel.

Finally, insufficient attention was given to the implications of implementation. The implementation of the initiative raised a number of issues: should the NSC staff rather than the CIA have had operational control; what were the implications of Israeli involvement; how reliable were the Iranian and various other private intermediaries; what were the implications of the use of Mr. Secord's private network of operatives, what were the implications for the military balance in the region, was operational security adequate. Nowhere do these issues appear to have been sufficiently addressed.

The concern for preserving the secrecy of the initiative provided an excuse for abandoning sound process. Yet the initiative was known to a variety of persons with diverse interests and ambitions—Israelis, Iranians, various arms dealers and business intermediaries, and LtCol North's network of private operatives. While concern for secrecy would have justified limiting the circle of persons knowledgeable about the initiative, in this case it was drawn too tightly. As a consequence, important advice and counsel were lost.

In January of 1985, the President had adopted procedures for striking the proper balance between secrecy and the need for consultation on sensitive programs. These covered the institution, implementation, and review of covert operations. In the case of the Iran initiative, these procedures were almost totally ignored.

The only staff work the President apparently reviewed in connection with the Iran initiative was prepared by NSC staff members, under the direction of the National Security Advisor. These were, of course, the principal proponents of the initiative. A portion of this staff work was reviewed by the Board. It was frequently striking in its failure to present the record of past efforts—particularly past failures. Alternative ways of achieving U.S. objectives—other than yet another arms-for-hostages deal—were not discussed. Frequently it neither adequately presented the risks involved in pursuing the initiative nor the full force of the dis-

senting views of other NSC principals. On balance, it did not serve the President well.

(iii) *The Process Was Too Informal.*—The whole decision process was too informal. Even when meetings among NSC principals did occur, often there was no prior notice of the agenda. No formal written minutes seem to have been kept. Decisions subsequently taken by the President were not formally recorded. An exception was the January 17 Finding, but even this was apparently not circulated or shown to key U.S. officials.

The effect of this informality was that the initiative lacked a formal institutional record. This precluded the participants from undertaking the more informed analysis and reflection that is afforded by a written record, as opposed to mere recollection. It made it difficult to determine where the initiative stood, and to learn lessons from the record that could guide future action. This lack of an institutional record permitted specific proposals for arms-for-hostages exchanges to be presented in a vacuum, without reference to the results of past proposals. Had a searching and thorough review of the Iran initiative been undertaken at any stage in the process, it would have been extremely difficult to conduct. The Board can attest first hand to the problem of conducting a review in the absence of such records. Indeed, the exposition in the wake of public revelation suffered the most.

NSC Staff Support for the Contras.—It is not clear how LtCol North first became involved in activities in direct support of the Contras during the period of the Congressional ban. The Board did not have before it much evidence on this point. In the evidence that the Board did have, there is no suggestion at any point of any discussion of LtCol North's activities with the President in any forum. There also does not appear to have been any interagency review of LtCol North's activities at any level.

This latter point is not surprising given the Congressional restrictions under which the other relevant agencies were operating. But the NSC staff apparently did not compensate for the lack of any interagency review with its own internal vetting of these activities. LtCol North apparently worked largely in isolation, keeping first Mr. McFarlane and then VADM Poindexter informed.

The lack of adequate vetting is particularly evident on the question of the legality of LtCol North's activities. The Board did not make a judgment on the legal issues raised by his activities in support of the Contras. Nevertheless, some things can be said.

If these activities were illegal, obviously they should not have been conducted. If there was any doubt on the matter, systematic legal advice should have been obtained. The political cost to the President of illegal action by the NSC staff was particularly high, both because the NSC staff is the personal staff of the President and because of the history of serious conflict with the Congress over the issue of Contra support. For these reasons, the President should have been kept apprised of any review of the legality of LtCol North's activities.

Legal advice was apparently obtained from the President's Intelligence Oversight Board. Without passing on the quality of that advice, it is an odd source. It would be one thing for the Intelligence Oversight Board to review the legal advice provided by some other agency. It is another for the Intelligence Oversight Board to be originating legal advice of its own. That is a function more appropriate for the NSC staff's own legal counsel.¹

3. Implementation Was Unprofessional.—The manner in which the Iran initiative was implemented and LtCol North undertook to support the Contras are very similar. This is in large part because the same cast of characters was involved. In both cases the operations were unprofessional, although the Board has much less evidence with respect to LtCol North's Contra activities.

Arms Transfers to Iran.—With the signing of the January 17 Finding, the Iran initiative became a U.S. operation run by the NSC staff. LtCol North made most of the significant operational decisions. He conducted the operation through Mr. Secord and his associates, a network of private individuals already involved in the Contra resupply operation. To this was added a handful of selected individuals from the CIA.

But the CIA support was limited. Two CIA officials, though often at meetings, had a relatively limited role. One served as the point man

¹ The issue of legal advice to the NSC staff is treated in more detail in Part V of this report.

for LtCol North in providing logistics and financial arrangements. The other (Mr. Allen) served as a contact between LtCol North and the intelligence community. By contrast, George Cave actually played a significant and expanding role. However, Clair George, Deputy Director for Operations at CIA, told the Board: "George was paid by me and on the paper was working for me. But I think in the heat of the battle, . . . George was working for Oliver North."

Because so few people from the departments and agencies were told of the initiative, LtCol North cut himself off from resources and expertise from within the government. He relied instead on a number of private intermediaries, businessmen and other financial brokers, private operators, and Iranians hostile to the United States. Some of these were individuals with questionable credentials and potentially large personal financial interests in the transactions. This made the transactions unnecessarily complicated and invited kick-backs and payoffs. This arrangement also dramatically increased the risks that the initiative would leak. Yet no provision was made for such an eventuality. Further, the use of Mr. Secord's private network in the Iran initiative linked those operators with the resupply of the Contras, threatening exposure of both operations if either became public.

The result was a very unprofessional operation.

Mr. Secord undertook in November, 1985, to arrange landing clearance for the Israeli flight bringing the HAWK missiles into a third-country staging area. The arrangements fell apart. A CIA field officer attributed this failure to the amateurish way in which Mr. Secord and his associates approached officials in the government from which landing clearance was needed. If Mr. Ghorbanifar is to be believed, the mission of Mr. McFarlane to Tehran was undertaken without any advance work, and with distinctly different expectations on the part of the two sides. This could have contributed to its failure.

But there were much more serious errors. Without adequate study and consideration, intelligence was passed to the Iranians of potentially major significance to the Iran/Iraq war. At the meeting with the second channel on October 5-7, 1986, LtCol North misrepresented

his access to the President. He told Mr. Ghorbanifar stories of conversations with the President which were wholly fanciful. He suggested without authority a shift in U.S. policy adverse to Iraq in general and Saddam Husain in particular. Finally, in the nine-point agenda discussed on October 26-28, he committed the United States, without authorization, to a position contrary to well established U.S. policy on the prisoners held by Kuwait.

The conduct of the negotiations with Mr. Ghorbanifar and the second channel were handled in a way that revealed obvious inexperience. The discussions were too casual for dealings with intermediaries to a regime so hostile to U.S. interests. The U.S. hand was repeatedly tipped and unskillfully played. The arrangements failed to guarantee that the U.S. obtained its hostages in exchange for the arms. Repeatedly, LtCol North permitted arms to be delivered without the release of a single captive.

The implementation of the initiative was never subjected to a rigorous review. LtCol North appears to have kept VADM Poindexter fully informed of his activities. In addition, VADM Poindexter, LtCol North, and the CIA officials involved apparently apprised Director Casey of many of the operational details. But LtCol North and his operation functioned largely outside the orbit of the U.S. Government. Their activities were not subject to critical reviews of any kind.

After the initial hostage release in September, 1985, it was over 10 months before another hostage was released. This despite recurring promises of the release of all the hostages and four intervening arms shipments. Beginning with the November shipment, the United States increasingly took over the operation of the initiative. In January, 1986, it decided to transfer arms directly to Iran.

Any of these developments could have served as a useful occasion for a systematic reconsideration of the initiative. Indeed, at least one of the schemes contained a provision for reconsideration if the initial assumptions proved to be invalid. They did, but the reconsideration never took place. It was the responsibility of the National Security Advisor and the responsible officers on the NSC staff to call for such a review. But they were too involved in the initiative both as advocates and as implementors. This

made it less likely that they would initiate the kind of review and reconsideration that should have been undertaken.

NSC Staff Support for the Contras.—As already noted, the NSC activities in support of the Contras and its role in the Iran initiative were of a piece. In the former, there was an added element of LtCol North's intervention in the customs investigation of the crash of the SAT aircraft. Here, too, selected CIA officials reported directly to LtCol North. The limited evidence before the Board suggested that the activities in support of the Contras involved unprofessionalism much like that in the Iran operation.

iv. Congress Was Never Notified.—Congress was not apprised either of the Iran initiative or of the NSC staff's activities in support of the Contras.

In the case of Iran, because release of the hostages was expected within a short time after the delivery of equipment, and because public disclosure could have destroyed the operation and perhaps endangered the hostages, it could be argued that it was justifiable to defer notification of Congress prior to the first shipment of arms to Iran. The plan apparently was to inform Congress immediately after the hostages were safely in U.S. hands. But after the first delivery failed to release all the hostages, and as one hostage release plan was replaced by another, Congress certainly should have been informed. This could have been done during a period when no specific hostage release plan was in execution. Consultation with Congress could have been useful to the President, for it might have given him some sense of how the public would react to the initiative. It also might have influenced his decision to continue to pursue it.

v. Legal Issues.—In addition to conflicting with several fundamental U.S. policies, selling arms to Iran raised far-reaching legal questions. How it dealt with these is important to an evaluation of the Iran initiative.

Arms Transfers to Iran.—It was not part of the Board's mandate to consider issues of law as they may pertain to individuals or detailed aspects of the Iran initiative. Instead, the Board focused on the legal basis for the arms transfers to Iran and how issues of law were addressed in the NSC process.

The Arms Export Control Act, the principal U.S. statute governing arms sales abroad, makes it unlawful to export arms without a license. Exports of arms by U.S. government agencies, however, do not require a license if they are otherwise authorized by law. Criminal penalties—fines and imprisonment—are provided for willful violations.

The initial arms transfers in the Iran initiative involved the sale and shipment by Israel of U.S.-origin missiles. The usual way for such international retransfer of arms to be authorized under U.S. law is pursuant to the Arms Export Control Act. This Act requires that the President consent to any transfers by another country of arms exported under the Act and imposes three conditions before such Presidential consent may be given:

- (a) the United States would itself transfer the arms in question to the recipient country;
- (b) a commitment in writing has been obtained from the recipient country against unauthorized retransfer of significant arms, such as missiles; and
- (c) a prior written certification regarding the retransfer is submitted to the Congress if the defense equipment, such as missiles, has an acquisition cost of 14 million dollars or more. 22 U.S.C. 2753 (a), (d).

In addition, the Act generally imposes restrictions on which countries are eligible to receive U.S. arms and on the purposes for which arms may be sold.²

The other possible avenue whereby government arms transfers to Iran may be authorized by law would be in connection with intelligence operations conducted under the National Security Act. This Act requires that the Director of Central Intelligence and the heads of other intelligence agencies keep the two Congressional intelligence committees "fully and currently in-

² It may be possible to authorize transfers by another country under the Arms Export Control Act without obtaining the President's consent. As a practical matter, however, the legal requirements may not differ significantly. For example, section 614(2) permits the President to waive the requirements of the Act, but this waiver authority may not be exercised unless it is determined that the international arms sales are "vital to the national security interests of the United States." Moreover, before granting a waiver, the President must consult with and provide written justification to the foreign affairs and appropriations committees of the Congress. 22 U.S.C. 2774(5).

formed" of all intelligence activities under their responsibility. 50 U.S.C. 413. Where prior notice of significant intelligence activities is not given, the intelligence committees are to be informed "in a timely fashion." In addition, the so called Hughes-Ryan Amendment to the Foreign Assistance Act requires that "significant anticipated intelligence activities" may not be conducted by the CIA unless and until the President finds that "each such operation is important to the national security of the United States." 22 U.S.C. 2422.

When the Israelis began transferring arms to Iran in August, 1985, they were not acting on their own. U.S. officials had knowledge about the essential elements of the proposed shipments. The United States shared some common purpose in the transfers and received a benefit from them—the release of a hostage. Most importantly, Mr. McFarlane communicated prior U.S. approval to the Israelis for the shipments, including an undertaking for replenishment. But for this U.S. approval, the transactions may not have gone forward. In short, the United States was an essential participant in the arms transfers to Iran that occurred in 1985.

Whether this U.S. involvement in the arms transfers by the Israelis was lawful depends fundamentally upon whether the President approved the transactions before they occurred. In the absence of Presidential approval, there does not appear to be any authority in this case for the United States to engage in the transfer of arms or consent to the transfer by another country. The arms transfers to Iran in 1985 and hence the Iran initiative itself would have proceeded contrary to U.S. law.

The Attorney General reached a similar judgment with respect to the activities of the CIA in facilitating the November, 1985 shipment by the Israelis of HAWK missiles. In a letter to the Board,³ the Attorney General concluded that with respect to the CIA assistance, "a finding under the Hughes-Ryan Amendment would be required."⁴

³ A copy of the letter is set forth in Appendix B.
⁴ Apparently no determination was made at the time as to the legality of these activities even though serious concerns about the legality were expressed by the Deputy Director of CIA. A Presidential finding was sought by CIA officials before any further CIA activities in support of the Iran initiative were undertaken and the CIA counsel, Mr. Stanley Sporkin, advised that as a matter of prudence any new finding should seek to ratify the prior CIA activities.

The Board was unable to reach a conclusive judgment about whether the 1985 shipments of arms to Iran were approved in advance by the President. On balance the Board believes that it is plausible to conclude that he did approve them in advance.

Yet even if the President in some sense consented to or approved the transactions, a serious question of law remains. It is not clear that the form of the approval was sufficient for purposes of either the Arms Export Control Act or the Hughes-Ryan Amendment. The consent did not meet the conditions of the Arms Export Control Act, especially in the absence of a prior written commitment from the Iranians regarding unauthorized retransfer.

Under the National Security Act, it is not clear that mere oral approval by the President would qualify as a Presidential finding that the initiative was vital to the national security interests of the United States. The approval was never reduced to writing. It appears to have been conveyed to only one person. The President himself has no memory of it. And there is contradictory evidence from the President's advisors about how the President responded when he learned of the arms shipments which the approval was to support. In addition, the requirement for Congressional notification was ignored. In these circumstances, even if the President approved of the transactions, it is difficult to conclude that his actions constituted adequate legal authority.

The legal requirements pertaining to the sale of arms to Iran are complex; the availability of legal authority, including that which may flow from the President's constitutional powers, is difficult to delineate. Definitive legal conclusions will also depend upon a variety of specific factual determinations that the Board has not attempted to resolve—for example, the specific content of any consent provided by the President, the authority under which the missiles were originally transferred to Israel, the knowledge and intentions of individuals, and the like. Nevertheless, it was sufficient for the Board's purposes to conclude that the legal underpinning of the Iran initiative during 1985 was at best highly questionable.

The Presidential Finding of January 17, 1986, formally approved the Iran initiative as a covert intelligence operation under the National Security Act. This ended the uncertainty

about the legal status of the initiative and provided legal authority for the United States to transfer arms directly to Iran.

The National Security Act also requires notification of Congress of covert intelligence activities. If not done in advance, notification must be "in a timely fashion." The Presidential finding of January 17 directed that Congressional notification be withheld, and this decision appears to have never been reconsidered. While there was surely justification to suspend Congressional notification in advance of a particular transaction relating to a hostage release, the law would seem to require disclosure where, as in the Iran case, a pattern of relative inactivity occurs over an extended period. To do otherwise prevents the Congress from fulfilling its proper oversight responsibilities.

Throughout the Iran initiative, significant questions of law do not appear to have been adequately addressed. In the face of a sweeping statutory prohibition and explicit requirements relating to Presidential consent to arms transfers by third countries, there appears to have been at the outset in 1985 little attention, let alone systematic analysis, devoted to how Presidential actions would comply with U.S. law. The Board has found no evidence that an evaluation was ever done during the life of the operation to determine whether it continued to comply with the terms of the January 17 Presidential Finding. Similarly, when a new prohibition was added to the Arms Export Control Act in August of 1986 to prohibit exports to countries on the terrorism list (a list which contained Iran), no evaluation was made to determine whether this law affected authority to transfer arms to Iran in connection with intelligence operations under the National Security Act. This lack of legal vigilance markedly increased the chances that the initiative would proceed contrary to law.

NSC Staff Support for the Contras.—The NSC staff activities in support of the Contras were marked by the same uncertainty as to legal authority and insensitivity to legal issues as were present in the Iran initiative. The ambiguity of the law governing activities in support of the Contras presented a greater challenge than even the considerable complexity of laws governing arms transfers. Intense Congressional scrutiny with respect to the NSC staff activities

relating to the Contras added to the potential costs of actions that pushed the limits of the law.

In this context, the NSC staff should have been particularly cautious, avoiding operational activity in this area and seeking legal counsel. The Board saw no signs of such restraint.

B. Failure of Responsibility

The NSC system will not work unless the President makes it work. After all, this system was created to serve the President of the United States in ways of his choosing. By his actions, by his leadership, the President therefore determines the quality of its performance.

By his own account, as evidenced in his diary notes, and as conveyed to the Board by his principal advisors, President Reagan was deeply committed to securing the release of the hostages. It was this intense compassion for the hostages that appeared to motivate his steadfast support of the Iran initiative, even in the face of opposition from his Secretaries of State and Defense.

In his obvious commitment, the President appears to have proceeded with a concept of the initiative that was not accurately reflected in the reality of the operation. The President did not seem to be aware of the way in which the operation was implemented and the full consequences of U.S. participation.

The President's expressed concern for the safety of both the hostages and the Iranians who could have been at risk may have been conveyed in a manner so as to inhibit the full functioning of the system.

The President's management style is to put the principal responsibility for policy review and implementation on the shoulders of his advisors. Nevertheless, with such a complex, high-risk operation and so much at stake, the President should have ensured that the NSC system did not fail him. He did not force his policy to undergo the most critical review of which the NSC participants and the process were capable. At no time did he insist upon accountability and performance review. Had the President chosen to drive the NSC system, the outcome could well have been different. As it was, the most powerful features of the NSC system—providing comprehensive analysis, alternatives and follow-up—were not utilized.

The Board found a strong consensus among NSC participants that the President's priority in the Iran initiative was the release of U.S. hostages. But setting priorities is not enough when it comes to sensitive and risky initiatives that directly affect U.S. national security. He must ensure that the content and tactics of an initiative match his priorities and objectives. He must insist upon accountability. For it is the President who must take responsibility for the NSC system and deal with the consequences.

Beyond the President, the other NSC principals and the National Security Advisor must share in the responsibility for the NSC system.

President Reagan's personal management style places an especially heavy responsibility on his key advisors. Knowing his style, they should have been particularly mindful of the need for special attention to the manner in which this arms sale initiative developed and proceeded. On this score, neither the National Security Advisor nor the other NSC principals deserve high marks.

It is their obligation as members and advisors to the Council to ensure that the President is adequately served. The principal subordinates to the President must not be deterred from urging the President not to proceed on a highly questionable course of action even in the face of his strong conviction to the contrary.

In the case of the Iran initiative, the NSC process did not fail, it simply was largely ignored. The National Security Advisor and the NSC principals all had a duty to raise this issue and insist that orderly process be imposed. None of them did so.

All had the opportunity. While the National Security Advisor had the responsibility to see that an orderly process was observed, his failure to do so does not excuse the other NSC principals. It does not appear that any of the NSC principals called for more frequent consideration of the Iran initiative by the NSC principals in the presence of the President. None of the principals called for a serious vetting of the initiative by even a restricted group of disinterested individuals. The intelligence questions do not appear to have been raised, and legal considerations, while raised, were not pressed. No one seemed to have complained about the informality of the process. No one

called for a thorough reexamination once the initiative did not meet expectations or the manner of execution changed. While one or another of the NSC principals suspected that something was amiss, none vigorously pursued the issue.

Mr. Regan also shares in this responsibility. More than almost any Chief of Staff of recent memory, he asserted personal control over the White House staff and sought to extend this control to the National Security Advisor. He was personally active in national security affairs and attended almost all of the relevant meetings regarding the Iran initiative. He, as much as anyone, should have insisted that an orderly process be observed. In addition, he especially should have ensured that plans were made for handling any public disclosure of the initiative. He must bear primary responsibility for the chaos that descended upon the White House when such disclosure did occur.

Mr. McFarlane appeared caught between a President who supported the initiative and the cabinet officers who strongly opposed it. While he made efforts to keep these cabinet officers informed, the Board heard complaints from some that he was not always successful. VADM Poindexter on several occasions apparently sought to exclude NSC principals other than the President from knowledge of the initiative. Indeed, on one or more occasions Secretary Shultz may have been actively misled by VADM Poindexter.

VADM Poindexter also failed grievously on the matter of Contra diversion. Evidence indicates that VADM Poindexter knew that a diversion occurred, yet he did not take the steps that were required given the gravity of that prospect. He apparently failed to appreciate or ignore the serious legal and political risks presented. His clear obligation was either to investigate the matter or take it to the President—or both. He did neither. Director Casey shared a similar responsibility. Evidence suggests that he received information about the possible diversion of funds to the Contras almost a month before the story broke. He, too, did not move promptly to raise the matter with the President. Yet his responsibility to do so was clear.

The NSC principals other than the President may be somewhat excused by the insufficient attention on the part of the National Security Advisor to the need to keep all the principals

fully informed. Given the importance of the issue and the sharp policy divergences involved, however, Secretary Shultz and Secretary Weinberger in particular distanced themselves from the march of events. Secretary Shultz specifically requested to be informed only as necessary to perform his job. Secretary Weinberger had access through intelligence to details about the operation. Their obligation was to give the President their full support and continued advice with respect to the program or, if they could not in conscience do that, to so inform the President. Instead, they simply distanced themselves from the program. They protected the record as to their own positions on this issue. They were not energetic in attempting to protect the President from the consequences of his personal commitment to freeing the hostages.

Director Casey appears to have been informed in considerable detail about the specifics of the Iranian operation. He appears to have acquiesced in and to have encouraged North's exercise of direct operational control over the operation. Because of the NSC staff's proximity to and close identification with the President, this increased the risks to the President if the initiative became public or the operation failed.

There is no evidence, however, that Director Casey explained this risk to the President or made clear to the President that LtCol North, rather than the CIA, was running the operation. The President does not recall ever being informed of this fact. Indeed, Director Casey should have gone further and pressed for operational responsibility to be transferred to the CIA.

Director Casey should have taken the lead in vetting the assumptions presented by the Israelis on which the program was based and in pressing for an early examination of the reliance upon Mr. Ghorbanifar and the second channel as intermediaries. He should also have assumed responsibility for checking out the other intermediaries involved in the operation. Finally, because Congressional restrictions on covert actions are both largely directed at and familiar to the CIA, Director Casey should have taken the lead in keeping the question of Congressional notification active.

Finally, Director Casey, and, to a lesser extent, Secretary Weinberger, should have taken it upon themselves to assess the effect of the transfer of arms and intelligence to Iran on the Iran/Iraq military balance, and to transmit that information to the President.

C. The Role of the Israelis

Conversations with emissaries from the Government of Israel took place prior to the commencement of the initiative. It remains unclear whether the initial proposal to open the Ghorbanifar channel was an Israeli initiative, was brought on by the avarice of arms dealers, or came as a result of an American request for assistance. There is no doubt, however, that it was Israel that pressed Mr. Ghorbanifar on the United States. U.S. officials accepted Israeli assurances that they had had for some time an extensive dialogue that involved high-level Iranians, as well as their assurances of Mr. Ghorbanifar's bona fides. Thereafter, at crucial points in the initiative, when doubts were expressed by critical U.S. participants, an Israeli emissary would arrive with encouragement, often a specific proposal, and pressure to stay with the Ghorbanifar channel.

From the record available to the Board, it is not possible to determine the role of key U.S. participants in prompting these Israeli interventions. There were active and ongoing consultations between LtCol North and officials of the Israeli government, specifically David Kiniche and Amiram Nir. In addition, Mr. Schwimmer, Mr. Nimrodi, and Mr. Ledeen, also in frequent contact with LtCol North, had close ties with the government of Israel. It may be that the Israeli interventions were actively solicited by particular U.S. officials. Without the benefit of the views of the Israeli officials involved, it is hard to know the facts.

It is clear, however, that Israel had its own interests, some in direct conflict with those of the United States, in having the United States pursue the initiative. For this reason, it had an incentive to keep the initiative alive. It sought to do this by interventions with the NSC staff, the National Security Advisor, and the President. Although it may have received suggestions from LtCol North, Mr. Ledeen, and others, it responded affirmatively to these suggestions by reason of its own interests.

Even if the Government of Israel actively worked to begin the initiative and to keep it going, the U.S. Government is responsible for its own decisions. Key participants in U.S. deliberations made the point that Israel's objectives and interests in this initiative were different from, and in some respects in conflict with, those of the United States. Although Israel dealt with those portions of the U.S. Government that it deemed were sympathetic to the initiative, there is nothing improper *per se* about this fact. U.S. decision-makers made their own decisions and must bear responsibility for the consequences.

D. Aftermath—The Efforts To Tell the Story

From the first hint in late-October, 1986 that the McFarlane trip would soon become public, information on the Iran initiative and Contra activity cascaded into the press. The veiled hints of secret activities, random and indiscriminate disclosures of information from a variety of sources, both knowledgeable and otherwise, and conflicting statements by high-level officials presented a confusing picture to the American public. The Board recognized that conflicts among contemporaneous documents and statements raised concern about the management of the public presentation of facts on the Iran initiative. Though the Board reviewed some evidence⁸ on events after the exposure, our ability to comment on these events remains limited.

The Board found evidence that immediately following the public disclosure, the President wanted to avoid providing too much specificity or detail out of concern for the hostages still held in Lebanon and those Iranians who had supported the initiative. In doing so, he did not, we believe, intend to mislead the American public or cover-up unlawful conduct. By at least November 20, the President took steps to ensure that all the facts would come out. From the President's request to Mr. Meese to look into the history of the initiative, to his appointment of this Board, to his request for an Independent Counsel, to his willingness to discuss this matter fully and to review his personal

⁸ See Appendix D

notes with us, the Board is convinced that the President does indeed want the full story to be told.

Those who prepared the President's supporting documentation did not appear, at least initially, to share in the President's ultimate wishes. Mr. McFarlane described for the Board the process used by the NSC staff to create a chronology that obscured essential facts. Mr. McFarlane contributed to the creation of this chronology which did not, he said, present "a full and completely accurate account" of the events and left ambiguous the President's role. This was, according to Mr. McFarlane, done to distance the President from the timing and nature of the President's authorization. He told the Board that he wrote a memorandum on November 18, which tried to, in his own words, "gild the President's motives." This version was incorporated into the chronology. Mr. McFarlane told the Board that he knew the account was "misleading, at least, and wrong, at worst." Mr. McFarlane told the Board that he did provide the Attorney General an accurate account of the President's role.

The Board found considerable reason to question the actions of LtCol North in the aftermath of the disclosure. The Board has no evidence to either confirm or refute that LtCol North destroyed documents on the initiative in an effort to conceal facts from threatened investigations. The Board found indications that LtCol North was involved in an effort, over time, to conceal or withhold important information. The files of LtCol North contained

much of the historical documentation that the Board used to construct its narrative. Moreover, LtCol North was the primary U.S. government official involved in the details of the operation. The chronology he produced has many inaccuracies. These "histories" were to be the basis of the "full" story of the Iran initiative. These inaccuracies lend some evidence to the proposition that LtCol North, either on his own or at the behest of others, actively sought to conceal important information.

Out of concern for the protection of classified material, Director Casey and VADM Poindexter were to brief only the Congressional intelligence committees on the "full" story; the DCI before the Committees and VADM Poindexter in private sessions with the chairmen and vice-chairmen. The DCI and VADM Poindexter undertook to do this on November 21, 1986. It appears from the copy of the DCI's testimony and notes of VADM Poindexter's meetings, that they did not fully relate the nature of events as they had occurred. The result is an understandable perception that they were not forthcoming.

The Board is also concerned about various notes that appear to be missing. VADM Poindexter was the official note taker in some key meetings, yet no notes for the meetings can be found. The reason for the lack of such notes remains unknown to the Board. If they were written, they may contain very important information. We have no way of knowing if they exist.

Recommendations

"Not only . . . is the Federal power over external affairs in origin and essential character different from that over internal affairs, but participation in the exercise of the power is significantly limited. In this vast external realm, with its important, complicated, delicate and manifold problems, the President alone has the power to speak or listen as a representative of the nation." *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 319 (1936).

Whereas the ultimate power to formulate domestic policy resides in the Congress, the primary responsibility for the formulation and implementation of national security policy falls on the President.

It is the President who is the usual source of innovation and responsiveness in this field. The departments and agencies—the Defense Department, State Department, and CIA bureaucracies—tend to resist policy change. Each has its own perspective based on long experience. The challenge for the President is to bring his perspective to bear on these bureaucracies for they are his instruments for executing national security policy, and he must work through them. His task is to provide them leadership and direction.

The National Security Act of 1947 and the system that has grown up under it affords the President special tools for carrying out this important role. These tools are the National Security Council, the National Security Advisor, and the NSC Staff. These are the means through which the creative impulses of the

President are brought to bear on the permanent government. The National Security Act, and custom and practice, rightly give the President wide latitude in fashioning exactly how these means are used.

There is no magic formula which can be applied to the NSC structure and process to produce an optimal system. Because the system is the vehicle through which the President formulates and implements his national security policy, it must adapt to each individual President's style and management philosophy. This means that NSC structures and processes must be flexible, not rigid. Overprescription would, as discussed in Part II, either destroy the system or render it ineffective.

Nevertheless, this does not mean there can be no guidelines or recommendations that might improve the operation of the system, whatever the particular style of the incumbent President. We have reviewed the operation of the system over the past 40 years, through good times and bad. We have listened carefully to the views of all the living former Presidents as well as those of most of the participants in their own national security systems. With the strong caveat that flexibility and adaptability must be at the core, it is our judgment that the national security system seems to have worked best when it has in general operated along the lines set forth below.

Organizing for National Security. Because of the wide latitude in the National Security Act, the President bears a special responsibility for the effective performance of the NSC system. A President must at the outset provide guidelines to the members of the National Security Coun-

cil, his National Security Advisor, and the National Security Council staff. These guidelines, to be effective, must include how they will relate to one another, what procedures will be followed, what the President expects of them. If his advisors are not performing as he likes, only the President can intervene.

The National Security Council principals other than the President participate on the Council in a unique capacity.¹ Although holding a seat by virtue of their official positions in the Administration, when they sit as members of the Council they sit not as cabinet secretaries or department heads but as advisors to the President. They are there not simply to advance or defend the particular positions of the departments or agencies they head but to give their best advice to the President. Their job—and their challenge—is to see the issue from this perspective, not from the narrower interests of their respective bureaucracies.

The National Security Council is only advisory. It is the President alone who decides. When the NSC principals receive those decisions, they do so as heads of the appropriate departments or agencies. They are then responsible to see that the President's decisions are carried out by those organizations accurately and effectively.

This is an important point. The policy innovation and creativity of the President encounters a natural resistance from the executing departments. While this resistance is a source of frustration to every President, it is inherent in the design of the government. It is up to the politically appointed agency heads to ensure that the President's goals, designs, and policies are brought to bear on this permanent structure. Circumventing the departments, perhaps by using the National Security Advisor or the NSC Staff to execute policy, robs the President of the experience and capacity resident in the departments. The President must act largely through them, but the agency heads must ensure that they execute the President's policies in an expeditious and effective manner. It is not just the obligation of the National Security Advisor to see that the national security

¹ As discussed in more detail in Part II, the statutory members of the National Security Council are the President, Vice President, Secretary of State, and Secretary of Defense. By the phrase "National Security Council principals" or "NSC principals" the Board generally means those four statutory members plus the Director of Central Intelligence and the Chairman of the Joint Chiefs of Staff.

process is used. All of the NSC principals—and particularly the President—have that obligation.

This tension between the President and the Executive Departments is worked out through the national security process described in the opening sections of this report. It is through this process that the nation obtains both the best of the creativity of the President and the learning and expertise of the national security departments and agencies.

This process is extremely important to the President. His decisions will benefit from the advice and perspective of all the concerned departments and agencies. History offers numerous examples of this truth. President Kennedy, for example, did not have adequate consultation before entering upon the Bay of Pigs invasion, one of his greatest failures. He remedied this in time for the Cuban missile crisis, one of his greatest successes. Process will not always produce brilliant ideas, but history suggests it can at least help prevent bad ideas from becoming Presidential policy.

The National Security Advisor. It is the National Security Advisor who is primarily responsible for managing this process on a daily basis. The job requires skill, sensitivity, and integrity. It is his responsibility to ensure that matters submitted for consideration by the Council cover the full range of issues on which review is required; that those issues are fully analyzed; that a full range of options is considered; that the prospects and risks of each are examined; that all relevant intelligence and other information is available to the principals; that legal considerations are addressed; that difficulties in implementation are confronted. Usually, this can best be accomplished through interagency participation in the analysis of the issue and a preparatory policy review at the Deputy or Under Secretary level.

The National Security Advisor assumes these responsibilities not only with respect to the President but with respect to all the NSC principals. He must keep them informed of the President's thinking and decisions. They should have adequate notice and an agenda for all meetings. Decision papers should, if at all possible, be provided in advance.

The National Security Advisor must also ensure that adequate records are kept of NSC consultations and Presidential decisions. This is

essential to avoid confusion among Presidential advisors and departmental staffs about what was actually decided and what is wanted. Those records are also essential for conducting a periodic review of a policy or initiative, and to learn from the past.

It is the responsibility of the National Security Advisor to monitor policy implementation and to ensure that policies are executed in conformity with the intent of the President's decision. Monitoring includes initiating periodic reassessments of a policy or operation, especially when changed circumstances suggest that the policy or operation no longer serves U.S. interests.

But the National Security Advisor does not simply manage the national security process. He is himself an important source of advice on national security matters to the President. He is not the President's only source of advice, but he is perhaps the one most able to see things from the President's perspective. He is unburdened by departmental responsibilities. The President is his only master. His advice is confidential. He is not subject to Senate confirmation and traditionally does not formally appear before Congressional committees.

To serve the President well, the National Security Advisor should present his own views, but he must at the same time represent the views of others fully and faithfully to the President. The system will not work well if the National Security Advisor does not have the trust of the NSC principals. He, therefore, must not use his proximity to the President to manipulate the process so as to produce his own position. He should not interpose himself between the President and the NSC principals. He should not seek to exclude the NSC principals from the decision process. Performing both these roles well is an essential, if not easy, task.

In order for the National Security Advisor to serve the President adequately, he must have direct access to the President. Unless he knows first hand the views of the President and is known to reflect them in his management of the NSC system, he will be ineffective. He should not report to the President through some other official. While the Chief of Staff or others can usefully interject domestic political considerations into national security deliberations, they should do so as additional advisors to the President.

Ideally, the National Security Advisor should not have a high public profile. He should not try to compete with the Secretary of State or the Secretary of Defense as the articulator of public policy. They, along with the President, should be the spokesmen for the policies of the Administration. While a "passion for anonymity" is perhaps too strong a term, the National Security Advisor should generally operate off-stage.

The NSC principals of course must have direct access to the President, with whatever frequency the President feels is appropriate. But these individual meetings should not be used by the principal to seek decisions or otherwise circumvent the system in the absence of the other principals. In the same way, the National Security Advisor should not use his scheduled intelligence or other daily briefings of the President as an opportunity to seek Presidential decision on significant issues.

If the system is to operate well, the National Security Advisor must promote cooperation rather than competition among himself and the other NSC principals. But the President is ultimately responsible for the operation of this system. If rancorous infighting develops among his principal national security functionaries, only he can deal with them. Public dispute over external policy by senior officials undermines the process of decision-making and narrows his options. It is the President's responsibility to ensure that it does not take place.

Finally, the National Security Advisor should focus on advice and management, not implementation and execution. Implementation is the responsibility and the strength of the departments and agencies. The National Security Advisor and the NSC Staff generally do not have the depth of resources for the conduct of operations. In addition, when they take on implementation responsibilities, they risk compromising their objectivity. They can no longer act as impartial overseers of the implementation, ensuring that Presidential guidance is followed, that policies are kept under review, and that the results are serving the President's policy and the national interest.

The NSC Staff. The NSC staff should be small, highly competent, and experienced in the making of public policy. Staff members should be drawn both from within and from

outside government. Those from within government should come from the several departments and agencies concerned with national security matters. No particular department or agency should have a predominate role. A proper balance must be maintained between people from within and outside the government. Staff members should generally rotate with a stay of more than four years viewed as the exception.

A large number of staff action officers organized along essentially horizontal lines enhances the possibilities for poorly supervised and monitored activities by individual staff members. Such a system is made to order for energetic self-starters to take unauthorized initiatives. Clear vertical lines of control and authority, responsibility and accountability, are essential to good management.

One problem affecting the NSC staff is lack of institutional memory. This results from the understandable desire of a President to replace the staff in order to be sure it is responsive to him. Departments provide continuity that can help the Council, but the Council as an institution also needs some means to assure adequate records and memory. This was identified to the Board as a problem by many witnesses.

We recognize the problem and have identified a range of possibilities that a President might consider on this subject. One would be to create a small permanent executive secretariat. Another would be to have one person, the Executive Secretary, as a permanent position. Finally, a pattern of limited tenure and overlapping rotation could be used. Any of these would help reduce the problem of loss of institutional memory; none would be practical unless each succeeding President subscribed to it.

The guidelines for the role of the National Security Advisor also apply generally to the NSC staff. They should protect the process and thereby the President. Departments and agencies should not be excluded from participation in that process. The staff should not be implementors or operators and staff should keep a low profile with the press.

Principal Recommendation

The model we have outlined above for the National Security Council system constitutes

our first and most important recommendation. It includes guidelines that address virtually all of the deficiencies in procedure and practice that the Board encountered in the Iran/Contra affair as well as in other case studies of this and previous administrations.

We believe this model can enhance the performance of a President and his administration in the area of national security. It responds directly to President Reagan's mandate to describe the NSC system as it ought to be.

The Board recommends that the proposed model be used by Presidents in their management of the national security system.

Specific Recommendations

In addition to its principal recommendation regarding the organization and functioning of the NSC system and roles to be played by the participants, the Board has a number of specific recommendations.

1. *The National Security Act of 1947.* The flaws of procedure and failures of responsibility revealed by our study do not suggest any inadequacies in the provisions of the National Security Act of 1947 that deal with the structure and operation of the NSC system. Forty years of experience under that Act demonstrate to the Board that it remains a fundamentally sound framework for national security decision-making. It strikes a balance between formal structure and flexibility adequate to permit each President to tailor the system to fit his needs.

As a general matter, the NSC Staff should not engage in the implementation of policy or the conduct of operations. This compromises their oversight role and usurps the responsibilities of the departments and agencies. But the inflexibility of a legislative restriction should be avoided. Terms such as "operation" and "implementation" are difficult to define, and a legislative proscription might preclude some future President from making a very constructive use of the NSC Staff.

Predisposition on sizing of the staff should be toward fewer rather than more. But a legislative restriction cannot foresee the requirements of future Presidents. Size is best left to the discretion of the President, with the admo-

dition that the role of the NSC staff is to review, not to duplicate or replace, the work of the departments and agencies.

We recommend that no substantive change be made in the provisions of the National Security Act dealing with the structure and operation of the NSC system.

2. *Senate Confirmation of the National Security Advisor.* It has been suggested that the job of the National Security Advisor has become so important that its holder should be screened by the process of confirmation, and that once confirmed he should return frequently for questioning by the Congress. It is argued that this would improve the accountability of the National Security Advisor.

We hold a different view. The National Security Advisor does, and should continue, to serve only one master, and that is the President. Further, confirmation is inconsistent with the role the National Security Advisor should play. He should not decide, only advise. He should not engage in policy implementation or operations. He should serve the President, with no collateral and potentially diverting loyalties.

Confirmation would tend to institutionalize the natural tension that exists between the Secretary of State and the National Security Advisor. Questions would increasingly arise about who really speaks for the President in national security matters. Foreign governments could be confused or would be encouraged to engage in "forum shopping."

Only one of the former government officials interviewed favored Senate confirmation of the National Security Advisor. While consultation with Congress received wide support, confirmation and formal questioning were opposed. Several suggested that if the National Security Advisor were to become a position subject to confirmation, it could induce the President to turn to other internal staff or to people outside government to play that role.

We urge the Congress not to require Senate confirmation of the National Security Advisor.

3. *The Interagency Process.* It is the National Security Advisor who has the greatest interest in

making the national security process work, for it is this process by which the President obtains the information, background, and analysis he requires to make decisions and build support for his program. Most Presidents have set up interagency committees at both a staff and policy level to surface issues, develop options, and clarify choices. There has typically been a struggle for the chairmanships of these groups between the National Security Advisor and the NSC staff on the one hand, and the cabinet secretaries and department officials on the other.

Our review of the operation of the present system and that of other administrations where committee chairmen came from the departments has led us to the conclusion that the system generally operates better when the committees are chaired by the individual with the greatest stake in making the NSC system work.

We recommend that the National Security Advisor chair the senior-level committees of the NSC system.

4. *Covert Actions.* Policy formulation and implementation are usually managed by a team of experts led by policymaking generalists. Covert action requirements are no different, but there is a need to limit, sometimes severely, the number of individuals involved. The lives of many people may be at stake, as was the case in the attempt to rescue the hostages in Tehran. Premature disclosure might kill the idea in embryo, as could have been the case in the opening of relations with China. In such cases, there is a tendency to limit those involved to a small number of top officials. This practice tends to limit severely the expertise brought to bear on the problem and should be used very sparingly indeed.

The obsession with secrecy and preoccupation with leaks threaten to paralyze the government in its handling of covert operations. Unfortunately, the concern is not misplaced. The selective leak has become a principal means of waging bureaucratic warfare. Opponents of an operation kill it with a leak; supporters seek to build support through the same means.

We have witnessed over the past years a significant deterioration in the integrity of process. Rather than a means to obtain results more

satisfactory than the position of any of the individual departments, it has frequently become something to be manipulated to reach a specific outcome. The leak becomes a primary instrument in that process.

This practice is destructive of orderly governance. It can only be reversed if the most senior officials take the lead. If senior decision-makers set a clear example and demand compliance, subordinates are more likely to conform.

Most recent administrations have had carefully drawn procedures for the consideration of covert activities. The Reagan Administration established such procedures in January, 1985, then promptly ignored them in their consideration of the Iran initiative.

We recommend that each administration formulate precise procedures for restricted consideration of covert action and that, once formulated, those procedures be strictly adhered to.

5. The Role of the CIA. Some aspects of the Iran arms sales raised broader questions in the minds of members of the Board regarding the role of CIA. The first deals with intelligence.

The NSC staff was actively involved in the preparation of the May 20, 1985, update to the Special National Intelligence Estimate on Iran. It is a matter for concern if this involvement and the strong views of NSC staff members were allowed to influence the intelligence judgments contained in the update. It is also of concern that the update contained the hint that the United States should change its existing policy and encourage its allies to provide arms to Iran. It is critical that the line between intelligence and advocacy of a particular policy be preserved if intelligence is to retain its integrity and perform its proper function. In this instance, the CIA came close enough to the line to warrant concern.

We emphasize to both the intelligence community and policymakers the importance of maintaining the integrity and objectivity of the intelligence process.

6. Legal Counsel. From time to time issues with important legal ramifications will come

before the National Security Council. The Attorney General is currently a member of the Council by invitation and should be in a position to provide legal advice to the Council and the President. It is important that the Attorney General and his department be available to interagency deliberations.

The Justice Department, however, should not replace the role of counsel in the other departments. As the principal counsel on foreign affairs, the Legal Adviser to the Secretary of State should also be available to all the NSC participants.

Of all the NSC participants, it is the Assistant for National Security Affairs who seems to have had the least access to expert counsel familiar with his activities.

The Board recommends that the position of Legal Adviser to the NSC be enhanced in stature and in its role within the NSC staff.

7. Secrecy and Congress. There is a natural tension between the desire for secrecy and the need to consult Congress on covert operations. Presidents seem to become increasingly concerned about leaks of classified information as their administrations progress. They blame Congress disproportionately. Various cabinet officials from prior administrations indicated to the Board that they believe Congress bears no more blame than the Executive Branch.

However, the number of Members and staff involved in reviewing covert activities is large; it provides cause for concern and a convenient excuse for Presidents to avoid Congressional consultation.

We recommend that Congress consider replacing the existing Intelligence Committees of the respective Houses with a new joint committee with a restricted staff to oversee the intelligence community, patterned after the Joint Committee on Atomic Energy that existed until the mid-1970s.

8. Privatizing National Security Policy. Careful and limited use of people outside the U.S. Government may be very helpful in some unique cases. But this practice raises substantial questions. It can create conflict of interest problems. Private or foreign sources may have dif-

ferent policy interests or personal motives and may exploit their association with a U.S. government effort. Such involvement gives private and foreign sources potentially powerful leverage in the form of demands for return favors or even blackmail.

The U.S. has enormous resources invested in agencies and departments in order to conduct the government's business. In all but a very few

cases, these can perform the functions needed. If not, then inquiry is required to find out why.

We recommend against having implementation and policy oversight dominated by intermediaries. We do not recommend barring limited use of private individuals to assist in United States diplomatic initiatives or in covert activities. We caution against use of such people except in very limited ways and under close observation and supervision.

Epilogue

If but one of the major policy mistakes we examined had been avoided, the nation's history would bear one less scar, one less embarrassment, one less opportunity for opponents to reverse the principles this nation seeks to preserve and advance in the world.

As a collection, these recommendations are offered to those who will find themselves in situations similar to the ones we reviewed: under stress, with high stakes, given little time, using incomplete information, and troubled by premature disclosure. In such a state, modest improvements may yield surprising gains. This is our hope.

Note

In the following narrative, citations to the Board's record are indicated in parentheses. Where the citation is to a name, for example "(McFarlane (1) 6)", it means Robert C. McFarlane's first interview with the Board at page 6 of the transcript. The same page in Mr. McFarlane's second interview would be designated by "(McFarlane (2) 6)."

Representatives of those departments concerned with the national security of the United States reviewed the manuscript in order to declassify it. The criteria for deletions in the interests of the national security were: (1) protection of intelligence sources and methods; (2) protection of negotiations and relations with third countries; and (3) protection of life. The Board finds that these criteria have been reasonably applied

The Iran/Contra Affair: A Narrative

Quis custodiet ipsos custodes.

—Juvenal, *Satires*, VI, 347

Introduction

In 1985, the United States began a process that eventually included the shipment of advanced weapons unobtainable on the international arms market to Iran for cash and the freedom of Americans kidnapped and held hostage in Lebanon. Israel also sold such weapons to Iran, and the United States resupplied Israel, at least in part. In some instances, Iran apparently arranged for the release of American citizens, and perhaps nationals of other countries, kidnapped in Lebanon. These transactions involved American, Iranian, and Israeli middlemen, and occurred at a time when the public policy of the United States strongly deprecated arms shipments to Iran and ransoming hostages. Large sums changed hands. Large sums are unaccounted for, and may have been diverted to guerrilla groups in various countries, including the resistance in Nicaragua, or to middlemen.

A number of elements appear to have converged at the origin of these transactions. Without assigning priority, they include: (1) the strategic importance of Iran and concern of individuals in the United States government to restore something resembling normal relations with that country; (2) a long history of Russian and Soviet designs on Iran, and the perception that the Soviet invasion of Afghanistan represented an episode in this history; (3) evidence of Iranian influence with, and control over, groups engaging in terrorist acts against citi-

zens and interests of the United States, its allies and friends; (4) Americans held hostage in Lebanon by such groups; (5) Iranian efforts to obtain advanced weapons for use against Iraq; (6) Israel's interest, for a number of reasons, in selling such weapons to Iran with the approval or acquiescence of the United States; (7) the perception by international arms dealers that the American concern about the future course of Iran and Americans held hostage, together with Iran's wish to buy weapons controlled by the United States, offered an opportunity for quick, sure profits.

I. Background

On January 16, 1979, the Shah was overthrown, ending an intimate Iranian-American relationship over twenty-five years old. Mutual hostility and tension characterized American relations with the Khomeini government, which the seizure on November 4, 1979, of the American Embassy in Tehran intensified. From November 12 to 14, the United States adopted economic sanctions culminating in the decision on the 14th to "block" all Iranian government property and interests in the United States. Iranian oil could no longer be purchased, nor weapons shipped, even those previously purchased by Iran. (Order of 11/79, confirmed by Executive Order, 4/17/80) The United States broke diplomatic relations with Iran on April 7, 1980, and imposed further economic sanctions. Some six weeks after the Embassy seizure, the Soviet Union invaded Afghanistan. Since shortly thereafter, the United States and Iran have pursued compatible policies towards the

Afghan resistance. On September 22, 1980, Iraq attacked Iran.

The hostage crisis began November 4, 1979, continued until the end of the Carter Administration. At that time, direct, formal communications between Washington and Tehran resumed with the establishment, pursuant to the Algiers Accord of January 19, 1981, of the Iran-United States Claims Tribunal at the Hague in 1981. That agreement partially lifted economic sanctions, but the arms embargo was reinforced. In 1983, the United States helped bring to the attention of Tehran the threat inherent in the extensive infiltration of the government by the communist Tudeh Party and Soviet or pro-Soviet cadres in the country. Using this information, the Khomeini government took measures, including mass executions, that virtually eliminated the pro-Soviet infrastructure in Iran.

A. Intellectual Threads in the NSC Staff: 1984

From the spring of 1982 through the summer of 1984, interagency groups attempted to formulate "a security strategy" for Southwest Asia. (Teicher 6-7) At the beginning of 1984, Geoffrey Kemp, Senior Director for Near East and South Asian Affairs on the staff of the National Security Council ("NSC") and the principal NSC staff officer responsible for the Persian Gulf, (*id.* at 6), wrote a memorandum to Robert C. McFarlane, Assistant to the President for National Security Affairs and head of the NSC staff, recommending that the Administration reevaluate its attitude towards Iran. He viewed the Khomeini government as a menace to American interests, and suggested a revival of covert operations against it. According to Kemp, Tehran's politics and policies enhanced Syria's standing among Arab states, and threatened western access to Persian Gulf oil. Khomeini's Iran was also believed to have engaged directly or indirectly, in terrorist acts against citizens and interests of the United States, its friends and allies. He reported that exiled Iranians, with whom he regularly communicated, hoped that, with foreign help, they might install a pro-Western government. Suggestions of divisions in the country and support from Saudi Arabia for the exiles encouraged Kemp

to submit his proposal. (Kemp to McFarlane, 1/13/84)

Kemp prepared his memorandum during a period in which a number of foreign nationals living in Lebanon were kidnapped by groups known to have important ties to Iran. Further, the United States determined that Iran had played a role in hijackings and bombings, notably the bombings of the American Embassy and of the Marines barracks in Beirut on October 23, 1983. Evidence of Iranian complicity in such events caused the United States to designate Iran a sponsor of international terrorism and to impose additional controls on exports to Iran on January 23, 1984. Among those kidnapped after Kemp submitted his memorandum to McFarlane was William Buckley, CIA Chief of Station in Beirut, seized on March 16, 1984. Buckley eventually died in captivity.

On August 31, 1984, McFarlane formally requested an interagency analysis of American relations with Iran after Khomeini. (NSSI 5-84, 8/31/84, Teicher 7) According to the detailed interagency study completed in October 1984, Khomeini's death was probably a precondition to changes in Iranian policies and the realistic prospect of improved Iranian-American relations. The study, which incorporated the analysis of a Special National Intelligence Estimate ("SNIE") then in preparation on Iran, concluded that the possibility of resuming arms shipments to Iran depended on Iran's willingness to restore formal relations, which itself turned on Iran's perception of the importance of such shipments and the American perception of the impact of such shipments on the regional balance of power. (Enclosure to Hill to McFarlane, 10/19/84) The study conveyed an impression of relative American powerlessness to affect events in Iran, powerlessness that would continue indefinitely. (*Id.*)

The CIA reached a similar conclusion with regard to the utility of covert action in Iran to improve the United States position. The CIA Deputy Director of Operations considered the Marxist Mujaheddin E. Khalq to be well organized, influenced by the Soviets, and likely to succeed Khomeini (DIX) to Poundexter, 12/11/84)

The State Department distilled these views into a draft National Security Decision Directive ("NSDD") at the end of 1984. This document

would have directed the United States government to maintain and expand its capability to exploit opportunities that might arise in Iran, but reaffirmed, absent changes in the Iranian situation, existing policies. Thus, the draft NSDD would continue the policy of discouraging arms transfers to Iran. (Draft NSDD 5, in Hill to McFarlane, 12/14/84) Howard Teicher, Senior Director for Political-Military Affairs on the NSC staff, told the Board that these interagency efforts "produced no ideas which any of us involved considered to be of great value in terms of significantly affecting our posture in the region." (Teicher 8)

B. Further 1984 Threads: Iran, Weapons, and Hostages

By the summer of 1984, Iranian purchasing agents were approaching international arms merchants with requests for TOW missiles. The Chief of the Near East Division of the CIA's Directorate of Operations ("C/NE") told the Board:

We have in the DDO probably 30 to 40 requests per year from Iranians and Iranian exiles to provide us with very fancy intelligence, very important internal political insights, if we in return can arrange for the sale of a dozen Bell helicopter gunships or 1,000 TOW missiles or something else that is on the contraband list.

(C/NE (2) 98)

By November 1984, Iranians with connections to the Tehran government were indicating a connection between such weapons and the release of Americans kidnapped in Lebanon. Theodore Shackley, a former CIA officer, reported that, in meetings November 19-21, 1984, in Hamburg, West Germany, General Manucher Hashemi, former head of SAVAK's Department VIII (counterespionage), introduced him to Manuchehr Ghorbanifar. Hashemi said Ghorbanifar's contacts in Iran were "fantastic." ("American Hostages in Lebanon" at 2 (11/22/84)) Ghorbanifar was already known to the CIA, and the Agency did not have a favorable impression of his reliability or veracity. (Cave 3-5, 44; C/NE (2) *passim*) Shackley reported that Ghorbanifar had been a

SAVAK agent, was known to be an international dealmaker, and, generally, an independent man, difficult to control. Ghorbanifar told Shackley that he and other Iranians wanted to help shape Iran's future policies and bring Tehran closer to the West.

He feared that Iran would become a Soviet satellite within the near term—three to five years—if he and people like General Hashemi did not do something to stem the tide. He rhetorically asked what can we do, for despite our ability to work with the "moderates" in Iran, we can't get a meaningful dialogue with Washington. According to Ghorbanifar, it is President Reagan who has the destiny of the Iranian people in his hand. When at this juncture Ghorbanifar was asked if he had tried to open a dialogue with the Americans, he said, "We know the CIA in Frankfurt. They want to treat us like Kleenex—use us for their purpose and then throw us out the window. We can't work with them as they are unreasonable and unprofessional. In fact, if you check on me with them, they will tell you I am unreasonable and undisciplined."

("American Hostages in Lebanon," *supra*, at 2)

To prove that he and Hashemi had influential contacts in Iran, Ghorbanifar suggested that Iran would be willing to trade some Soviet equipment captured in Iraq for TOW missiles. He further suggested the possibility of a cash ransom paid to Iran for the four Americans kidnapped in Lebanon (including Buckley), who, he said after making telephone calls, were alive. The transaction could be disguised by using Ghorbanifar as a middleman. Shackley reported that Ghorbanifar needed a response by December 7, 1984. According to Shackley, later that month, the State Department in effect replied: "thank you but we will work this problem out via other channels." ("American Hostages in Lebanon" at 1 (6/7/85).¹

¹ An unattributed and undated note analyzed meetings involving Hashemi, Shackley, and Iranians at about this time and in March 1985, when the same topics noted by Shackley were discussed. This note added that "[w]e determined that the Iranian [sic] side was only interested [sic] in money." See *supra* p. B 11.

II. NSC Staff Diplomacy and Thinking: January-July 1985.

At the beginning of 1985, the Administration adopted new procedures for approving and coordinating covert actions. These were meticulously set forth in elaborate detail in a National Security Decision Directive signed by the President. They included comprehensive interagency evaluation of proposed covert actions, coordinated review of actions undertaken, and notification of Congress in accordance with statute. (NSDD 159, 1/18/85) The NSDD also specified that the President would approve in writing all covert action Findings made pursuant to section 501 of the National Security Act.

A. The NSC Staff in Action

Early in 1985, the NSC staff undertook actions aimed at the least to improve the government's knowledge about Iran. Michael Ledeen, who, from November 1984 to December 1986, was an NSC consultant on terrorism and certain Middle East questions, including Iran, told the Board that the NSC staff regarded Iran as a strategically important place about which the United States had inadequate information. (Ledeen (1) 7-8) McFarlane was prepared in January to send Ledeen to Europe on a mission of inquiry. In this connection, Rear Admiral Poindexter, McFarlane's deputy, wrote a letter of introduction saying Ledeen "has the complete confidence of Bud McFarlane and myself." (Poindexter to Schurer, 1/4/85. See also McFarlane to Grossouvre, 1/4/85) In the early spring of 1985, Ledeen reported to McFarlane a discussion about Iran he had had with a European intelligence official who believed the situation there was more fluid than the United States government seemed to think. Ledeen's interlocutor suggested speaking to the Israelis as the best, quick way to learn

Ledeen told the Board that Ghorbanfar had tried for some time to establish contact with the United States. "[H]aving failed to reach us at the front door, he went around to the side door." Shackley transmitted his report to General Walters. (Ledeen (1) 41-42) Ledeen and Shackley separately told the Board that in May 1985, Shackley told Ledeen that he had no response from Walters. In June 1985, he gave the report, together with an update, to Ledeen who, without reading it, he said, passed it to North with the report "that Shackley had had a contact with an Iranian who had said he thought he could ransom Buckley." (Ledeen (1) 43; Ledeen (2) 2-6; Shackley 13-24)

about events in Iran. According to Ledeen, McFarlane

suggested that I talk to Peres privately and ask him whether Israel had better information about Iran than we had, whether Israel had enough information about Iran, about Iranian terrorism, about Iran's role in international terrorism, all these various subjects, so that one could evaluate a rational policy and, if so, whether they would be willing to share that information with us.

(Ledeen (1) 8-9) *

Documents suggest a somewhat different origin and purpose for the trip. Donald Fortier, Special Assistant to the President and Senior Director for Political-Military Affairs, reported to McFarlane on April 9, that Ledeen told him on April 8 that McFarlane was prepared to approve Ledeen's travelling to Israel (apparently a previous trip had been cancelled) if Fortier, Covey, and Teicher approved. Fortier wondered if Ledeen had accurately represented McFarlane's view. Fortier, Covey, and Teicher disapproved of using Ledeen as the government's "primary channel for working the Iran issue with foreign governments, and we think you should probably should [sic] not provide a formal letter." (Fortier PROF note to McFarlane, 4/9/85, 10:22:14) On the other hand, they thought he could usefully carry two messages to Prime Minister Peres, whom Ledeen came to know when, as Secretary of State Haig's advisor, he had responsibility for dealing with the Socialist International. (Ledeen (1) 6)

1) the White House feels it is essential to begin to develop a more serious and coordinated strategy for dealing with the Iranian succession crisis—a crisis that is almost certain to turn on outside involvement of one kind or another; and 2) we would like his ideas on how we could cooperate more effectively. The last point is

* Ledeen told the Board that McFarlane approved all his trips except for his vacation in Israel in July-August 1985 and the NSC paid his expenses. Ledeen said he considered himself an employee of the United States while on these trips and made clear to his interlocutors that he had no authority to negotiate but would report fully and accurately everything that transpired in these discussions and that he would, if asked, report and communicate fully and accurately back to them whatever decisions were made in Washington. (Ledeen T-15)

a hard one for us to ask our intelligence community to communicate, since we suspect they may be part of the problem. We don't think Mike should be the one to ask Peres for detailed operational information; he probably doesn't know, and even if he did, this should be reserved for official channels once we have arrived at ideas for restoring better cooperation.

(Fortier PROF note to McFarlane, 4/9/85, 10:22:14) On his own initiative, on April 9, Ledeen made arrangements to see Prime Minister Peres. Fortier and Teicher thought it wise for Teicher to sound out Nimrod Novik, the Prime Minister's Political Advisor, to see if Ledeen would be welcome. (Fortier PROF note to McFarlane, 4/9/85, 11:41:22) McFarlane approved the check with Novik. "If it turns up negative, simply tell Mike that the meeting is not sponsored by us and he should not so represent." (McFarlane PROF note to Fortier, 4/9/85, 12:45:22) He also wrote Fortier:

Yes I think it is entirely worthwhile to cooperate closely with Iran [sic: Israel] in our planning for Iranian succession. . . . As a separate matter I want to talk to Shultz so that he is not blindsided when Sam Lewis [Ambassador to Israel] reports—as he will surely find out—about Mike's wanderings.⁹ So for the moment let's hold on the Ledeen aspect. I will get back to you. I do consider planning for the succession [sic] to be one of our greatest failures and vulnerabilities so I am very glad you are turning to it.

(McFarlane PROF note to Fortier, 4/9/85, 11:22:47)

Ledeen traveled to Israel and met Prime Minister Peres on May 4 or 5, 1985. (Ledeen (1) 10) Ledeen told the Board that, "in essence," Prime Minister Peres

said that while he thought their information was probably better than ours, he did not consider it satisfactory and he didn't feel that it was sufficient for them to base any kind of serious Iran policy, but that he agreed that it was an important matter and

⁹ Apparently Ledeen thought he could make the trip without Ambassador Lewis finding out about it. McFarlane doubted it was possible. (McFarlane PROF note to Fortier, 4/9/85, 12:45:22)

said that they would be happy to work with us to try to develop better information in all these areas—the internal Iranian situation, the Iran role in terror, general international terrorist questions and so forth.

So he constituted a group of people outside the government, not government officials, to work with us to study the Iran question and the Iranian terrorist issue. The agreement was that each of us would try to find out what our respective governments knew about Iran. We would then sit down, compare notes, and see if possibly by putting them together we might be able to develop some kind of useful picture.

(Id. at 10-11)

In his second interview with the Board, Ledeen added that the Prime Minister

was happy to work together to try to develop better information about Iran, but he, contrary to all these newspaper reports, which continue to drive me crazy and I don't know where they come from, there was no discussion of contacts with Iran, none. There was no discussion of hostages. And except for this one final point where he said we have received a request from the Iranian government to sell them this quantity of materiel, we will not do it without explicit American approval, will you please raise it with McFarlane when you get back to Washington and tell me shall we do it or shall we not, there was no discussion of weapons or trade or relations or anything.

It was simply a discussion of what could be learned about Iran and how could we better work together to understand that situation.

• • •

[T]here was no discussion of policy at all between me and Peres. It was simply a discussion of information, and then hypothetically if there were information and they had policy recommendations to make, then okay. But we never got to them. It was purely a research trip.

(Ledeen (2) 10-11)

Shlomo Gazit, President of Ben Gurion University and a former chief of Israeli intelligence, led the Israeli team. Gazit still had good relations with Israeli intelligence and could direct both the military and Mossad to provide information. Ledeen did not know the other Israelis, but assumed that David Kimche, Director General of the Israeli Foreign Ministry, worked on this matter. (Ledeen (1) 11)

When Ledeen returned to Washington on May 13, he called Fortier with the news of "very positive feedback. [Ledeen] will brief me tomorrow on what that really means." (Fortier PROF note to Poindexter, 5/13/85, 18:12:20) According to Ledeen, during the May conversation, Prime Minister Peres also asked him to ask McFarlane if the United States would approve an arms shipment to Iran. Ledeen recalled that "[i]t was either ammunition for artillery pieces or some quantity of artillery pieces, but it had to do with artillery." (Ledeen (2) 13) Israel would not ship it to Iran "without explicit American approval." (Ledeen T-2) Ledeen said McFarlane subsequently authorized him to tell the Prime Minister "it's okay, but just that and nothing else." (*Id.*)

B. Intellectual Formulations: The NSC and Intelligence Estimates

After Ledeen reported to McFarlane on the trip, McFarlane asked Fortier to direct the CIA to prepare a special intelligence estimate on Iran. (Ledeen (1) 11-12) Graham Fuller, National Intelligence Officer for Near East and South Asia, and Teicher participated in this effort. Fuller told the Board that he "regularly" saw Teicher who

shared a lot of my feelings about our strategic bind vis a vis Iran. And there were others as well in Government, but Howard was the one I was most well aware of in that regard, who felt that we should at least be working towards [sic] an expanded policy towards Iran, expanded in the broadest sense, more than a purely negative one of no arms and slap down on terrorism. It was in fact that NSDD that in the end got nowhere that was part of the rationale for the estimate that we did in '85.

(Fuller 28-29)⁴

On May 17, 1985, Fuller submitted a five-page memorandum to William Casey, Director of Central Intelligence, entitled "Toward a Policy on Iran." Fuller began his analysis as follows:

1. The US faces a grim situation in developing a new policy toward [sic] Iran. Events are moving largely against our interests and we have few palatable alternatives. In bluntest form, the Khomeini regime is faltering and may be moving toward a moment of truth, we will soon see a struggle for succession. The US has almost no cards to play, the USSR has many. Iran has obviously concluded that whether they like Russia and Communism or not, the USSR is the country to come to terms with; the USSR can both hurt and help Iran more than the US can. Our urgent need is to develop a broad spectrum of policy moves designed to give us some leverage in the race for influence in Tehran.

(Fuller to DCI/DIC-1, "Toward a Policy on Iran," 5/17/85) Fuller then noted that the United States and Soviet Union both supported Iraq, but for different reasons, and this situation was inherently unstable. He wrote that both countries "lack our preferred access to Iran. Whoever gets there first is in a strong position to work towards [sic] the exclusion of the other." (*Id.* at 1) Fuller reported that the intelligence community monitored "Soviet progress toward developing significant leverage in Tehran," progress, which, however uneven, merited a response given the stakes. (*Id.*) He then analyzed American policy.

The United States had two attitudes towards Iran. First, it was prepared to respond with force if Iran was involved in a terrorist attack. Second, it strove to deny arms to Iran. Fuller believed that these "twin pillars" were no longer sensible because they were adopted to

⁴ On May 13, 1985, Fortier informed Poindexter that "we have a draft of the SNIE. I asked Howard and Steve [Kroenig] to review it. I will get you a copy of what we have, and of the suggestions I gave them on how it could be improved. We have also done a lot of additional work on outlining requirements for the SNIE." (Fortier PROF note to Poindexter, 5/13/85, 18:12:20)

deal with a vacuum in Iran and a strong Khomeini. These conditions no longer existing, Fuller concluded, the policy pillars had become entirely negative "and may now serve to facilitate Soviet interests more than our own." (*Id.* at 2) While acknowledging the difficulty of formulating alternatives, he thought that

[i]t is imperative, however, that we perhaps think in terms of a bolder—and perhaps riskier policy which will at least ensure greater US voice in the unfolding situation. Right now—unless we are very lucky indeed—we stand to gain nothing, and lose more, in the outcome of developments in Iran, which are all outside our control.

(*Id.* at 3)

"Nobody has any brilliant ideas about how to get us back into Tehran," Fuller wrote. (*Id.*) he then analysed a number of alternative courses, including helping Iraq to win the war and encouraging friendly states to make arms available to Iran as a means for gaining influence in Tehran. He noted that an Iraqi victory might lead to the establishment of an even more radical regime in Tehran. Attacking Iran's radical ally Libya would demonstrate our resolve and, possibly, remove Qadhafi. Iran's other radical ally, Syria, could only be pressured by Israel, which had no wish for conflict at this time. He thought demonstrating to Iranians that we were not hostile by withdrawing our fleet from the Persian Gulf and making public statements about our friendly intentions, for example, might strengthen "Iranian moderates—and opportunists;" it also might produce derision in Tehran. The best course, he concluded, was to have friendly states sell arms that would not affect the strategic balance as a means of showing Tehran that it had alternatives to the Soviet Union. (*Id.* at 5) Were the Soviets to gain in Iran, we would have to strengthen our commitments to Turkey and Pakistan, as they are logical next Soviet targets. (*Id.* at 4) The Director of Central Intelligence provided a copy of this memorandum to the Secretary of State on June 4, 1985. (Note on routing sheet)

On May 20, 1985, the Intelligence Community circulated a revision of its SNIE of October 1984 on Iran (SNIE 34-84, *Iran: The Post Khomeini Era*) According to Fuller,

I think the [intelligence] community had very definitely felt that most of the Iranian regime perceived us as implacably hostile towards an Islamic republic in principle, and that maybe there were some gestures that could be made that would suggest that we were rather more sophisticated in our approach to it than simply that.

(*Id.* at 11)

The first SNIE and the update tried to predict Iran's course over the next six to twelve months, and acknowledged the difficulty that effort implied. Its conclusions were consistent with Fuller's earlier memo to the DCI. The Community expected Khomeini's health to continue to decline, and predicted that Iran would soon enter a period of instability, in part the result of the regime's declining popularity, the growth of private armies, and jockeying for political advantage by competing groups. One could confidently expect "serious instability" before Khomeini's death. Already the Community saw signs of opposition to the radicals among industrial workers. The prospects for the Communist left (the Tudeh Party and Mujahedin-e Khalq) were hard to estimate, but the Soviets were discreetly keeping their options open by allowing their East European allies to sell weapons to Iran while the U.S.S.R. publicly supported Iraq. "Tehran's leadership seems to have concluded," the Community wrote, "that improvement of relations with the USSR is now essential to Iranian interests; any improvement of ties to the United States is not currently a policy option." (*Iran: Prospects for Near-Term Instability* at 5 (5/20/85) (to holders of SNIE 34-84)) Moscow would offer a number of incentives in return for Iran's ceasing to support the Afghan resistance. The United States currently lacked an ability to counter Soviet moves. As a whole, however, the West could take steps to improve its position.

The United States is unlikely to be able to directly influence Iranian events, given its current lack of contact or presence in Iran. European states and other friendly states—including Turkey, Pakistan, China, Japan, and even Israel—can provide the next most valuable presence or entree in Iran to help protect Western interests. The degree to which some of these states can fill a

military gap for Iran will be a critical measure of the West's ability to blunt Soviet influence. These states can also play a major role in the economic life of the country, lessening its isolation and providing alternatives to Soviet influence or that of the radical state.

(*Id.* at 12) According to Fuller, nothing in the May 1985 SNIE proved to be "highly controversial" in interagency deliberations. (Fuller 22)

Teicher told the Board that this estimate became the basis for a new draft NSDD on Iran. (Teicher 8-9) On May 28, Fortier wrote McFarlane:

We spent the better part of the day working on the Iran NSDD [sic] I have Dennis [Roas, at that time an NSC consultant] here looking at the recent spate of Soviet activity and the levers we may have arising out of the war and other circumstances. I think we need about one more full day before we send up a draft for you and John [Poindexter] to review. We also just got a bootleg copy of the draft SNIE. We worked closely with Graham Fuller on the approach, and I think it really is one of the best yet. Iran may come up in the breakfast tomorrow. If pressed for action you can credibly promise paper within the next few days. I also think the Israeli option is one we have to pursue, even though we may have to pay a certain price for the help. I'm not sure though that we have the right interlocutor. Mike has a call into me now. His message is that he needs to see me urgently to follow up on his weekend conversation and to get a new plane ticket. Would appreciate guidance and substantive feedback. Thanks.

(Fortier PROF note to McFarlane, 5/28/85 18:52:14)

On June 11, 1985, Fortier and Teicher submitted to McFarlane a draft NSDD on Iran that Teicher had worked on for much of May. They described it as

provocative. It basically calls for a vigorous policy designed to block Soviet advances in the short-term while building our leverage in Iran and trying to restore the U.S. position which existed under the Shah over the

longer-term. This would require a sharp departure from ongoing . . . measures, most notably the supply of Western military hardware, U.S. initiative to dialogue with Iranian leaders. . . .

Because of the political and bureaucratic sensitivities, we believe that it would be best for you to provide a copy of the NSDD draft only to Shultz and Weinberger (eyes only) for their comments. Whether to proceed with a restricted SIG, NSPG or other forum would depend on their reactions.

(Fortier and Teicher to McFarlane, 6/11/85)

Teicher's draft NSDD, which had incorporated some comments of Vincent Cannistraro, Senior Director for Intelligence and the NSC staff member principally responsible for monitoring covert operations, set forth these points at length. Mirroring the analysis by Fuller, the NSDD defined immediate United States interests as:

(1) Preventing the disintegration of Iran, and preserving Iran as an independent buffer between the Soviet Union and the Persian Gulf;

(2) Limiting Soviet political opportunities in Iran, while positioning the United States to adjust to changes;

(3) Maintaining access to Persian Gulf oil and transit through the Gulf of Hormuz;

(4) Ending Iranian sponsorship of terrorism, and policy of destabilizing neighboring states; Longer-term goals were:

(1) Restoration of Iran's moderate and constructive role in the non-Communist political community, the Persian Gulf region, and "the world petroleum economy;"

(2) Continued Iranian resistance to Soviet expansion (in particular, in Afghanistan);

(3) An early end to the Iran-Iraq war without Soviet mediation or change in the regional balance of power;

(4) Elimination of Iranian human rights abuses;

(5) Movement toward the normalization of Iranian American relations;

(6) Resolution of American legal and financial claims in the Hague tribunal;

(7) Iranian moderation on OPEC pricing policy.

To begin the process of reaching these goals, Teicher and Fortier recommended that the United States:

(1) Encourage Western allies and friends to help Iran meet its import requirements so as to reduce the attractiveness of Soviet assistance and trade offers, while demonstrating the value of correct relations with the West. This includes provision of selected military equipment as determined on a case-by-case basis.

(Draft NSDD, *U.S. Policy Toward [sic] Iran* at 1-2, 5-6, in McFarlane to Secretaries of State and Defense, 6/17/85)

(2) Cooperate with friendly intelligence services to improve ability to counter clandestine Soviet activities in Iran.

(3) Increase contacts with allies and friends on the Iranian situation and be ready to communicate through them to Iran.

(4) Establish links with, and provide support to, Iranian leaders who might be receptive to efforts to improve relations with the United States;

(5) Avoid actions that could alienate Iranian groups that might respond favorably to such efforts;

(6) Respond to Iranian supported terrorism with military action against terrorist infrastructures;

(7) Increase our Voice of America effort to discredit Moscow's Islamic credentials;

(8) Develop a ". . . plan" for supporting United States policy in various contingencies;

(9) Continue to encourage third party efforts to seek an end to the Iran-Iraq war. (*Id.*)

The Secretary of State responded to the draft NSDD on June 29, 1985. "The strategic importance of Iran and the value of reassessing our policy toward it are clear," he wrote. "The draft NSDD constructively and perceptively addresses a number of the key issues. I disagree, however, with one point in the analysis and one specific recommendation" (Comment on Draft NSDD, Shultz to McFarlane, 7/29/85) In his view,

the draft NSDD appears to exaggerate current anti-regime sentiment and Soviet advantages over us in gaining influence. Most importantly, its proposal that we permit or encourage a flow of Western arms to Iran is contrary to our interest both in contain-

ing Khomeinism and in ending the excesses of this regime. We should not alter this aspect of our policy when groups with ties to Iran are holding US hostages in Lebanon. I, therefore, disagree with the suggestion that our efforts to reduce arms flows to Iran should be ended. If the NSDD is revised to reflect this concern, I would like to see the draft again before it is put in final form.

(*Id.*)

Secretary Shultz devoted the rest of his comments to further analysis of his reasons for opposing arms shipments to Iran and his disagreement with the NSDD's portrayal of Iran's relations with the Soviet Union. "The inherent limits on the Iranian-Soviet relationship are underplayed in the NSDD draft. Iranians have a deep historical mistrust of the USSR. The Iranian leeches to the Soviets are for arms and for limitations on Soviet arms supplies to Iraq; the Iranians do not seek a closer relationship." Any attempt at a closer relationship with the Soviet Union would encounter resistance. His comment further reminded McFarlane that, under the Shah, "Iranian-Soviet relations were closer and more cooperative than they are now." (*Id.*) The Secretary had no objection to passing a message to the Speaker of the Iranian Majlis (Parliament) Rafsanjani while abroad expressing the United States interest in "correct" relations, and to encourage allies and friends to broaden their commercial relations with Iran. Such initiatives to diminish Iran's isolation should not undermine pressure to bring an end to the war and restrain arms flows. The comment concluded that this two track policy remained best. (*Id.*)

The Secretary of Defense submitted his reaction to the draft NSDD on July 16, 1985. He told the Board that his initial reaction was to write "absurd" in the margin. "I also added that this is roughly like inviting Qadhafi over for a cozy lunch." (Weinberger 5) While his formal comment noted his agreement

with many of the major points in the paper, several of the proposed actions seem questionable. Moreover, it is extremely difficult to consider an explicit revision of our policy toward Iran as long as we continue to receive evidence of Iranian

complicity in terrorist actions and planning against us. I do not believe, therefore, an NSDD should be issued in the proposed form.

(Weinberger to McFarlane, 7/16/85) The Secretary of Defense "fully" supported the short-term goal of blocking Soviet expansion into Iran.

Under no circumstances, however, should we now ease our restriction on arms sales to Iran. Attempting to cut off arms while remaining neutral on sales to either belligerent is one of the few ways we have to protect our longer-range interests in both Iran and Iraq. A policy reversal would be seen as inexplicably inconsistent by those nations whom we have urged to refrain from such sales, and would likely lead to increased arms sales by them and a possible alteration of the strategic balance in favor of Iran while Khomeini is still the controlling influence. It would adversely affect our newly emerging relationship with Iraq.

Secretary Weinberger then enumerated those actions—improving intelligence gathering capabilities as recommended in the SNIE, establishing contacts with "moderates", whom intelligence might identify as favoring policies favorable to U.S. and Western interests; communicating our interest in correct relations through allies and friends while remaining neutral in the Iran-Iraq war; pressing the Khomeini government in public statements to mitigate its hostile policies, while encouraging opponents of those policies; and the like—he believed best calculated to achieve United States goals in the region. He concluded by reaffirming his support for present policies in face of Iran's "international lawlessness." He emphasized that "[c]hanges in policy and in conduct, therefore, must be initiated by a new Iranian government." The United States should encourage change, and support moderation and the development in the future of amicable relations. He did not think the program outlined in the draft NSDD served these goals. (*Id.*)

In contrast, the Director of Central Intelligence wrote McFarlane on July 18, 1985, that

I strongly endorse the thrust of the draft NSDD on U.S. Policy Toward Iran, particu-

larly its emphasis on the need to take concrete and timely steps to enhance U.S. leverage in order to ensure that the USSR is not the primary beneficiary of change and turmoil in this critical country. While I am broadly in agreement with its assessment of the current political situation, the NSDD needs to reflect more fully on the complex of Soviet motives and recent actions towards Iran and their implications for U.S. policy initiatives. . . .

(Casey to McFarlane, 7/19/85) The Director of Central Intelligence then enumerated what he considered to be substantial weaknesses in the intelligence analysis of the draft NSDD (*Id.*)

Teicher told the Board that the reactions of the Secretaries of State and Defense brought inter-agency consideration of a new Iranian policy to "a standstill." (Teicher 13) Teicher sought guidance from Fortier, Poindexter, and "perhaps with McFarlane." (*Id.*) They asked him to see if the process had any other ideas. After discussing the matter with Richard Murphy, Assistant Secretary of State for Near East and South Asian Affairs, he concluded that

[i]t was clear there was no give and there really wasn't any more creativity.

I went back to Fortier and I said the only question is to do nothing, and hope that the situation doesn't create or lead to the negative dangerous situation that we see as a possibility, or present the President with a decision memorandum which lays out, in very clear terms, the different perspectives of his advisors and asks him to make a decision.

In the event, I was advised to do nothing and basically to stand down. I did not produce a draft decision memorandum for McFarlane to send to the President.

That was some time in August, about mid-August, 1985

From that point on, until early March of 1986, I had no cognizance whatsoever of the other track that was taking place on Iran.

(*Id.* at 14)

C. Events Keep the NSC's Ideas Alive: January-June 1985

Despite the criticisms of the Secretaries of State and Defense, the ideas embodied in the draft NSDD survived in action. This fact perhaps reflected the turbulent environment in which Teicher drafted the NSDD. A series of kidnappings occurred in Lebanon in 1985: on January 8, Jenco; on March 16, Anderson; on March 22, Fontaine and Carton, both French; on March 26, the British journalist Collett; on May 22, the Frenchmen Kaufmann and Seurat; on May 28, Jacobsen; on June 10, Sutherland. In the same period, meetings involving different members of the NSC staff took place with Israelis about Iran. The conversations became more systematic as time passed. Contemporaneous discussions among persons of various nationalities about Iranian-American relations also occurred. Together with violent events, especially including the hijacking of TWA Flight 847 in mid-June 1985, they formed part of the circumstances that seemed to have given life to the policies advocated by Fuller, Teicher, Fortier, McFarlane, and the Director of Central Intelligence.

In a series of meetings beginning in January 1985, Yaacov Nimrodi, an arms merchant and former Israeli Defense Attache in Tehran, Ghorbanifar, Amiram Nir, Advisor to Prime Minister Peres on Counterterrorism, and Adolph Schwimmer, a long-time arms merchant and, since September 1984, Special Advisor to Prime Minister Peres, considered Iran and the American hostages. They concluded that a plan to gain the release of the hostages and to "open up a dialogue with Iran" was realistic if they could obtain American support. Roy Furmark, a business associate of Adnan Khashoggi and participant in at least one of the meetings, told Charles Allen of the CIA that "profit was certainly a motive but that the group did see their efforts as leading toward stability in the region and the release of the hostages." * (DCI

* Roy Furmark, an associate of the Saudi businessman Adnan Khashoggi, told the Board that he met Ghorbanifar in January 1985 and subsequently introduced him to Khashoggi. He recalled that Ghorbanifar and Khashoggi had a number of conversations about Middle Eastern politics. (Furmark 3) Ghorbanifar and Khashoggi had a number of meetings starting in January 1985. Khashoggi reported Ghorbanifar's views on Iranian politics

to Poindexter, undated but after October 22, 1986)

The Board also obtained rather cryptic evidence of a meeting in Cologne in late March involving Iranians, including probably the chief of the Iranian buying office, Dr. Shahabadi, a friend of Adnan Khashoggi. (Unsigned and undated note; Furmark 34)

Basic thrust of the meeting is that we wanted to open discussions with Iranian officials and we also wanted the hostages freed. Shabadi said that he would discuss this with Khomeini and [a cleric] and come back out to see us at subsequent meeting this meeting never took place. However, there were two phone conversations with someone in Tehran who according to Zaheri was [a cleric]. In this case there were requests for weapons to show our bona fides. These were turned aside. They then tried to get boeing spare parts [parts]. Finally gave us a list of ten items of spare parts for a boeing, cast of characters was Zaheri, Shoja'i, ghorbanifar (no direct contact in his case) and Shahabadi. Zaheri had a falling out with Shoja'i over money. Zaheri finally gave up and returned to Houston. We determined that the Iranian side was only interested in money.

(Original spelling and punctuation. Unsigned and undated note) In May, Shackley recalled discussing the hostage problem over lunch with Ledeen. Shackley told him about his report on his November 1984 meeting with Ghorbanifar. Shackley remembered that Ledeen asked for a copy of the report. Ledeen said people in the government were interested in investigating the hostage question, and asked if Shackley could "find out whatever that was as a channel, if it is still open." (Shackley 23)

On June 7, 1985, Shackley prepared a second report on "American Hostages in Lebanon." He gave it to Ledeen who passed it to LtCol Oliver North, the NSC staff officer responsible for counterterrorism. (Shackley 34; Ledeen (2) 5-6) Shackley reported that General Hashemi had taken soundings with Iranians on the possibility of arranging the freedom of Americans

to McFarlane in a long memorandum on July 1. (*Id.*; Ghorbanifar 37-38)

kidnapped in Lebanon. On June 1, Ghorbanifar told Hashemi that his Iranian friends had told him the following:

—Iranian authorities were flooded with proposals to help obtain the release of American hostages in Lebanon. As a result, they did not know who was who.

—Tehran was not interested in the humanitarian ploy that had been put forth by Ghorbanifar.*

—Tehran wanted the following:

(1) a dialogue with a responsible American who can identify what he represents;

(2) a discussion of a quid pro quo that involves items other money.

We told Ghorbanifar that we would pass on this commentary to "Friends."

("American Hostages in Lebanon," 6/7/85)

D. NSC Staff Activity: May-July 1985

On December 16, 1986, Secretary Shultz testified before the Senate Select Committee on Intelligence (closed session), and subsequently told the Board that, on May 30, Ambassador Lewis in Tel Aviv reported that Ledeem was on a "secret mission for the White House" and to ask if Secretary Shultz knew "what was going on."

The answer was no. Ambassador Lewis said he had asked at the Israeli Ministry of Defense about Mr. Ledeem and had been told it was "too hot" to talk about, but that Defense Minister Rabin would tell me about it when he visited Washington.

(Shultz, 12/86, 4; SRB, 9)¹ When Secretary Shultz met Defense Minister Rabin on June 1,

* Perhaps a reference to Ghorbanifar's suggestion that the hostages be ransomed for cash in a disguised transaction using him self as middleman. See *supra* p. B 3.

¹ In his first interview, Ledeem told the Board that he made a second trip to Israel at the end of May to meet with Casey to find out what the Israelis knew about the Iranian situation. (Ledeem (1) 13, 14-18) In his second interview, Ledeem reported that although he thought he had made two trips to Israel in May, his passport and other records do not corroborate his memory. He concluded that he did not return to Israel until July 1985. (Ledeem (2) 15)

the Defense Minister mentioned neither Ledeem nor Iran. (*Id.* at 5) The Secretary further testified that an NSC staff member told a member of his staff that Ledeem had asked McFarlane for permission to follow up on his earlier trip to obtain intelligence about Iran, that McFarlane "was ambivalent, refused to give Mr. Ledeem a letter to Prime Minister Peres, but reportedly agreed to allow Mr. Ledeem to pursue the matter. We were told that Mr. Ledeem went to Israel and received a positive response to this proposition." (*Id.* at 4-5) On June 6, 1985, Poindexter informed Robert Kimnutt, at that time Executive Secretary of the NSC, that McFarlane had decided to cancel Ledeem's trip.

This activity concerned the Secretary of State. He told the Senate Select Committee on Intelligence that, on June 5, 1985, while he was in Lebanon, he

sent a message to Mr. McFarlane complaining about Mr. Ledeem's contact with the Israelis, which had bypassed both Ambassador Lewis and myself. I said that Israel's record of dealings with Iran indicates that Israel's agenda is not the same as ours, and an intelligence relationship with Israel concerning Iran might not be one upon which we could fully rely. I felt that "it could seriously skew our own perception and analysis of the Iranian scene. I said in my message to Mr. McFarlane, "I am mystified about the way this situation has been handled and am concerned that it contains the seeds of further embarrassment and serious error unless straightened out quickly."

On June 7, 1985, in Portugal, I received a message from Mr. McFarlane saying that he was "a little disappointed in my pre-judgments", and that he had intended to tell me about the matter but had not had time to do so. He said "I am turning it off entirely . . ." Mr. McFarlane said that it had been an Israeli initiative and that Mr. Ledeem was acting "on his own hook."

(Shultz, 12/86, 5-b)

Also on June 7, North was working on various approaches to achieve the release of those Americans kidnapped in Lebanon. He submit-

ted an action memorandum to McFarlane asking approval for two efforts aimed to secure the release of hostages. McFarlane approved both. Under the first, the United States would support efforts to find a private solution to the problem of the American and French hostages in Lebanon and the three Lebanese Da'Wa prisoners in Kuwait whose release the hostage holders demanded. "[T]he . . . operation will likely have produced results or failed by June 16, 1985," North wrote. The second plan involved the private ransoming of two hostages, including Buckley, for \$2 million.² This operation would take "considerable time (contacts inside Lebanon, financial transactions, and rental of yacht/safehouse)", thus, it was possible to undertake it at the same time as the private efforts were underway (North to McFarlane, 6/7/85) To implement this proposal, North asked McFarlane to contact the Attorney General to secure the services of two officers of the Drug Enforcement Agency who would work with the NSC staff on this matter. McFarlane approved and wrote "North to follow up 6/10 w/AG." (*Id.*)

On June 14, 1985, two Lebanese men hijacked TWA flight 847, and directed the pilot to land at Beirut airport. There, the hijackers removed thirteen Americans from the plane and killed an American sailor. This episode absorbed the government until the surviving hostages were released on June 29. On June 17, the Director of Central Intelligence heard from his wartime friend, John Shaheen, that a Dr. Cyrus Hashemi, under indictment for attempting to sell arms to Iran, claimed to have discussed with the Iranian Foreign Ministry an exchange of hostages for the release of the Da'Wa prisoners in Kuwait, TOW missiles, and a nolle prosequi for Hashemi. (Casey to C/NE, 6/17/85) According to the CIA Inspector General, Israeli officials asked Ghorbanifar to use his influence in Tehran to obtain the release of hostages. (CIA/IG Chronology 2) On June 19, Iran sent the United States a message to the effect that Tehran wanted to do as much as it could to end the TWA crisis. (Teicher to McFarlane, 6/19/85) The United States re-

² Documentary evidence suggests that the private source of these funds was H. Ross Perot. On August 6, North noted that Perot had called with the news that an NBC reporter had asked him to confirm that he had donated \$2 million to obtain the release of hostages. ("6 Aug." note in North's handwriting)

sponded on June 21 that "[i]t is the view of the United States that the government of Iran cannot escape its responsibilities . . . to help secure the release of the hostages. . . ." (DT 6/21/85 1828L)³

At the beginning of July, McFarlane and Ledeem had separate, but apparently related, meetings with Schwimmer and Kimche, respectively, in Washington. Ledeem told the Board that Kimche called him early in the month to ask him to meet Schwimmer. They met a week later (probably July 11; see note 10 *infra*). (Ledeem (1) 17) In his two interviews with the Board, Ledeem recalled Schwimmer reporting that he had recently met Ghorbanifar through Schwimmer's friend, Khashoggi. Ghorbanifar's knowledge of Iranian policies impressed the Israelis.

Ghorbanifar had for the first time given them what they considered to be a really solid picture, in detail, of the internal Iranian situation and the Iranian connection to international terrorism.

And in addition he had various proposals that he claimed to be representing on behalf of the Iranian government, who were high individuals inside the Iranian government, and they thought it was important that I should come and meet this person.

And I said [I] was planning to come to Israel anyway and that I would check with Bud [McFarlane] and if it was okay with Bud I would try to meet with him then. And I talked to Bud and he said fine.

(Ledeem (2) 17) Schwimmer, whom Ledeem described as one of Foreign Minister Peres' "close friends," knew about Ledeem's May conversation with the then-Prime Minister. (*Id.* at 19) "[A]s best as I can recall it at this point," Ledeem told the Board,

³ In November 1986, the NSC staff prepared a number of chronologies. The two fullest, entitled "U.S./Iranian Contacts and the American Hostages," bear the designations "11/17/86 2000 (Maximum Version)" ("Maximum Version") and "11/20/86 2000 (Historical Chronology)" ("Historical Chronology"). The Maximum Version notes that "U.S. intelligence reports indicate that Majlis Speaker Rafsanjani, who was travelling in the mid-east at the time, and Iranian Foreign Minister Velayati both intervened with the captors [to secure the release]. Rafsanjani, in his speech on November 4, 1986, for the first time publicly acknowledged his role in this matter."

I think that what happened was that Schwimmer described Ghorbanifar and he may have talked something about hostages also, that I went to Israel and met Ghorbanifar, where all of this took on real flesh, that Kimche then came back to Washington early in August and told Bud about it, and formulated the proposition, that Bud then discussed it with the President, and by the time I came back in the middle of August the President had approved it and I then communicated that decision to the Israelis.

And I'm quite sure that is the chronology.

General Scowcroft: Do you have any notion how this thing got transformed from a research project into an action program over a very short period of time and who made the transformation?

Mr. Ledeen: It is what I wrote in the Post, General. The Iranians came forward Ghorbanifar came forward. Ghorbanifar is really the driving force behind this whole thing. I mean, one can speculate about Americans and Israelis, but it is clear that the guy really—I mean, these ideas did not come either from the Government of the United States or the Government of Israel or arms merchants. These ideas came from Ghorbanifar. He was the person who introduced them. He was the one who put them forward, and he was the one who claimed to have the capacity to achieve them.

So it happened because the Israelis were approached by Ghorbanifar as a way of getting to the United States, and I believe—I mean, one of the few things that I do believe that Khashoggi has said is what he said on that TV show with Barbara Walters, that he suggested to Ghorbanifar that the best way to get the Americans' attention was to go to the Israelis. That is the way he would think, and he was right, in fact, and it worked.

So that was the channel from Iran to the United States and that is how it happened, and I was the one who found myself in a room with them, that's all. It was an accident.

(*Id.* at 21-23)

Contemporaneously, Kimche also visited Washington. He met McFarlane on July 3. According to McFarlane, Kimche sought "the position of our government toward engaging in a political discourse with Iranian officials." (McFarlane (1) 6) Kimche thought the Iranians in question would ultimately need something, namely arms, to show for the discussions. "But," McFarlane told the Board in his first interview,

that was not a request [for arms] on July 3rd. He said that the Iranians understood that, because we had never seen them and had no basis for confidence that they were people of influence and authority, understood that they needed to demonstrate their own bona fides, and that they believed that they could influence the Hizballah in Lebanon to release the hostages, and in fact went as far as to convey through him on July 3rd that they had three approaches, just in terms of formats, of where they might deliver the seven hostages, and sought our comment on which of these was preferable.

(*Id.* at 7-8) McFarlane took this message as an indication that Iranians understood that Iranian-American relations "couldn't prosper from our point of view for as long as people close to Iran and linked to them continued to hold hostages." (*Id.* at 8)

III. The President, His Staff, and the Cabinet: July-August 1985.

In his first interview, McFarlane told the Board he then reported this conversation to the President before he entered the hospital for his cancer operation in the second week of July. He informed the Secretaries of State and Defense and the Director of Central Intelligence in separate conversations. He also said he visited with the President in hospital, and the Secretary of State "to discuss it in brief." (*Id.*) He told the President that Kimche's question was "what is your attitude toward engaging with Iran in a political agenda period." (*Id.*) According to McFarlane, the President considered the question in a broad context, including Kimche's suggestion that eventually arms transfers would become an issue.

And while it wasn't linked to the hostages, the President said, well, it seemed to him that the Middle East experience well beyond Iran is that elements to succeed ultimately to power do need to strengthen themselves, and that the currency of doing that is usually weapons. And he said the key element is not denying history, but deciding whether or not our doing that or somebody else doing that can be distinguished as a political matter of policy between the natural perception of people that weapons are going to people portrayed as terrorists. Iran is identified as a terrorist state. He said the key element is whether or not these people are indeed devoted to change and not just simply opportunists, self-serving radicals.

(*Id.* at 9)

In his meeting with the Board on February 11, 1987, the President said he had no recollection of a meeting in the hospital in July with McFarlane and that he had no notes that would show such a meeting. (R. Dawson & W.C. McFadden II, Memorandum for the Record, 2/9/87)

In his third interview with the Board, February 21, 1987, at the Bethesda National Naval Hospital, McFarlane recalled:

I have felt since last November—and that is where we started—that it has been, I think, misleading, at least, and wrong, at worst, for me to overly gild the President's motives for his decision in this, to portray them as mostly directed toward political outcomes.

The President acknowledged those and recognized that those were clearly important. However, by the tenor of his questioning, which was oriented toward the hostages and timing of the hostages, from his recurrent virtually daily questioning just about welfare and do we have anything new and so forth, it is very clear that his concerns here were for the return of the hostages.

Now maybe it's come to your attention that there was a meeting with the IWA 847 relatives and hostages on July 4 or 5, and the President stayed with Mrs. Reagan at Arlington Cemetery for an extra half hour or

so going down and greeting each of the families there, and it was a very moving moment and it had an impact on him.

Within a day or so of that I brought to his attention this original proposal from Mr. Kimche, and the President's reaction was quite enthusiastic and somewhat perhaps excessively enthusiastic, given the many uncertainties involved. But it was expressive of his attitude on this issue from the beginning, and from the four, five, or six meetings we had in the next thirty days on it there weren't any inhibitions as persistently as well as the Secretary of State and Defense made them, and they were very well made.

But the President had no hesitancy about it at all, nor did he when he called me about it last week here in the hospital.

• • •

Well, the recollection of my having briefed the President on Kimche's visit in the White House and his coming here and his reactions when here at the hospital, I briefed him on the new information received from Mr. Schwimmer, there is a vividness in my recollection that is documented datewise by the calendars that I have that the meetings were held in the image of being across the hall with Mr. Regan and the President, filling them in on this, and the President saying words to the effect that gee, that sounds pretty good.

The weapons issue is a problem, and our discussion of that, and he says: I guess we can't do the weapons or something like that ourselves, but isn't there a way that we can get at trying to keep this channel going or something like that.

Mr. Dawson: And that's tied in to the hostages at that point? It is clear that one of the purposes of this is not so much a strategic opening as you might have otherwise stated, but it is an attempt to get arms for hostages through the transfer from Israel to Iran?

Mr. McFarlane: Well, I think that was foremost in the President's mind.

Mr. Dawson: So if he didn't state to you in so many words, Bud, go ahead and do it, he clearly led you to believe from the outset that there was a chance to bring some hostages out through a third country?

Mr. McFarlane: It was unambiguously clear.

(McFarlane (3) 11-14)

On November 21, 1986, McFarlane wrote Poindexter that the President "was all for letting the Israelis do anything they wanted at the very first briefing in the hospital." (McFarlane PROF note to Poindexter, 11/21/86, 21.01)

Donald T. Regan, the President's Chief of Staff, recalled first learning of McFarlane's conversation with an Israeli about Iran while the President was in hospital, some two days after his operation. According to Regan, McFarlane wanted authority to enter discussions with the Iranians identified by the Israelis as having "reasonably good connections within Iran but who were on the outside." (Regan 4) Regan told the Board:

About the second day after the operation, I believe it was, we went out there—I can find the exact date if you don't have it—met with the President—he was in bed—and McFarlane told him that we had had a contact from Iranians whom he had reason to believe had reasonably good connections within Iran but who were on the outside, and this had come primarily as a result of Israeli connection with the Iranians.

At that time I didn't know their names. I now know them to be Ghorbanifar, Kimche, and the like, but at that time I didn't know the names.

And what McFarlane wanted was the President's authority to make this contact, to see if it could be developed and what it could lead to. There was a discussion of the importance of Iran as far as its strategic location . . . and the fact that it seemed worthwhile to McFarlane that this be pursued.

The President, after asking quite a few questions—and I would say the discussion

lasted for perhaps 20, 25 minutes—assented and said yes, go ahead. Open it up.

(Regan 4-5) According to McFarlane, after this meeting, he then conveyed to Kimche the President's openness to a dialogue with Iran. (McFarlane (1) 9)

The Secretary of State testified before the House Foreign Affairs Committee that he first heard of this matter while flying between Perth and Canberra, Australia, on July 14, 1985. McFarlane reported that Kimche had met him secretly the week before.

and had asked him to confirm that the U.S. was in fact uninterested in pursuing the cooperation rather proposed to Mr. Ledeen. Mr. McFarlane wrote that he had so confirmed. He then stated that an unnamed emissary had "today" reopened the issue on behalf of the Prime Minister.¹⁰ The emissary said that in a recent meeting between Israelis and some Iranians, including Mr. Kimche, a Mr. Al Schwimmer, and Mr. Ghorbanifar, the Iranians had painted a pessimistic view of Iran. They allegedly said "their hope and that of what they portrayed as a significant cadre of the hierarchy was to develop a dialogue with the West," and emphatically with the United States. The Israelis had allegedly pressed "for some tangible show" of the Iranians'

¹⁰ This "emissary" apparently was Schwimmer. A note from McFarlane's secretary, dated July 11, 1985, contained the following:

JMP [Poindexter] talked with Michael Ledeen this morning about an urgent message from Peter for McFarlane which Al Schwimmer, a Jewish-American who provides lots of money to Peter, wants to deliver to RGM [McFarlane].

McFarlane's secretary reported that Ledeen had lunch with Schwimmer on July 11 and left the following message for McFarlane:

"It is indeed a message from Prime Minister of Israel, it is a follow-on to the private conversation he had last week when David Kimche was here. It is extremely urgent and extremely sensitive and it regards the matter he told David he was going to raise with the President. The situation has fundamentally changed for the better and that I must explain to him because it will affect his decision. It is very important. It won't keep more than a day or two but could keep you and Nat under mounting. This is the real thing and it is just wonderful news."

McFarlane indicated on this date that he would see Ledeen Saturday, July 13. McFarlane's desk calendar confirms this meeting. McFarlane told the Board he supported the emissary, was Schwimmer, that he did not meet him, and that he probably received Schwimmer's message from Ledeen. (McFarlane (2) 4) On July 13, the President underwent his cancer operation.

ability to deliver, and were purportedly told "that they could in the short term achieve the release of the seven Americans held in Lebanon." But, Mr. McFarlane repeated, in exchange the Iranians had said they would need to show "some gain" and sought specifically the delivery from Israel of 100 TOW missiles. "But they stated," Mr. McFarlane continued, "that the larger purpose would be the opening of the private dialogue with a high level American official and a sustained discussion of U.S.-Iranian relations."

Mr. McFarlane reviewed the "imponderable questions" raised by this proposal, including "our terrorism policy against negotiating with terrorists (notwithstanding the thin veil provided by Israel as the cut out on this specific matter)." He noted that our long term interest was in maintaining the possibility of renewed ties, and the importance of doing something soon about the seven hostages. He said: "We could make a tentative show of interest without commitment and see what happened or we could walk away. On balance I tend to favor going ahead." He said the emissary was leaving soon, asked for a prompt signal, and that he would "await and abide fully by your decisions."

I replied by a message to Mr. McFarlane that same day that "I agree with you that we should make a tentative show of interest without commitment. I do not think we could justify turning our backs on the prospect of gaining the release of the other seven hostages and perhaps developing an ability to renew ties with Iran under a more sensible regime—especially when presented to us through the Prime Minister of Israel."

This position—indicating a willingness to talk but no commitment to pay—was consistent with Administration policy of maintaining contact with people who might eventually provide information or help in freeing hostages. I pointed out, however, "the fraud that seems to accompany so many deals involving arms and Iran, and the complications arising from our 'blessing' an Israel-Iran relationship where Israel's interest and ours are not necessarily

the same." I suggested that Mr. McFarlane should give the emissary "a positive but passive reply." That is, tell him that the U.S. "is receptive to the idea of a private dialogue involving a sustained discussion of U.S.-Iranian relations. In other words, we are willing to listen and seriously consider any statement on this topic that they might wish to initiate." I said I thought Mr. McFarlane should manage this probe personally, but that the two of us should discuss its sensitivity and the likelihood of disclosure after my return. I told him to tell the emissary "that you and I are in close contact and full agreement every step of the way, this is all the more important in view of the present lack of unity and full coordination on the Israeli side."

(Shultz, 12/86, 8-10; SRB, 17-20) On July 16, the Secretary saw an intelligence report, which indicated that Ghorbanifar, whose name McFarlane had mentioned, was "a talented fabricator." (Shultz, SRB, 20)

In the middle of July, Ledeen went to Israel on vacation and, toward the end of the month, attended a meeting with Ghorbanifar, Kimche, Schwimmer, and Nimrodi. "[T]o the best of my recollection," Ledeen said, this conversation,

is the first time that the subject of weapons and hostages was raised. They were raised in the context of the future relationship between the United States and Iran. They were not raised separately as a deal or an entity unto themselves because what Ghorbanifar had to say, in addition to this fairly enlightening picture of Iran that he presented us with, was that there were significant and powerful people within the government of Iran who were interested in improving relations with the United States. . . . [A]s part of the evolution of this relationship in a more positive direction Iran would undertake to make gestures of good faith and to demonstrate not only their willingness but their capacity to alter their policies in a direction which we would consider positive, and that at the same time they would like to see on the part of the United States a similar demonstration of willingness and capacity and that the only such gesture by the United

States that would convince them simultaneously that the President was personally involved and committed to this policy and that the United States would act and exert its power in the world to do such things would be if the United States enabled Iran to obtain weapons which were at present unobtainable because of the American arms embargo, and that the sorts of gestures that the Iranian government would make to demonstrate its good faith and capacity included weighing in to try to obtain the release of hostages in Lebanon, but also other things, including statements by leaders of the government which we would see clearly were moving in that direction

(Ledeer (1) 22-23) After the meeting, Ledeer, Kimche, Schwimmer, and Nimrodi decided that someone should report the conversation to McFarlane, which Kimche offered to do. (*Id.* at 24)

At the end of July, Furmark and Ghorbanifar met Yaacov Nimrodi, an arms merchant and former Israeli Defense Attache in Tehran, Amiram Nir, Advisor to Prime Minister Peres on counterterrorism, and Adolph Schwimmer, a long-time arms merchant and, since September 1984, Special Advisor to Prime Minister Peres, at one of Nimrodi's homes in Tel Aviv. (Furmark 40; Charles Allen reported that Furmark said Nir attended this meeting. C. Allen to DCI/DDCI, 10/17/86) Furmark, who was not within earshot of the conversation, possibly because the Israelis were concerned that Furmark might be a CIA agent, (Furmark at 41), provided only a sketchy account to the Board. He said that they discussed a program "to begin to open up relations between the U.S. and Iran." (*Id.* at 37) He heard no mention of hostages or arms, but did overhear a reference to "spare parts." (*Id.*) But he said,

the U.S. had agreed, the Israelis had agreed, the Iranians had agreed to do some business, but nobody would trust each other. The Iranians would not pay for anything until they received and inspected the goods, because, I've heard on previous transactions involving even foodstuffs and stuff they would pay in advance and they opened up the crates and there were rocks in it. So they became very shell-shocked about paying in advance for anything.

And of course the Israelis would not send anything until they were paid in advance.

So now you had a stalemate. Khashoggi then said, well, I will trust the Iranians, I'll trust the Israelis, I'll trust the Americans, I'll put the money up.

So the first transaction I understand was a million dollar transaction which he deposited into a numbered account which the Israelis told him to put the money in. The financing operates like this: He puts a million dollars into an account, and then Ghorbanifar gives him what we will call a post-dated check for a million dollars in his account at Credit Suisse. And then after the shipment is made, the Iranians inspect the goods, and they then pay Ghorbanifar's account at Credit Suisse. Ghorbanifar tells Khashoggi the check is good, deposit it.

And that is how the financing was done all throughout

(*Id.* at 5-6)

Furmark apparently told much the same story to Charles Allen, the CIA's National Intelligence Officer for Counterterrorism, and George Cave, a CIA assistant and expert on Iran, who met with Furmark on October 16, 1986. Based on Furmark's account, Allen concluded that

(t)he idea of providing Iran with military equipment in exchange for American hostages—seen as a way of commencing a dialogue with Iran—also originated in the summer of 1985 and he along with Ghorbanifar [sic], traveled to Tel Aviv in August 1985. . . . Subsequently, arms were delivered to Tehran in September 1985, a development that resulted in the release of Reverend Benjamin Weir.

(C. Allen to DCI/DDCI, 10/17/86)

Kimche called McFarlane July 30 and saw him August 2. According to McFarlane, Kimche said that Rafsanjani, Musavi, the Prime Minister, and Khamenei, the President, had been preoccupied by domestic affairs for about a month, and, therefore, had not pursued the hostage or American issues during that period. Rafsanjani in particular had been dealing with "factional vulnerability." (McFarlane (1) 10)

Now, Kimche said, they found it more difficult than they had thought to influence their friends in Lebanon. The Iranians were "more concerned about the bona fides of our side and specifically about whether or not we would provide weapons right away, not for a threat, not for expanding the war, but, as it was cast, for the expansion of and consolidation of the faction with military elements, of army elements specifically." (*Id.*) McFarlane informed Kimche that he did not think it "wise or likely" that the United States would transfer weapons to the Iranians, "because we had not dealt with these people. . . . [T]he notion of our giving weapons to people we did not know, with the track record before us, was imprudent and I thought politically silly." (*Id.* at 10-11) When Kimche asked what the United States reaction would be if Israel shipped weapons to Iran, McFarlane replied by asking why Israel would.

[I]n a nutshell, [Kimche] said: Well, we in Israel have our own interests. They are basically to ensure a stalemate of the conflict with Iraq, but also to get the United States back into Iran, and that helps us if the United States' position in the Middle East is strengthened; and separately, to reduce the Iranian support for terrorism, if that is feasible, is very much in our interest, and so we might very well do this as a matter of Israeli interest.

But he said: I pose it for us doing that, because ultimately if we provide things we're going to have to come and buy other ones, and I need to know, are we going to be able to do that or not, whether it's Hawks or TOWs or whatever else.

And I said: Well, that really isn't the issue. Israel has bought weapons from the United States for years and always will, and so you don't need to ask whether you can buy more weapons. It is a matter of whether or not the support of the idea of providing weapons to anybody in Iran is in policy terms sensible. But I will get you our position

(*Id.* at 11)

A. The Principals' Various Views: August 1985

In his meeting with the Board on January 26, 1987, the President said that sometime in August he approved the shipment of arms by Israel to Iran. He was uncertain as to the precise date. The President also said that he approved replenishment of any arms transferred by Israel to Iran. McFarlane's testimony of January 16, 1986, before the Senate Foreign Relations Committee, on which the President heavily relied, takes the same position. This portion of McFarlane's testimony was specifically highlighted on the copy of the testimony given by the President to the Board.

In his meeting with the Board on February 11, the President said that he and Regan had gone over the matter repeatedly and that Regan had a firm recollection that the President had not authorized the August shipment in advance. In response to a question from the Board, the President said he did not authorize the August shipment. He noted that very possibly, the transfer was brought to him as already completed. He said that subsequently there were arms shipments he authorized that may have had to do with replenishment, and that these could have taken place in September. A memorandum from Peter Wallison, White House Counsel, on which the President heavily relied, stated that the President had been "surprised" that the Israelis had shipped arms to Iran in September, and that this fact caused the President to conclude that he had not approved the transfer in advance.

On February 20, 1987, the President wrote Chairman Tower:

In trying to recall events that happened eighteen months ago I'm afraid that I let myself be influenced by others' recollections, not my own.

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I have no personal notes or records to help my recollection on this matter. The only honest answer is to state that try as I might, I cannot recall anything whatsoever about whether I approved an Israeli sale in advance or whether I approved replenishment of Israeli stocks around August of

1985. My answer therefore and the simple truth is, "I don't remember—period."

In his first interview, McFarlane told the Board he reported to the President within two or three days of meeting Kimche on August 2. On McFarlane's recommendation, he told the Board, an informal National Security Planning Group ("NSPG") meeting occurred while the President was convalescing. The Secretaries of State and Defense, the Director of Central Intelligence, Admiral Poindexter, Regan, McFarlane, and possibly the Vice President attended. Neither the Vice President, nor McFarlane was certain about his attendance. (W.C. McFadden II, Memorandum for the Record, 12/29/86; McFarlane (1) 17) McFarlane remembered this meeting because the President was wearing pajamas. McFarlane recalled

a very active argument, really, for a good reason, about the wisdom of doing this and very sharp disagreements on the part of the Secretary of Defense, really, and to a lesser extent but emphatically by the Secretary of State, but for different reasons. . . . [T]he President had available to him very vivid, forceful, thorough expression of views of his Cabinet officers involved on this. And it was argued in policy terms, both the issue of a dialogue with Iran, the legitimacy of these people, the legal authorities for—this was not the United States doing something; it was Israel doing something, but nonetheless for involvement of U.S. weapons with U.S. endorsement, which is an important policy.

The legal ramifications, the political risks, the matter of Congressional oversight, and then basically the probabilities of, given all these factors, of this having any promise at all.

[A]t the end of it the President said, well, as he had before, that his inclination was not to have any U.S.-owned weapons or our inventory involved in this, but that he believed that it was possible over time, if these people's standing and authority and intentions were reformist, if you will, that he could see the need to support them, and with weapons, although at the time he said, right now I'm inclined not to have any U.S. weapons involved, U.S.-owned,

but if Israel, whose judgment on this is based on a track record of dealing with these people, believes that it is sensible to do it and does transfer weapons, then ultimately their wish to buy replacements we should honor and we should sell to them.

(McFarlane (1) 12-13)

Regarding hostages, McFarlane told the Board he tried faithfully to summarize Kimche's message:

that while the Iranians had told him to say that they understood they needed to demonstrate their bona fides and they thought the hostage release was the best evidence of that, and while the arms, the matter of arms, was ostensibly associated with the Iranians' perception of vulnerability, that you would be foolish not to recognize that, first of all, that may be just an artifice, deliberately to engage in a hostage for arms deal, and even if it isn't, if they are dealing in good faith, the perceptions of people of good will will be that that is the de facto condition.

The President understood that and he said, Well, you're right, the risks of misunderstanding are quite high, and the question is are these people valid interlocutors or not, dealing in good faith or not. And he says, We have no way of judging it, really, except the track record of the past seven years, and it is only this report, really, and other things, the corroborating work we have done, focused upon intelligence hard copy that had been provided by these Iranians to the Israelis and Israel and ultimately to us—that it was basically—an order of battle is the wrong word. It was the names of the leadership of the Iranian armed forces from about the battalion level up, and that is nothing novel, but identifying those who were disposed to support these elements and those who were not.

Separately, the complexion of the government in both the Prime Minister's office and the Foreign Minister's office, the Majlis, again identifying those were—well, they were identified in one, one [sic], two, or three lines or factions, basically extrem-

ists from left to right and where people stood on the political map.¹¹

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Well, all these things were considered by the President and, in a word, his decision was no U.S.-owned arms or U.S. transfers; if Israel chooses to do this and ultimately they seek replacements from us they can buy them from us; and yes, finally, we are interested in a political meeting with Iranians.

Well, I conveyed this to Mr. Kimche, and I was very precise in saying: The purpose here is a political agenda; the vulnerability and risk is a perception of something far different, which is arms for hostages.

(*Id.* at 14-16)

On January 16, 1987, McFarlane gave the Senate Foreign Relations Committee a somewhat different account from the one he had provided to the Board in his first interview. He said:

As I say, it began in July with the President convening each of the people on the Council, hearing their advice, not deciding, but thinking about it. Those same individuals meeting singly or in groups with him—again, the Secretary of State and Defense—and over time in the course of about a ten-day period, late July, early August, the President coming to a conclusion to authorize a specific authority for another country to do something. . . . The President viewed the decision as a decision to grant his approval for the actions of another government, although indeed ultimately that government would come to us again, Israel, to buy replacement arms. Now, he communicated that to me, and when he did by telephone, I said to him, Mr. President, as you know, your Secretaries of State and Defense are opposed to this. He says, yes, I understand that, and provided his own explanation of the basis for his decision.

¹¹ This reference to political "lines" in Iran and to information from Iranians being members of the "lines" with their political preferences is consistent with a document, dated February 5, 1985, prepared by, or with the assistance of, Ghorbanifar, (Ghorbanifar 52), which Khashoggi sent McFarlane on July 1, 1985.

Then I notified the other National Security Council members, the Secretary of State and Defense and the others, and on those occasions heard once more the opposition of it from the Secretaries of State and Defense. And I encouraged them to be back in touch with the President, because you're quite right—the communications through channels that are not always open can lead to ambiguities and misunderstanding. And I know in at least one case, I believe the Secretary of State—perhaps more than once—after the decision, promptly though—reaffirmed his concerns about it, even though out of this country.

(McFarlane, 1/16/87, 18-19) The President's official schedule notes an August 6 meeting attended by the Vice President, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the President's Chief of Staff, and McFarlane. (Ellen M. Jones, Presidential Diarist, to Jay B. Stephens, 1/24/87)

McFarlane told the Board on February 19, 1987:

[U]pon returning from the hospital, if you want to proceed in that direction, [the President:] did convene his advisors, the members of the NSC, and discuss this matter.

As to when concretely he made his decision, I have to say, Mr. Chairman, I don't know and there is no written record of it. The basis on which I say that it had to have happened in the final week of July or the first week of August is, first of all, my own memory of the sequence of events and what we talked about in that period. And there are, and I think my schedule has been given to you, six meetings where he met with his NSC people, all or more than one, between July 22 and August 7, I believe.

Now on at least two occasions he discussed this matter with more than me, with at least, on one occasion, with the Secretary of State and the Secretary of Defense, the DCI, the Vice President and Don Regan.

General Scowcroft: All together at once?

Mr. McFarlane: Yes. But my recollection is that there was disagreement on the matter and he did not make a decision at that meeting, and that only after a matter of days, but within two or three, did he call me directly and state that he had considered it and he wanted to go ahead and specifically that if Israel decided that it wanted to sell weapons to Iran that Israel could buy replacements from the United States.

Now I have to stress that I don't know, perhaps it has been minimized in the coverage of this so far, but at the meeting it is fair to say that though there was opposition by the Secretary of State and Defense that even those who favored it stressed the matter that what was being approved was something to be done by someone else—Israel—and not the United States.

And it was seen to be an authorization, a license if you will, for Israel to undertake a plan and that authority given to me on the telephone, and I shared in my recollection with the Secretary of State also by phone, and he expressed his opposition. And I encouraged him to be back in touch with the President on it, and I believe he was.

(McFarlane (2) 9-11)

McFarlane noted that "generally speaking the President would reach decisions only at the time of a meeting only if there was unanimity. Where there was disagreement it was his habit almost never to make the decision there but to wait and then convey it to me later on." (*Id.* at 16)

Regan remembered that the meeting was informal, without an agenda or briefing papers. It occurred in late July or early August, after the President returned from the hospital.

Bud [McFarlane] briefed at this and talked about the Israeli connection here and how the Israelis were dealing with the Iranians in an effort to secure the release of many Iranian Jews who were trapped in that country, and they were trying to get them out into Israel, and that the Israelis may have some type of arms sales going with the Iranians.

No specific mention that we would be asked to do that, although it was suggested

at that time that we might have a chance of getting our hostages out through the Iranians. But the Iranians were sure to demand something in exchange for that, and it might be arms.

I recall at that time the President expressing concern over this one-for-one type of swap and not wanting to get into arms sales through people that he at this point did not have enough assurance from Bud that they were (a) reliable or (b) could deliver on anything, and that we should go slow on this but develop the contact.

(Regan 7-8)

The Secretary of Defense recalled a meeting at the President's residence after he returned from the hospital

I argued very forcefully against the whole idea, saying that I didn't think it could work. I thought there were all kinds of risks, that the transfer of arms was obviously something we shouldn't even think about doing because we were urging every other country, and I had been urging [other countries] where we had found some transfers going, that this just shouldn't be done, that this would undercut everything we were going to do in the Mid East and everything else. George Shultz made many of the same points. My clear impression was that the idea was set aside, or finished, that that was the end of it. The President seemed to agree.

(Weinberger 6) The Secretary of Defense said Israeli arms transfers to Iran were not discussed. "It was all should we sell arms to Iran?" He recalled no discussion about resupplying Israel if it shipped arms to Iran, but noted that "McFarlane could have mentioned that the Israelis did this." (*Id.* at 7)

The Secretary of State testified on December 16, 1986, and subsequently told the Board that

On August 6, 1985 during one of my regular meetings with the President, at which Mr. McFarlane was also present, Mr. McFarlane said that he had again met with Mr. Kimche who reported that the Iranians and Israelis had held three meetings, during which the Iranians said Iran was in

a shambles and a new government was inevitable. The military and the people, the Iranians reportedly said, were "still pro-American," and "want a dialogue with America." They also wanted arms from us, and wanted 100 TOW missiles from Israel. All would be totally deniable. The Iranians said they could produce four or more hostages and wanted a meeting somewhere. I stated my negative opinion fully. I do not recall the President having decided at that meeting to approve the Iranian offer. I noted then that Mr. McFarlane was pursuing the matter. I assumed this was on the basis we had discussed, with no commitments. Mr. McFarlane said that Foreign Minister Shamir had told Mr. Kimche that he wanted to know explicitly whether I was informed. At this point I felt that I was fully informed. As far as arms sales were concerned, I said in the meeting that it's a mistake. I said it had to be stopped.

(Shultz, 12/86, 11; SRB, 21-24)

B. Post-Mortem

According to the NSC's Historical Chronology and the CIA Inspector General, Kimche called McFarlane on August 22 to ask about United States policy with regard to arms shipments to Iran. McFarlane

elevated the question to the President (and to the Secretaries of State and Defense, and the Director of Central Intelligence). The President stated that, while he could envision providing materiel support to moderate elements in Iran if all the Western hostages were freed, he could not approve any transfer of military materiel at that time-period. This position was conveyed to the Israeli diplomat.¹² (*Id.* at 43-45)

¹² In the course of a long description of the origins of the November 1986 chronology, McFarlane said that motives for them changed during the process. He said that, at the beginning (November 3, 1986) Poindexter's actions reflected his concern for the hostages and hope that others than Jacobson would be released (McFarlane (3) 42). Later, around November 18 when McFarlane was asked to lend a hand, the drafting group's principal objective, probably the primary objective, was to describe a sequence of events that would distance the President from the initial approval of the Iran arms sale, distance him from it to blur his association with it.

Regan told the Board that he called no discussion of the issue from August 6 until after Labor Day, 1985.

I don't recall anything further about this until after the President returned from the ranch, which would have been after Labor

The November 18 chronology, which I indeed helped prepare, was not a full and completely accurate account of those events, but rather this effort to blur and leave ambiguous the President's role. The language was intended, I would say, to convey the impression that the United States had not expressly authorized the sale either [of] arms directly from the United States or by the Israelis on behalf of the United States, but, second, to preserve the ability to say that if Israel were to make such sales that they could expect to purchase replacement items from the United States.

And I think that is an accurate reflection of how that is cast. Now it was done as a briefing memo to be used by people who would brief the President prior to the next day's press conference, and in my judgement expected to go through a number of iterations before it reached that point. But that is my opinion of the climate in which that session occurred and the intent of its outcome.

General Snowbolt: To put it baldly, could one say that the intent of this was in a sense to put the burden on the Israelis? We didn't approve it, they went off and did it—to soften that by the comment about replenishment?

In other words, if you're going to say that the President didn't authorize it, only two things can happen—that you told the Israelis to do it on their own, or that the Israelis did it on their own.

Mr. McFarlane: Well, I think your portrayal of it as you originally cast it is an accurate description. It was an intent to give the impression that Israel had taken the action.

Mr. Dawson: Why did Poindexter, though, at that point focus in on trying to distance the President from the prior approval in advance of the Israeli shipments? Why was that, even at that juncture, so important an issue?

Mr. McFarlane: Well, bear in mind I think this is an important part of it, that before this ever occurred he had already himself on the record acknowledged that the President did approve in advance, and that is in the White House transcripts. Don Regan did, too.

Mr. Dawson: You're referring there to the backgrounders that Poindexter and Regan gave in advance of the November 18—

Mr. McFarlane: I believe that's right.

Mr. Dawson: And would you also add to that that the President had already denied prior approval? I mean, was that also something else which you would put into the context of that?

Mr. McFarlane: Well, it is difficult to harmonize those positions. That is clear. But the President's position, which I think did misrepresent things—I'm not sure timing-wise which statement you are talking about.

Mr. Dawson: Well, you had said earlier—

Mr. McFarlane: Yes, and those remarks were cast at a time when they were still relying or mostly on the hope that there were still hostages that were going to come out.

Mr. Dawson: This is right after the public disclosure?

Mr. McFarlane: Yes.
(Historical Chronology 5. Cf. CIA/IG Chronology 9)

Day in '85. He had a long vacation then because they wanted him to take more time to rest from the operation.

At that time—again this was at a normal 9:30 meeting, not at a special meeting—McFarlane informed the President that indeed the Israelis had sold arms to the Iranians and that they hoped to get some of our hostages as well as some Jews from Iran out as a result of this. This would have been early September.

Now I recall at that meeting the President being upset at the fact that arms had been sold by the Israelis, American arms—and “upset” I think is the proper word; it wasn't real anger, but it was sort of, you know, well, why did they do that; how come we didn't know? That type of thing—and McFarlane explaining that the Israelis simply had taken it upon themselves to do this.

But the President at that time did not indicate that he wanted to make a big deal out of it. It was done. It had been done. There was a possibility of a hostage coming out. He decided to leave it alone, just accept the fact that it was done, leave it there.

I don't recall anything else happening, except I believe that Benjamin Weir did come out at that time, if I'm not mistaken, or shortly thereafter.

(Regan 8-9)

Secretary Shultz testified to the same effect on December 16, 1986, as did Secretary Weinberger. (Shultz, 12/86, 11; Weinberger 7) Ledeen told the Board that, when he returned to Washington in the middle of August and reported to McFarlane on his meetings in Israel, McFarlane said “that the President had decided to go ahead with the test of the sort that Kimche had described—which is that we would authorize the Israelis to ship a quantity of weapons to Iran and we would see whether the Iranians followed through on their demonstrations of good faith and capacities and so forth.” (Ledeen (1)27) According to information provided by the White House Counsel, the President spoke to McFarlane by telephone on August 23. Ledeen recalled that “all Bud said to me was the President has said that it's okay to tell them that. It's a go. And there wasn't

any more detail than that.” (*Id.* at 31) According to Ledeen, this statement meant that Israel had American approval to ship TOWs to Iran. (*Id.* at 32) Ledeen assumed it meant that the United States would resupply the Israelis for the TOWs.¹³

In any event, he conveyed this message to Kimche as his presumption. (*Id.* at 31) At the same time, Ledeen thought Secretary Shultz' displeasure with his trips “sounded like a simple standard turf irritation rather than anything substantive. It didn't seem to have anything to do with policy. There was no policy anyway.” (*Id.* at 29)

On January 16, 1987, McFarlane recalled that the President's approval came in August of 1985. The authority was that if Israel were to sell arms to Iran and ultimately came to the United States to replace them, that they could do that, so long as the quantity shipped and the character of the weapons wouldn't alter the complex of the situation in the war or contribute to terrorism.

(McFarlane, 1/16/87, 13)

In his third interview with the Board, McFarlane said.

I recall the President calling me and I while I couldn't give you verbatim quotes or near it, his point, his opening point was about that matter we discussed the other day, the hostages. Well, the matter was a very big matter and in terms of purposes and so forth, but it was expressive of the kind of motives that I think that lend some urgency to his call.

He called and said: I think we ought to get on with that. Let's go ahead with that. And that, frankly, was more the way the President dealt with an issue, as opposed to

¹³ According to the “Maximum Version,” [o]n August 22, 1985, the U.S., through the U.S. citizen intermediary [Ledeen, whom the Maximum Version identified by name and described as “a private American citizen”] acquiesced in an Israeli delivery of military supplies (TOWs) to Tehran. We were subsequently informed that the delivery had taken place at the end of August, though we were not aware of the shipment at the time it was made. U.S. acquiescence in this Israeli operation was based on a decision at the highest level to exploit existing Israeli channels with Tehran in an effort to establish an American strategic dialogue with the Iranian government. (Maximum Version at 4)

saying: well, I like Option 1, 2, 3 or 4. But I did then spell it out, and I said: Mr. President, what's involved here is the sale by Israel of weapons and ultimately them coming to us to buy replacements. And he says: Yes, I understand that. And I said: Do you understand, of course, now that George and Cap are very much opposed to this and they have very good reasons?

And he said: Yes, I do, but I draw a difference between our dealing with people that are not terrorists and shipping arms to terrorists. And I'm willing to defend that. And he even said something like: I will be glad to take all the heat for that.

But the point about the opposition from the Cabinet officers was made once more, and he said: Yes, I understand how they feel, but I want to go ahead with this.

(McFarlane (3) 17-18)

IV. The NSC Staff, Arms, Hostages, and Finances

Whatever the President may or may not have decided on August 6, or subsequently, members of the NSC staff began in August 1985 to become involved in missions having to do with the shipment by Israel and the United States of advanced weapons to Iran and the release of American citizens kidnapped in Lebanon.

A. The First Shipment of TOW Missiles: August-September 1985

While Ledeen's account is not altogether satisfactory on the point, and McFarlane did not mention the episode to the Board, when Ledeen reported on his August meetings in Israel, McFarlane apparently decided to establish secure telephone communication with Kimche. Ledeen flew to London on August 20, carrying an elementary code for Kimche, which he delivered the next day. (Ledeen (1) 28) Kimche gave Ledeen documents for McFarlane obtained from Ghorbaniar. At this or another meeting, Kimche explained that “in his experience with Iranians there was no way that Iran would deliver everything that it had promised, that whatever happened would be less than what they were promising, but that he thought

that even something significantly less than what they had promised would still be significant and that he was basically positive about giving it a try.” (*Id.* at 37)

In late August or early September, North, to whose office Ledeen was attached, (*id.* at 44), was directed to prepare “contingency plans for extracting hostages—hostage or hostages—from Lebanon.” (*Id.* at 46)¹⁴ On August 29 and 30, the NSC staff arranged for the State Department to issue a passport in the name of “William P. Goode” for North to use on “a sensitive operation to Europe in connection with our hostages in Lebanon.” (North to McFarlane, 8/30/85; Martin to Platt, n.d.; McFarlane PROF note to Martin, 8/30/85, 17-40 38; Shultz, 12/86, 12) In addition, on August 31, 1985, Poindexter established a private method of interoffice computer communication with North, preventing normal screening by the Executive Secretary of the NSC. (Poindexter PROF note, “PRIVATE BLANK CHECK”, to North, 8/31/85, 13:26:58) North asked Charles Allen, National Intelligence Officer for Counterterrorism, on September 12 to increase intelligence efforts against Iran and Lebanon, and informed him that Buckley might be released in the next few hours or days. (C. Allen 4-5; CIA/IG Chronology 3)

When the first information was received on September 13, Allen asked for

White House guidance on how th[is intelligence] should be disseminated. North, after consulting with National Security Advisor McFarlane, direct(ed) that dissemination be limited to Secretary Weinberger, the D[irector of] C[entral] I[n]telligence] (or Deputy Director McMahan), McFarlane, and himself. North [said] that McFarlane had directed that no copy be sent to the Secretary of State; and that he, McFarlane, would keep Secretary Shultz advised orally on the NSC project.

(CIA/IG Chronology at 4; C. Allen 6)¹⁵

¹⁴ Ledeen told the Board that he thought this episode marked the first time North heard about the program. (Ledeen (1) 46; Ledeen (2) 74)

¹⁵ The original distribution list provided included Vice Admiral Moreau of the JCS staff, not Secretary Weinberger. When the Secretary saw an intelligence report pertaining to this program in the fall of 1985, he insisted that he receive all such documents. His military assistant, General Powell, reported that “the White

On August 30, 1985, Israel shipped 100 TOW missiles to Iran; on September 14, Israel shipped an additional 408 missiles. There is some evidence that this shipment was returned to Israel, in whole or in part, because it contained defective or otherwise unacceptable missiles, and that Israel replaced and reshipped the weapons. (Furmark 6-7) Ghorbanifar told the Board that he accompanied the shipment of 100 TOWs to Iran and that in exchange for these weapons, the Iranians gave a "guarantee" that they would neither engage in any "wrong-doing" nor support terrorism. (Ghorbanifar 46) Israel sold Iran 400 TOWs in exchange for Weir, Ghorbanifar recalled; when the plane arrived in Tabriz, eight extra TOWs were aboard. (*Id.* at 49; 100) Ledeen told the Board that he did "not believe that either we or they" saw the August and September shipments as two transactions. (Ledeen (2) 27-28)

In the second week of September, Kimche called McFarlane with the news that a hostage would be released, and that he expected all the hostages to be released soon. McFarlane probably relayed this message to the President, Vice President, Secretaries of State and Defense, Director of Central Intelligence, and Regan. (McFarlane (1) 18-19) The Director of Central Intelligence reportedly connected this release with diplomatic efforts in Damascus and Tehran aimed at resolving the hostage problem. (CIA/IG Chronology at 4; Casey to Shultz/McFarlane, 8/16/85; Sigur to McFarlane, 9/19/85) Reginald Bartholomew, the American Ambassador in Lebanon, reported on September 4 that "North was handling an operation that would lead to the release of all seven hostages. [A U.S.] team had been deployed to Beirut, we were told. Ambassador Bartholomew had been alerted directly by the NSC and would assist." (Shultz, 12/86, 12) The Director of Central Intelligence told his Deputy and Chief of Operations that "the Israelis were doing something and they believed as a part of the outcome of an affair the Israelis were in some of the hostages could be released," but that the Israelis did not want the CIA to be "notified." (George 3) Since 1984, the CIA had regarded Ghorbanifar as untrustworthy. (Cave 3-5)

House told [the releasing agency] that those [reports] were not to be distributed to anybody except the White House." (Weinberger 8)

Meanwhile, Ledeen met Ghorbanifar, Kimche, Nimrodi, and Schwimmer in Paris on September 4. Ledeen told the Board that

[t]he bulk of this conversation was given over to the issue of future relations and future cooperation between the United States and Iran. And from time to time Ghorbanifar, Schwimmer and Nimrodi would sit down and start talking about hostages and weapons. And when this happened Kimche and I would go off and talk about the future of Iran and how we thought we were going.

(Ledeen (1) 44) According to Ledeen, Ghorbanifar predicted that Iranian leaders would soon give speeches in which they did not denounce the United States. After the speeches, Ghorbanifar called Ledeen to ask if he had seen them. Ledeen had not, but asked North to have the CIA find and translate them. Some weeks later, the CIA confirmed Ghorbanifar's account. Iranian leaders had attacked the Soviet Union. "So we were cheered by this. I was cheered by this." (*Id.* at 44-45)

On September 15, 1985, Reverend Weir, one of the Americans kidnapped in Lebanon, was freed. According to the CIA Inspector General, on September 16, the Director of Central Intelligence and Charles Allen discussed recent events, including Weir's release. The Director reported McFarlane's saying they were related to an NSC initiative. (CIA/IG Chronology at 4) Secretary Shultz testified that, on September 17, Ambassador Bartholomew reported that

Mr. McFarlane had said the other hostages would be released in three batches, without publicity. But Weir had no information about the others, and in fact said he had been released only to bring pressure for the release of the Da'Wa prisoners. Bartholomew was pessimistic. He said four other hostages were reportedly in the Beirut area, possibly in the same place as Weir. North was not in the area, but in Washington, D.C. Bartholomew said he knew "precious little about origins of this or who is involved. Bud has told me nothing of who else was involved." He was pessimistic about getting any more hostages.

Two months then passed during which, to my knowledge, the Department of State heard nothing more about any aspect of an operation involving arms for Iran.

(Shultz, 12/86, 12-13)

When Weir was released, McFarlane "learned of the transfer from Israel to Iran of 508 TOW missiles.¹⁶ Well, I was concerned," he told the Board in his first interview, "frankly, because in concrete terms we, after a month's time, we Americans weren't dealing with Iran, Israel was, and so the central purpose from my point of view of the thing wasn't yet being fulfilled." (McFarlane (1) 20) Teicher told the Board that, although his involvement in this operation had ceased in August, after Weir was released, he became suspicious that the United States was trading arms to Iran for hostages. He queried North, who told him that he could say nothing about it, and McFarlane, who said the United States was not trading arms for hostages and that there was nothing more he could say. (Teicher 14-15)

(Historical Chronology 5-6)

At one of the President's 9:30 a.m. briefings in September (early in the month, according to Regan (Regan 8)), McFarlane reported that the Israelis had sold weapons to Iran, and a hostage had been released. McFarlane told the Board:

[W]hile I didn't know for certain because we had not negotiated with the Iranians, the appearance was surely there that weapons were transferred and one hostage was released, and so that certainly looked causal. And you would have to be a fool not to see that, whatever our intentions

¹⁶ The Historical Chronology contains the following paragraph, not contained in the Maximum Version:

In late September, we learned that the Israelis had transferred 508 TOW missiles to Iran and that this shipment had taken place in late August. [Handwritten in the margin "30 Aug/85"] The Israelis told us that they undertook the action, despite our objections, because they believed it to be in their strategic interests. The Israelis managed this entire operation to include delivery arrangements, funding, and transportation. After discussing this matter with the President, it was decided not to expose this Israeli delivery because we wanted to retain the option of exploiting the existing Israeli channel with Tehran in our own effort to establish a strategic dialogue with the Iranian government. The total value of the 508 TOWs shipped by Israel was estimated to be less than \$2 million.

were, the reality was apparently arms for hostages.

And I said so to the President in the morning meeting, and it basically kind of validated what the Secretary of Defense and State had said before, and they expressed their concerns again on that score.

This is not an excuse, but it is I think mitigating. Recall now that in this period from late September to November quite a number of things were happening in the government, and this was about number 12 on the agenda. I mean, you had the Soviet foreign minister in town, three other foreign heads of state, the preparation of four major presidential speeches to lay out the agenda for the summit, bilateral, regional issues, arms control issues, human rights issues, a visit to the United Nations by the President for a couple of days, meetings with 12 or 15 heads of government up there, and in the middle of that the Achille Lauro.

(McFarlane (1) 20-21)

As we have seen, Regan told the Board a somewhat different story.¹⁷ (See *supra* pages B23-24)

¹⁷ In a memorandum, dated December 5, 1985, North provided a different account of the origins of Iran arms transactions. He wrote that "[s]everal months ago" an agent involved in shipping material to the Contras saw U.S. military equipment in a Lisbon warehouse, which inquiries identified as Israeli equipment being shipped to Iran by a private company.

A "high-level Israeli official" explained that the weapons were being sent to Iran in exchange for Iranian Jews, and that because private intermediaries were used, the transaction was not a technical violation of United States arms export control laws. The Israelis hoped the arms sales would enhance "the credibility of moderate elements in the Iranian army" who might become powerful enough to establish a more reasonable Iranian government than presently existed, prevent the collapse of Iran in the war with Iraq, and extricate Jews from Iran.

In early September, in order that we not take action to terminate the arms sales, the Israelis proposed that this process be used as leverage to recover the American citizens held hostage in Lebanon. It was decided to test the validity of this proposal and on September 14, the Israelis, using chartered aircraft, delivered 500 TOW missiles to Tabriz, Iran. Prior to commencing this operation, we committed to the Israelis that we would sell them replacements for the items they sold and delivered to Iran. Two days later Reverend Benjamin Weir was released.

("Special Project re Iran," 12/5/85)

I don't recall anything else happening, except I believe that Benjamin Weir did come out at that time, if I'm not mistaken, or shortly thereafter.

• • •

The only thing I can remember there [about the need to resupply Israel] is that there was talk that probably someday the Israelis will want us to replenish that, but no specific the Israelis have asked us to replace that at this time, no.

(Regan 9-10)

B. Financing the Transaction

According to Furmark and Ghorbanifar, Khashoggi provided the bridge financing for the August and September shipments.¹⁸ The Americans and Israelis had limited faith in the Iranians, and vice versa, so that deliveries would not be made before payment was received, and payment would not be made before weapons were delivered. (Ledeen (2) 25) Khashoggi broke the impasse by providing financing. (Furmark 5; D. St. John, Memorandum of Conversation with Adnan Khashoggi, 1/29/87) In August and September 1985, Khashoggi made two separate deposits in the amounts of \$1 million and \$4 million into a Swiss account designated by the Israelis; Ghorbanifar gave him two post-dated drafts for \$1 and \$4 million, drawn on his account at Credit Suisse, which Khashoggi would negotiate when the weapons were delivered, and Ghorbanifar had received payment from Iran. "[T]hat is how the financing was done all throughout." (Furmark 6) Khashoggi was repaid later than anticipated because the first shipment of TOWs included weapons unacceptable to Iran. (*Id.* at 6-7) According to Furmark, Khashoggi received no money in addition to principal for these payments; for the later transactions, he expected, and received until May 1986, a return of 20% above the principal amount to cover his ex-

¹⁸ Whereas Furmark told the Board that he introduced Ghorbanifar to Khashoggi in January 1985. (Furmark 5). George Cave who had been stationed in Tehran before the overthrow of the Shah and who had been responsible for terminating the CIA's relationship with Ghorbanifar in 1983, told the Board that, contrary to reports he had seen, Ghorbanifar had known Khashoggi for years. (Cave 44)

penses and provide a return to financiers who invested with him. (*Id.* at 81, 8)

Possibly in anticipation of this transaction, on August 27, 1985, the Central Bank of Iran (Bank Markazi) deposited \$1,217,410 in the account of an Iranian official at Credit Suisse. This individual, an official in the Prime Minister's office, was responsible for arms procurement in Europe. On September 18, four days after the first successful shipment of TOWs, \$5 million was deposited in the Iranian's account. On September 14, Ghorbanifar informed the holder of the Credit Suisse account that an aircraft would arrive at Tabriz that evening, and asked that a man on the plane be given a cheque and a list of weapons desired by Iran.

V. United States Involvement Takes a New Form: October 1985-January 1986

The United States formally adopted a program to transfer advanced weapons to Iran in January 1986. That step culminated a process formed by, among other things, operations by various government bureaucracies and individuals, and the unending pressure created by the kidnappings in Lebanon, including hopes that just one more effort would bring the hostages home. Each individual, including the President, had his own perspective of the political and strategic significance of what he knew. These perspectives and pressures shaped the process of Presidential decision and the ultimate decision itself.

A. Prelude to the Israeli Shipment of Hawk Missiles

According to Ledeen, North became obviously involved in operations connected with American hostages and relations with Iran at the time of the first Israeli shipment of TOWs. "[H]e was handling all the various intelligence operations that had been started to track this thing, and it was all coming through him."¹⁹

¹⁹ Ledeen told the Board that McFarlane did not tell him that North was to be more involved. Ledeen (1) 51. Bernard M. Mahon, Staff Director of the Senate Select Committee on Intelligence, said that Ledeen testified that North told him in September 1985 that McFarlane has told me I'm supposed to now handle all the operational aspects of this and McFarlane has no knowledge. A. that Ledeen is doing anything, much less that North has taken over what he is doing." (B. McMahon 10)

(Ledeen (1) 51) On the other hand, North's office "was highly compartmentalized. [Ledeen] did not, until I was instructed by Bud to do so, I never told Ollie [North] what was going on, and Ollie never discussed what he was doing with me." (*Id.* at 57)

Ledeen's account of the September-October 1985 period is sketchy. For example, he told the Board that he introduced North and Schwimmer when Ghorbanifar, Schwimmer, and Nimrodi came to Washington in late October or early November. (*Id.* at 50) According to North's calendar, North had meetings on September 26 with Ledeen at 11:00 a.m. and Schwimmer at 11:30 a.m. On October 6, North asked the CIA to arrange for surveillance of Ghorbanifar and Nimrodi, whom he expected in Washington on the 7th. Such surveillance was put in place, and, on October 8, Ledeen, North, Nimrodi, Schwimmer, and one "Nicholas Kralis" (a Ghorbanifar alias) met at 9:00 a.m. in the Old Executive Office Building. (North calendar)

On October 1, 1985, Israel's air force bombed the PLO headquarters in Tunis, and on October 4, according to NSC staff chronologies prepared in November 1986, the Islamic Jihad announced the execution of Buckley in retaliation for the bombing.²⁰ The NSC staff chronologies state that "[t]his announcement led to a series of meetings in Europe among the U.S. (CIA and NSC), Israeli, and Iranian intermediaries." (Maximum Version 4; Historical Chronology 6) On October 7 the Italian ship *Achille Lauro* was hijacked by Palestinian terrorists.

Ledeen met Ghorbanifar, Kimche, Nimrodi (who was fluent in Farsi), and Schwimmer in September and October in Europe. (Ledeen (1) 46) In at least one such meeting, Ghorbanifar expressed the view that the arms and hostage matters, which engaged Schwimmer and Nimrodi particularly, should be dropped, and the prospective Iranian-American political relationship should be the focus of their energies. "[Ghorbanifar] said if we continue we shall become hostages to the hostages." (*Id.* at 47)

²⁰ According to both the Maximum Version and the Historical Chronology this announcement was false. Iranians with whom CIA and NSC staff personnel met in the following months, and Jenco and Jacobsen, two hostages released later, reported that Buckley probably died on June 3, 1985, of "pneumonia-like symptoms." (Maximum Version 5, Historical Chronology 6)

In his second interview, Ledeen told the Board that, in October, he told Schwimmer:

if this kind of contact is going to continue it may be necessary at a certain point to have an account where there can be something for expenses for this person or persons like him. We may need an account for such things.

And he said fine. I will do that. And he then opened an account at Credit Suisse and gave me the account number for this thing. I had no privileges on it. I couldn't sign for it. But he gave me the number. He said if at any point people want to put money in this, this is the thing which we have established for this purpose, if it would be necessary at a later date.

I gave that number to Ollie [North].

• • •

I have no knowledge of that account ever being used for anything. I don't know of any money that ever went into it. But I recalled this when I was reading a newspaper story the other day which suggested that Ollie had inherited a structure of bank accounts in which there was already something there, into which money could flow, or through which money could flow, or something like that, and that reminded me that, hey, I remember that day they created that account.

(Ledeen (2) 41-42)

Ledeen reported these conversations to McFarlane and, in late October or early November 1985, when Ghorbanifar, Nimrodi, and Schwimmer came to Washington, he "urged that the hostage matter be dropped, and he [McFarlane] was in agreement with that." (*Id.* at 50)

So about a week afterwards I reported on this meeting to Bud, and I said again to him that I thought we should shut down the hostage matter and pursue the political business. He said that no, he was inclined to shut down the whole thing, that he had a bad feeling about the whole matter. He didn't like it. . . . I appealed to him not to stop the whole thing but just to stop the

hostage side of it. And he said, well, he would get back to me, and so off I went.

McFarlane told the Board in his second interview that Ledeen's memory was accurate.

As I speculated earlier, I was surprised by the move from 100 to at least 400 and by the release of only one. The President was pleased by the release of one and/or the continuation of the relationship. But that seemed to me a very clear evidence of bad faith, and I said so to Mr. Kimche, probably because I met with Mr. Ledeen, although I don't know that, but I made it very clear, and I think he's testified to the fact that I had a "bad feeling" about this program in October. And he expressed that, too, to the Israelis.

• • •

Chairman Tower: Bud, do you remember any comment from the President after Weir was released? He made some rather critical comments of the Administration and of the President, characterizing Weir as being somewhat ungrateful for the efforts that were being made.

Mr. McFarlane: I don't recall that. I think it is very plausible to me that he would have been dismayed by the turn of events.

Mr. Dawson: Before we tie in this authorization to December let me not leave September for just one second and try to turn the authorization question, present it somewhat differently.

In the July, August and September time, in discussions that you had with the President did he ever exhibit any reluctance, opposition or disapproval or make any attempts to repudiate in your presence the transfer of arms by Israel to Iran?

Mr. McFarlane: No, he did not.

(McFarlane (2) 34-35)

After McFarlane gave his view of the August/September TOW shipment to Ledeen, the arms transfers to Iran took on a new dimension. The first Ledeen said he heard of it came in what he described as a "bizarre" call from Ghorbanifar. It was related, I [Ledeen]

subsequently figured out, to the question of this shipment of additional weapons and

Ghorbanifar called with a message from the Iranian Prime Minister to the President and asked me if I would transmit this.

It was a message that said, grosso modo, we have been very patient with you people. We have behaved honorably with you people. We have done everything that we said we would have done, and now you are cheating us and making fun of us and so forth, and would you please do what you said you were going to do.

(Ledeen (1) 51-53) McFarlane being in Geneva with the President for the first Summit Meeting with General Secretary Gorbachev, Ledeen passed this message to Poindexter. It was Ledeen's "first and last" contact with Poindexter on this matter. Poindexter said "I was going to be taken off this matter, that people with more technical understanding or expertise were going to be" on it. (Id. at 53-54)

McFarlane told the Board that the episode mentioned by Ghorbanifar to Ledeen "was the first time that a U.S. government agency became involved in this matter, and it was the CIA." (McFarlane (1) 22) "[R]ight before I left for Geneva [for the Summit with Ghorbanifar]", Mr. Farlane told the Board in his second interview, Israel Defense Minister Rabin saw McFarlane in Washington. "I believe that his [Rabin's] purpose in coming was simply to reconfirm that the President's authority for the original concept was still valid. We haven't changed our mind and I reconfirmed that that was the case. I don't recall that he said anything about any concrete intention in the short term to do anything else." (McFarlane (2) 36) While he was in Geneva, Rabin called on an open line from New York to request assistance for a problem involving a transfer. McFarlane then called Poindexter and North and asked them to find out what the problem was. (McFarlane (1) 23) About a week earlier, on November 14, McFarlane had told the Director of Central Intelligence and John McMahon, his Deputy, "that Kimche was planning or had indicated that the Israelis planned to give some arms to moderates in Iran that would oppose Khomeini."²¹ (J. McMahon 5) At that time,

²¹ According to North's office calendar, North, McFarlane, and Kimche met on November 9, 1985.

North was in London meeting Terry Waite and, separately, Ghorbanifar. (American Embassy, London, to North, 11/12/85; NSC Chronology of Events, dated 11/20/86)

Secretary Shultz testified before Congress and told the Board that McFarlane told him on November 18, 1985, in Geneva,

that four hostages would be released on Thursday (November 21). He said that Israel would fly a plane with 100 Hawk missiles to [a third country], and transfer them to another aircraft. If the hostages were released, the airplane would fly to Iran; if not, it would fly to Israel. Israel would buy replacements for these missiles from the U.S., and would be paid by Iran. I complained to Mr. McFarlane that I had been informed so late that it was impossible to stop this operation. I nonetheless expressed my hope that the hostages would in fact be released.

(Shultz, 12/86, 13; 1/87, 23-24; SRB, 27-28)

B. The Shipment of HAWKS: November 1985²²

By letter dated November 19, 1985, which North signed with his own name "for" McFarlane, Secord was asked to play a role.

²² The Maximum Version and Historical Chronologies provide different accounts of the origins of the November 1985 HAWK shipment. According to the Maximum Version:

In late November 1985, the Israelis, responding to urgent entreaties from the Iranians, provided 18 basic HAWK missiles to Iran in order to improve the static defenses around Tehran. The Israeli delivery of HAWK missiles raised U.S. concerns that we could well be creating misunderstandings in Tehran and thereby jeopardizing our objective of arranging a direct meeting with high-level Iranian officials. These missiles were subsequently returned to Israel in February 1986, with U.S. assistance.

(Maximum Version 5)

The Historical Chronology states:

In mid-November, the Israelis, through a senior officer in the Foreign Minister's office (Kimche), indicated that the Government of Israel was convinced that they were nearing a breakthrough with Iran on a high-level dialogue. The Israeli contacted a U.S. official (North) and asked for the name of a European based airline which could discreetly transit to Iran for the purpose of delivering passengers and cargo. He specifically noted that neither a U.S. carrier nor an Israeli affiliated carrier could be used. We were assured, at the time, that the Israelis were going to "try oil drilling spare parts as an incentive," since we had expressed so much displeasure over the earlier TOW shipment. The name of [a CIA proprietary airline] was passed to the Israeli, who subsequently had the aircraft chartered through normal commercial contract for a flight from Tel Aviv to Tabriz, Iran, on November 25,

Your discrete [sic?] assistance is again required in support of our national interest. At the earliest opportunity, please proceed to [a third country transit point], and other locations as necessary in order to arrange for the transfer of sensitive materiel being shipped from Israel.

As in the past, you should exercise great caution that this activity does not become public knowledge. You should ensure that only those whose discretion is guaranteed are involved.

(McFarlane per North to Secord, 11/19/85)

The Board has obtained a number of operational reports sent by North to Poindexter by the Blank Check private interoffice computer communication channel Poindexter had established on August 31. At about 9:30 p.m. on November 20, North wrote Poindexter:

The Israelis will deliver 80 Mod[ified] HAWKS to [a third country] at noon on Friday 22 Nov. These 80 will be loaded aboard three chartered aircraft, owned by a proprietary which will take off at two hour intervals for Tabriz. . . . Appropriate arrangements have been made with the proper [country name deleted] air control personnel. Once the aircraft have been launched, their departure will be confirmed by Agshari [Ghorbanifar] who will call [his contact in Tehran] who will call Niknam (DCM in Damascus) who will direct the IRG [Iranian Revolutionary Guard] commander in Beirut to collect the five rpt five Amcits from Hizballah and deliver them to the U.S. Embassy. There is also the possibility that they will hand over the French hostage who is very ill.

There is a requirement for 40 additional weapons of the same nomenclature for a total requirement of 120. \$18M in payment for the first 80 has been deposited in the appropriate account. No acft will land in Tabriz until the AMCITS have been delivered to the embassy. The Iranians have

1985. The Israelis were unwitting of the CIA's involvement in the airline and the airline was paid at the normal commercial charter rate (approximately \$127,700). The airline personnel [sic] were also unwitting of the cargo they carried. (Historical Chronology 6)

also asked to order additional items in the future and have been told that they will be considered after this activity has succeeded. All transfer arrangements have been made by Dick Secord, who deserves a medal for his extraordinary short notice efforts.

Replenishment arrangements are being made through MOD [Ministry of Defense] purchasing office in NYC. There is, to say the least, considerable anxiety that we will somehow delay on their plan to purchase 120 of these weapons in the next few days. LAW [In accordance with] your instructions I have told their agent that we will sell them 120 items at a price they can meet. I have further told them that we will make no effort to move on their purchase LOA request until we have all five AMCITS safely delivered. In short, the pressure is on them.

• • •

As soon as we have the release confirmed, we need to move quickly with Defense to provide the 120 missiles the Israelis want to buy. They are very concerned that they are degrading their defense capability, and in view of the Syrian shoot-down yesterday the PM has placed considerable pressure on both Rabin and Kimche for very prompt replacement. Both called several times today.

There is the distinct possibility that at the end of the week we will have five Americans home and the promise of no future hostage takings in exchange for selling the Israelis 120 Mod HAWKS. Despite the difficulty of making all this fit inside a 96-hour window, it isn't that bad a deal. . . . Warm regards. Recommend pass to RCM [McFarlane] after review. North.

(North PROF note to Poindexter, 11/20/85, 21:27:39) The remainder of the note concerned details about sending "a covert hostage debrief team to Wiesbaden." (Id.)

In the morning of November 21, North reported to Poindexter a call from Secord. The transit country's Defense Minister had assured Secord that the Prime Minister "had approved the xfer activity for Friday and that the FoMin is aware and supportive." As they were en

route to Brussels, North suggested that McFarlane discreetly thank them for their help. (North PROF note to Poindexter, 11/21/85, 09:18:36. "Please pass to RCM as avail.") The operation began to unravel later that day.

Duane Clarridge, in 1985, Chief of the European Division of CIA's Directorate of Operations, told the Board that he first became involved during the evening of November 21. North called him for help in obtaining an overflight clearance for an El Al 747. On the 22nd, Clarridge used CIA communications channels to help obtain the clearance. He had the impression that North was already "in touch with [the foreign] government at some level." (Clarridge 3) At this time, Charles Allen showed Clarridge reports indicating that the flight was part of an operation aimed at the liberation of hostages, but the CIA was permitted to reveal only that the flight had a humanitarian purpose. Clarridge informed the U.S. official trying to obtain flight clearance that he should be in touch with a man named "Copp", whom Clarridge was told was an alias for Secord. Despite the CIA's efforts, landing rights were denied. As a result, North asked for the name of a reliable charter airline. Given the shortage of time and the circumstances, CIA's air branch suggested the use of a proprietary. The proprietary was told to await a call; Clarridge suspects the caller was to be Copp. In any event, the airline was assured that the caller would have sufficient funds for the charter. (Id. at 2-6)

When the issue of a CIA proprietary airline was raised, Clarridge said, he became concerned about the propriety of CIA action. He asked Edward Juchniewicz, acting Deputy Director of Operations, whether he would approve the operation. He did. (Id. at 4-5) According to the CIA Inspector General, Juchniewicz remembered Clarridge alerting him that

North needed an aircraft to transport some unspecified material to Israel, and that North might call him about it. Juchniewicz remembers receiving a call at home that night from North, who said he understood that the Agency had an aircraft and asked whether it would be possible to charter it. Juchniewicz says he told North that the proprietary was a commercial venture and thus available for charter by anyone. He is

certain that he did not give North the name of the proprietary, believing North already to be in possession of that information. Juchniewicz says he did not authorize the use of the proprietary to anyone, but acknowledges that his response could have been interpreted as approval. (A CIA officer involved] recalls contacting Juchniewicz on or before the morning of 25 November to confirm that the project had been approved, and being given assurances that it had.)

(CIA/IG Chronology 7)

One of North's contemporaneous messages to Poindexter supports part of Clarridge's account. In the middle of the afternoon, November 22, North wrote that landing clearance still had not been obtained. "Despite the difficulties of the past 24 hours, all continue to believe that if RCM can get thru to the PM or FOMIN, that this can be done." (North PROF note to Poindexter, 11/22/85, 19:27:15 ("Status Report as of 1730")) North was considering three choices for continuing the operation: (1) chartering a new airline to pick up the cargo in Tel Aviv; (2) flying the three chartered aircraft to Tel Aviv, where the cargo would be loaded and the flight resumed; or (3) flying the three chartered aircraft to Tel Aviv, loading the cargo, and proceeding directly to Iran "w/o filing until airborne. . . ." (Id.) Everybody involved "(including Kimche)" believed the first option to be the best. North wrote that "Kimche urges that solution be found to matter this weekend to protect hostages and those who will deliver them." (Id.)

At 6:10 p.m., North had more news for Poindexter. McFarlane had contacted the Foreign Minister at 5:30; he agreed to permit an Israeli aircraft to land. In addition, North reported on the CIA's efforts:

Dewey [Clarridge] has arranged for a proprietary to work for Secord (Copp). Copp will charter two 707s in the name of LAKE Resources (our Swiss Co.) and have them p/u [pick up] the cargo and deliver it. . . . [T]he cargo will be xfered to the three Israeli chartered DC-8/55s for the flight to [T]el Aviv. Though I am sure Copp suspects, he does not know that the 707s belong to a proprietary. Clarridge deserves a medal—so does Copp.

Kimche (DK) has been told how screwed up his people are in planning something like this on such short notice. Not only was the 747 they planned to use a national airlines a/c [aircraft], but they only had it chartered for 14hrs. We have now taken charge of that phase of the operation . . . to ensure flight clearance for the three DC-8s chartered by DK's boys. If all goes as we now hope, the cargo will be [at the staging area] by noon (local) and enroute [sic] to T shortly after dark. That means we can expect handovers (hopefully) Saturday night.

(Id. ("UPDATE AS OF 1810"))

North's optimism was a hope. He wrote Poindexter at 7:00 p.m. that Schwimmer had just reported that he had released the DC-8s, despite a call from North to Kimche to keep them on call. "Schwimmer released them to save \$ and now does not think that they can be re-chartered before Monday." (Id. ("UPDATE AS OF 1900")) Secord kept the operation alive. He suggested using

one of our LAKE Resources A/C which was . . . to p/u a load of ammo for UNO. He will have the a/c repainted tonight and put into service nlt [no later than] noon Sat so that we can at least get this thing moving. So help me I have never seen anything so screwed up in my life. Will meet w/ Calero tonite to advise that the ammo will be several days late in arriving. Too bad, this was to be our first direct flight to the resistance field . . . inside Nicaragua. The ammo was already palletized w/ parachutes attached. Maybe we can do it on Weds or Thurs.

More as it becomes available. One hell of an operation.

(Id. ("UPDATE AS OF 1920"))²⁵

Regan recalled that the President had been informed on the margins of his briefings for the Gorbachev meeting to expect that

²⁵ On November 26, McFarlane wrote North that he was "inclined to think that we should bring this operation into the NSC and take Mike [Ledeck] out of it but will await John's [Poindexter] thoughts. No further communications to Mike on this until I have thought it through. Just tell him that I am thinking about it." (McFarlane PROF note to North, 11/26/85, 12:57:29)

there is going to be a shipment of arms coming through [a third country] missiles, transhipped through Israel into Iran, and the hostages will come out.

(Regan 14-15)

C. North's Plan to Free the Hostages

On December 4, in a long note to Poin-dexter, North reconstructed the story of the November shipment based on conversations with the participants, conveyed his view of the Iranian-Israeli-American situation at that time, and proposed a plan of action for the future.

The attempted transfer through [a third country] of 18 Hawk missiles went awry because the Iranians were in fact seeking a weapons system that would be capable of stopping Soviet reconnaissance flights along the Iranian/Soviet border and on the Iranian/Iraqi border.²⁴ Gorba [Ghorbani-far] rptd that these flights occur regularly and as deep as 40mi inside Iranian air-space. Because Schwimmer and Ledeen were unfamiliar with the operational parameters of the HAWK, they agreed to ship 120 weapons that were totally inadequate to meet the reqmts established by the Iranians. This delivery has created an atmosphere of extraordinary distrust on the part of the Iranians; [sic] in Kimche's view, because the credibility of the Gorba/[Iranian] mission has probably seriously been called into question.

Despite this perception (Gorba said numerous times that this whole thing was a "cheating game" on the part of the Israelis),²⁵ Copp & Kimche have been able to proceed with a renewed dialogue which still promises hope for achieving our three objectives:

—support for a pragmatic—army oriented faction which could take over in a change of government

²⁴ Secretary Shultz testified that, on December 6, Poundexter told him that the transfer "misfired" when Iran had rejected the shipment as "too old—1979 markings" (Shultz, 12/86, 13, 1/87, 26)

²⁵ Ghorbanifar told the Board that this fiasco caused him to explode with rage and anxiety at what he and Ledeen agreed was an example of Israeli incompetence. (Ghorbanifar 117-21)

—return of the five AMCIT hostages

—no more terrorism directed against U.S. personnel or interests.

From these ongoing discussions, which in two cases included Iranian military officers, Copp and Kimche conclude that the military situation in Iran is desperate. The Iranian descriptions of the state of their equipment, lack of competent management, inability to use much of the remaining U.S. materiel portends the real possibility of a military collapse (at least by the Army) in the near to mid-term. Thus, there is considerable pressure on the interlocutors in Europe to produce—quickly.

Given the relatively low level of competence on the part of the Iranians in Europe, and the fact that any supplies delivered will undoubtedly have to be examined by an Army or Air Force officer, it is very doubtful that a "single transaction" arrangement can be worked out with the parties in Tehran, no matter what is agreed to in Europe. In short, they have been "scammed" so many times in the past that the attitude of distrust is very high on their part. At the same time, in all discussions (including today's phone calls) they are desperate to conclude some kind of arrangement in the next 10 days and have even asked that the meeting scheduled for Saturday in London be advanced. Based on what we can conclude from intelligence in Beirut, we believe that they are very concerned that the hostages (the only Iranian leverage point besides the Jews in Iran) may be killed or captured/released by the Syrians, Druze, Phalange or Amal in the near future. Waite's contacts with the captors seems [sic] to corroborate this assessment. In short, time is very short for all parties concerned.

Finally, there is the matter of the longer term strategy for what we should be attempting to accomplish viz a viz [sic] the Iran-Iraq war and a more reasonable government in Iran. From my personal discussions with Kimche and Meron²⁶ it is ap-

²⁶ At this time, Major General Menachem Meron was Director General of the Israeli Ministry of Defense.

parent the [sic] the Israelis want: the war to continue at a stalemate, a more moderate Iranian government in the end and will somehow find a way to continue getting their people (Jews) out of Iran through some kind of barter arrangement. In that the first two of their goals are, it would seem, generally congruent w/ our interests, and their last a fact of life, we should probably be seeing the return of the AMCIT hostages as a subsidiary benefit—not the primary objective, though it may be a part of the necessary first steps in achieving the broader objectives. While Kimche, Meron, Copp and I all agree that there is a high degree of risk in pursuing the course we have started, we are now so far down the road that stopping what has been started could have even more serious repercussions. We all view the next steps as "confidence building" on the part of both sides. None of us have [sic] any illusions about the cast of characters we are dealing with on the other side. They are a primitive, unsophisticated group who are extraordinarily distrustful of the West in general and the Israelis/U.S. in particular. They have not the slightest idea of what is going on in our government or how our system works. Today for example, Gorba called Copp in absolute confusion over the fact that Rafsanjani had just received a letter from (of all people) Sen. Helms regarding the American Hostages. Since the Iranians are adamant that they not be publicly connected with the seizure, holding or release of the AMCITS, why, Gorba wanted to know, was Helms being brought into this "solution to the puzzle." Gorba reiterated that "[Vice President Bush] ought to have more control over the members of his parliament [sic]" than to allow them to confuse an already difficult problem. Dick told him the letter had nothing to do with what we are about, but Gorba did not seem convinced that this wasn't some sort of effort to embarrass Iran.

Given this very unsophisticated view of things on their part and the distrust that the Iranians obviously feel, we believe that if we stop the current effort at this point and do not at least proceed with a "test" of the current relationship we:

—run the risk of never being able to establish a "foothold" for the longer term goals in that the people we are dealing with will be totally discredited at home; and

—incur the greater likelihood of reprisals against us for "leading them on." These reprisals could take the form of additional hostage seizures, execution of some/all of those now held, or both.

While the threat to carry out sanctions against us has not, to my knowledge, ever arisen (it certainly has not since Kimche/Copp/North have been directly engaged—and Michael never mentioned it), it is interesting to note that when Copp questioned the bona fides of Gorba and his cohorts as capable of delivering on their end of the arrangement, Gorba carefully noted that since these discussions began w/ Michael & Schwimmer, there has not been a single Islamic Jihad bomb threat, hijacking or kidnapping—and that there would be none if this "worked." D.K., Copp and I regard this to be at least one sign of confidence that this activity may yet prosper. There are some lesser indications of confidence in recent days:

—in response to Copp's demand for funds to be deposited in advance to defray operational costs, and what the Iranians were told were "purchases on the arms market" a total of \$41M has been deposited;

—the 18 HAWKS delivered last week have been repackaged and are ready for return to origin on the next available flight;

—the parties in Europe continue to stress that their requirements are long-term and that they are anxious to get on with a longer range program of Israeli originated support which would include technical assistance w/ sophisticated hardware which is critically needed but deadlined (in this regard Gorba at one point noted that at times they have as few as 50 operational

tanks and less than a dozen flyable aircraft).

With all of the above as a lengthy preamble describing two nearly frantic weeks w/ the Israelis & Iranians, the following proposal has evolved which the Iranians today said they wd like to discuss in detail on Saturday:

—The total "package" from the Israelis wd consist of 50 I HAWKs w/ PIP (product improvement package) and 3300 basic TOWs.

—Deliveries wd commence on or about 12 December as follows:

H-hr: 1 707 w/300 TOWs=1 AMCIT

H+10hrs: 1 707 (same A/C) w/300 TOWs=1 AMCIT

H+16hrs: 1 747 w/50 HAWKs & 400 TOWs=2 AMCITs

H+20hrs: 1 707 w/300 TOWs=1 AMCIT

H+24hrs: 1 747 w/2000 TOWs=French Hostage

All involved on our side recognize that this does not meet one of the basic criteria established at the opening of this venture: a single transaction which would be preceded by a release of the hostages. However, given the points above regarding the mutual distrust in the dialogue, we all believe it is about the only way we get the overall process moving. Measures have been taken to reduce the chance for duplicity on the part of the Iranians and to preserve a measure of OPSEC in carrying out the transaction. In the case of a double cross, one of the Iranians will be in the hands of assets we control throughout. One of them . . . has already suffered a serious (though apparently not fatal) heart attack after last week's HAWK transaction failed to produce results. The first two deliveries, via 707 freighters are relatively small and if they do not produce the desired outcomes, all else stops. All \$ are now under our control.

OpSEC concerns are threefold: communications, deliveries enroute to Iran and re-

plenishment of Israeli stocks. To solve the first problem an OPs Code is now in use by all parties. This code is similar to the one used to oversee deliveries to the Nicaraguan Resistance and has never been compromised. The delivery/flight planning security problem has been solved by a much more deliberate selection of aircraft and aircrews as well as a series of transient airfields which can be used enroute to the field controlled by the Iranian Army at Tabriz. Appropriate arrangements have also been made to ensure that the overflight . . . is not challenged. All A/C will be inspected by one of the Iranians at a transient location between Tel Aviv and Tabriz. Before the A/C actually crosses into Iranian airspace, the appropriate release(s) must occur. The last OPSEC concern, that of replenishing Israeli stocks is probably the most delicate issue. The quantity of TOWs requested represents [a significant proportion of] the Israeli PWR [prepositioned war reserves] Meron and I are working w/ the Israeli purchasing office in NYC to ensure that the replenishment can be accomplished [as] quickly after December 12 as possible. All recognize that quantities such as those being discussed degrade Israeli readiness and that the items will need to be dispatched quickly in order to preclude disaffection and leaks. Meron has solved at least one of the problems in this regard by identifying a means of transferring the required cash to an IDF account which will allow cash (rather than FMS credit) purchases from the U.S.

In order to put this plan into action, Kimche, Copp, Schwimmer and Goode [North] plan to meet in London on Saturday morning to review all arrangements. If we are satisfied that all our assets (money, aircraft, aircrews, transit facilities, overflight arrangements and military equipment) are prepared, Copp and Kimche will meet at another hotel with Gorba and [an Iranian diplomat] to finalize the plan. Our side will then reconvene later in the evening at our hotel to review any last minute changes. I wd then call you (using the Ops code), transmit the agreed upon

arrangements for approval and, if you concur, Kimche & Copp will meet again w/ the Iranians on Sunday a.m. to express our agreement with the plan. Copp & Goode wd return to the U.S. Sunday p.m. on separate flights. On the 11th, the day before the plan is to be executed, Copp will establish a CP [command post] . . . where he can monitor implementation and stop it at any point we desire. The secondary fields . . . will be covered by Copp controlled assets who are not witting of the true origin, destination or contents of the A/C but who can "fix" things in a hurry if something goes wrong. . . .

Once in hand, the hostages will be flown to Larnaca on our Navy HH-53 where they will be picked up by a EUCOM C-141 and flown to Wiesbaden for debriefing. The debrief team will be staged at Wiesbaden 12 hours in advance, just as we did two weeks ago without notariety [sic]. Dewey [Claridge] is the only other person fully witting of this. . . . The Israelis are in the same position. Dewey and I have been through the whole concept twice looking for holes and can find little that can be done to improve it given the "trust factor" with the Iranians. In that all parties involved have great interest in keeping this as quiet as possible, . . . we believe [sic] it to be worth the risk. I have not confided in Dewey re the longer term goals we could/should hope to achieve. Thus, the only parties fully aware of all dimensions of what we are about are you and RCM [McFarlane].

I have given careful consideration to what you suggested re an RCM meeting with the Iranians in an effort to obtain release of the hostages before starting on an effort to undo the present regime [sic] in Tehran. Like you and Bud, I find the idea of bartering over the lives of these poor men repugnant. Nonetheless, I believe that we are, at this point, barring unforeseen [sic] developments in London or Tel Aviv, too far along with the Iranians to risk turning back now. If we do not at least make one more try at this point, we stand a good chance of condemning some or all to death and a renewed wave of Islamic Jihad ter-

rorism. While the risks of proceeding are significant, the risks of not trying one last time are even greater.

(North PROF note to Poindexter, 12/04/85, 02:02:55)

D. The President and His Advisors

In his first meeting with the Board on January 16, 1987, the President said he did not remember how the November shipment came about. The President said he objected to the shipment, and that, as a result of that objection, the shipment was returned to Israel. In his second meeting with the Board on February 11, 1987, the President stated that both he and Regan agreed that they cannot remember any meeting or conversation in general about a HAWK shipment. The President said he did not remember anything about a call-back of the HAWKs.

The Secretary of State testified:

November 21—the supposed release date—passed with no release.

On November 22, I was told by my staff that the release had slipped again, allegedly to get airspace clearance . . . Also on that day, however, Ambassador Oakley—as these things happen, word kind of drifts around and your stuff, which you don't know whether it is right or wrong—Ambassador Oakley reported to us that he had heard from various sources that the hostages would be released that afternoon, in exchange for 120 HAWKS at \$250,000 each—worth \$30 million in all.

By this time we were back in Washington.

At a discussion in my presence on that day, [Mr. Michael Armacost] stated: "I don't like it. It's terrible."

I indicated my own apprehension. Deputy Secretary Whitehead noted: "We all feel uncomfortable." I replied: "Bud says he's cleared with the President." I regarded it as a \$30 million weapons payoff.

On November 23, we heard again that no hostages were out, that the project had collapsed. I said, "It's over."