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The President has seen
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FG034
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THE WHITE HOUSE
WASHINGTON

November 14, 1988

ACTION

MEMORANDUM FOR THE PRESIDENT

THROUGH: WHITE HOUSE EXECUTIVE CLERK *dup*

FROM: COLIN L. POWELL *CP*

SUBJECT: Semiannual Report to Congress on Iran

Issue

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

Facts

The law requires that you submit a report to Congress every six months on the Iranian emergency, which was declared on November 14, 1979. Your last report on this subject was submitted June 1988.

Discussion

The Treasury Department, supported by State and Justice, recommends that you sign the report at Tab A. It is a comprehensive summary of the work of the Iran-U.S. Claims Tribunal and our import ban against Iranian goods over the last six months.

Recommendation

OK No That you sign the report at Tab A.

RR _____

Attachments

- Tab A Report to Congress
- Tab B Letter from Treasury
- Tab C Copy of June 1988 Report

cc Vice President
Chief of Staff (2)

See enclosed letters for disposition

THE WHITE HOUSE

WASHINGTON, D.C.

MEMORANDUM FOR THE PRESIDENT

DATE: [illegible]

TO: [illegible]

FROM: [illegible]

606192

TAB

A

THE WHITE HOUSE

WASHINGTON

November 15, 1988

Dear Mr. Speaker:

This report with respect to Iran is made pursuant to Section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and Section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9. This report discusses only matters concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979, and matters relating to Executive Order No. 12613 of October 29, 1987. This report covers events through October 1, 1988, including those that occurred since my last report under Executive Order No. 12170 dated June 7, 1988. That report covered events through April 30, 1988.

1. On October 29, 1987, after prior consultation with the Congress, I issued Executive Order No. 12613, invoking, inter alia, the authority of the International Security and Development Cooperation Act of 1985 to prohibit the importation of goods and services from Iran. The Executive Order and my report noted that the import prohibition was in response to actions of the Government of Iran taken after the conclusion of the Claims Settlement Agreement of January 19, 1981 (the "Algiers Accords").

Pursuant to Executive Order No. 12613, the Secretary of the Treasury, in consultation with the Secretary of State, issued the Iranian Transactions Regulations, 31 C.F.R. Part 560 (the "ITRs"), administered by the Office of Foreign Assets Control ("FAC") on November 13, 1987. Since issuance of the ITRs, FAC has answered over 435 licensing-related requests made pursuant to the ITRs. Currently, the major focus of licensing activity for FAC relates to the importation of certain non-fungible Iranian-origin goods, principally carpets, which were located outside Iran before the embargo was imposed, and where no payment or benefit accrued to Iran after the effective date of the embargo.

Numerous Customs Service detentions and seizures of Iranian-origin goods (including carpets, caviar, dates, pistachios, and gold) have taken place, and a number of FAC and Customs investigations into potential violations of the ITRs are pending. Several of the seizures have led to forfeiture actions and imposition of civil monetary penalties.

Delivered to the Speaker of the House: 11/15/88 (4:38P)

*NOTED
JWS*

2. The Iran-United States Claims Tribunal (the "Tribunal"), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered 30 awards, for a total of 390 awards. Of that total, 284 have been awards in favor of American claimants: 170 of these were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties, and 114 were decisions adjudicated on the merits. The Tribunal has dismissed a total of 25 other claims on the merits and 54 for jurisdictional reasons. Of the 27 remaining awards, two represent withdrawals and 25 were in favor of Iranian claimants. As of September 30, 1988, total payments to successful American claimants from the Security Account held by the NV Settlement Bank stood at approximately \$1.073 billion.

To date, the Security Account has fallen below the required balance of \$500 million 20 times. Each time, Iran has replenished the account, as required by the Algiers Accords, by transferring funds from the separate account held by the NV Settlement Bank in which interest on the Security Account is deposited. Iran has also replenished the account once when it was not required by the Accords, for a total of 21 replenishments. The most recent replenishment occurred on September 21, 1988, in the amount of \$250,000, bringing the total in the Security Account to \$500,222,351. The aggregate amount that has been transferred from the interest account to the Security Account is approximately \$573 million.

In June 1988, two arbitrators submitted letters of resignation: Professor Karl-Heinz Bockstiegel, the President of the Tribunal and Chairman of Chamber One; and Professor Michel Andre Virally, Chairman of Chamber Three. Professor Bockstiegel's resignation will take effect not later than December 15, 1988; Professor Virally intends to resign as of December 31, 1988. Since the arbitrators appointed by Iran and the United States had not yet agreed on replacements by September 8, 1988, on that date the United States requested that the former Netherlands Supreme Court Chief Judge Charles M.J.A. Moons, the appointing authority for the Tribunal, designate the two replacements. As of September 30, 1988, Judge Moons had not yet named his selections, and the party-appointed arbitrators were also continuing their attempt to agree on replacements.

3. As stated in my last report, the Tribunal continues to make progress in the arbitration of claims of U.S. nationals for \$250,000 or more. Over 66 percent of the nonbank claims have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 178 such claims on the docket. The largest of the large claims, the progress of which has been slowed by their complexity, are finally being decided,

sometimes with sizable damage awards to the U.S. claimant. Since the last report, eight large claims have been decided. One U.S. company received an award for \$18 million.

4. The Tribunal continues to process claims of U.S. nationals against Iran of less than \$250,000 each. As of September 30, 1988, a total of 280 small claims have been resolved, 70 of them since my last report, as a result of decisions on the merits, awards on agreed terms, or Tribunal orders. Two contested claims have been decided since my previous report, raising the total number of contested claims decided to 23, 14 of which favored the American claimant. These decisions will help in establishing guidelines for the adjudication or settlement of similar small claims. To date, American claimants have also received 46 awards on agreed terms reflecting settlements of claims under \$250,000.

Since my last report, the three Tribunal Chambers have selected 82 small claims for active arbitration, bringing the total number of small claims currently under active Tribunal consideration to 214. The Tribunal's small claims docket will be maintained at approximately 225 active cases. This represents a significantly increased commitment of Tribunal resources to small claims.

5. In coordination with concerned Government agencies, the Department of State continues to present United States Government claims against Iran, as well as responses by the United States Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in nine government-to-government claims, while three claims have been settled; of these, one settlement resulted in a payment of \$18.85 million to the Commodity Credit Corporation of the U.S. Department of Agriculture.

On June 16, 1988, the Tribunal dismissed Iran's claim in Case No. B/1, Claim 5 for damages for allegedly defective helicopters sold by the United States to Iran under the Foreign Military Sales Program. The Tribunal found that the United States could not be found liable for breach of warranty or any other contractual obligation or latent defect.

On August 31, 1988, the Tribunal issued a partial award in Case No. B/1, Claim 4. The Tribunal held that the United States has no obligation under the Algiers Accords to return to Iran certain Iranian-titled military equipment, as the Algiers Accords make the return to Iranian property subject to U.S. law, and return of the property at issue was barred by the Arms Export Control Act. The Tribunal found that Iran is entitled to the monetary value of the equipment, which is to be determined in subsequent proceedings.

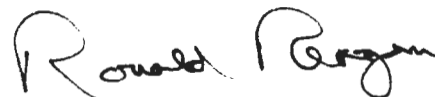
On August 5, 1988, Iran filed a new interpretive dispute, Case No. A/24, asking the Tribunal to hold that it is inconsistent with the Accords for U.S. courts to consider an expropriation claim against Iran when, Iran alleges, the Tribunal had previously considered the same claim and concluded that the expropriation had not occurred within the Tribunal's jurisdictional deadline, January 19, 1981.

6. Since my last report, two bank syndicates have completed negotiations with Bank Markazi Jomhuri Islami Iran ("Bank Markazi," Iran's central bank) and have been paid a total of \$812,649 for interest accruing for the period January 1-18, 1981 ("January Interest"). These payments were made from Dollar Account No. 1 at the Federal Reserve Bank of New York ("FRBNY"). Moreover, under the April 13, 1988, agreement between the FRBNY and Bank Markazi, the FRBNY transferred \$311,895 to Bank Markazi. That transfer represents the excess of amounts reserved in Dollar Account No. 1 to pay off each bank syndicate with a claim for January Interest against Bank Markazi.

7. Since my last report, there have been no amendments to the Iranian Assets Control Regulations, 31 C.F.R. Part 535, administered by FAC. There have been no amendments to the Iranian Transactions Regulations, 31 C.F.R. Part 560, since their publication on November 17, 1987.

8. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States properly to implement the Algiers Accords. Similarly, the Iranian Transactions Regulations issued pursuant to Executive Order No. 12613 continue to advance important objectives in combatting international terrorism. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

Sincerely,



The Honorable Jim Wright
Speaker of the
House of Representatives
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

November 15, 1988

Dear Mr. President:

This report with respect to Iran is made pursuant to Section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and Section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9. This report discusses only matters concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979, and matters relating to Executive Order No. 12613 of October 29, 1987. This report covers events through October 1, 1988, including those that occurred since my last report under Executive Order No. 12170 dated June 7, 1988. That report covered events through April 30, 1988.

1. On October 29, 1987, after prior consultation with the Congress, I issued Executive Order No. 12613, invoking, inter alia, the authority of the International Security and Development Cooperation Act of 1985 to prohibit the importation of goods and services from Iran. The Executive Order and my report noted that the import prohibition was in response to actions of the Government of Iran taken after the conclusion of the Claims Settlement Agreement of January 19, 1981 (the "Algiers Accords").

Pursuant to Executive Order No. 12613, the Secretary of the Treasury, in consultation with the Secretary of State, issued the Iranian Transactions Regulations, 31 C.F.R. Part 560 (the "ITRs"), administered by the Office of Foreign Assets Control ("FAC") on November 13, 1987. Since issuance of the ITRs, FAC has answered over 435 licensing-related requests made pursuant to the ITRs. Currently, the major focus of licensing activity for FAC relates to the importation of certain non-fungible Iranian-origin goods, principally carpets, which were located outside Iran before the embargo was imposed, and where no payment or benefit accrued to Iran after the effective date of the embargo.

Numerous Customs Service detentions and seizures of Iranian-origin goods (including carpets, caviar, dates, pistachios, and gold) have taken place, and a number of FAC and Customs investigations into potential violations of the ITRs are pending. Several of the seizures have led to forfeiture actions and imposition of civil monetary penalties.

Delivered to the President of the Senate: 11/15/88 (7:36p)

*NOTED
dwp*

2. The Iran-United States Claims Tribunal (the "Tribunal"), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered 30 awards, for a total of 390 awards. Of that total, 284 have been awards in favor of American claimants: 170 of these were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties, and 114 were decisions adjudicated on the merits. The Tribunal has dismissed a total of 25 other claims on the merits and 54 for jurisdictional reasons. Of the 27 remaining awards, two represent withdrawals and 25 were in favor of Iranian claimants. As of September 30, 1988, total payments to successful American claimants from the Security Account held by the NV Settlement Bank stood at approximately \$1.073 billion.

To date, the Security Account has fallen below the required balance of \$500 million 20 times. Each time, Iran has replenished the account, as required by the Algiers Accords, by transferring funds from the separate account held by the NV Settlement Bank in which interest on the Security Account is deposited. Iran has also replenished the account once when it was not required by the Accords, for a total of 21 replenishments. The most recent replenishment occurred on September 21, 1988, in the amount of \$250,000, bringing the total in the Security Account to \$500,222,351. The aggregate amount that has been transferred from the interest account to the Security Account is approximately \$573 million.

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3. As stated in my last report, the Tribunal continues to make progress in the arbitration of claims of U.S. nationals for \$250,000 or more. Over 66 percent of the nonbank claims have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 178 such claims on the docket. The largest of the large claims, the progress of which has been slowed by their complexity, are finally being decided,

sometimes with sizable damage awards to the U.S. claimant. Since the last report, eight large claims have been decided. One U.S. company received an award for \$18 million.

4. The Tribunal continues to process claims of U.S. nationals against Iran of less than \$250,000 each. As of September 30, 1988, a total of 280 small claims have been resolved, 70 of them since my last report, as a result of decisions on the merits, awards on agreed terms, or Tribunal orders. Two contested claims have been decided since my previous report, raising the total number of contested claims decided to 23, 14 of which favored the American claimant. These decisions will help in establishing guidelines for the adjudication or settlement of similar small claims. To date, American claimants have also received 46 awards on agreed terms reflecting settlements of claims under \$250,000.

Since my last report, the three Tribunal Chambers have selected 82 small claims for active arbitration, bringing the total number of small claims currently under active Tribunal consideration to 214. The Tribunal's small claims docket will be maintained at approximately 225 active cases. This represents a significantly increased commitment of Tribunal resources to small claims.

5. In coordination with concerned Government agencies, the Department of State continues to present United States Government claims against Iran, as well as responses by the United States Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in nine government-to-government claims, while three claims have been settled; of these, one settlement resulted in a payment of \$18.85 million to the Commodity Credit Corporation of the U.S. Department of Agriculture.

On June 16, 1988, the Tribunal dismissed Iran's claim in Case No. B/1, Claim 5 for damages for allegedly defective helicopters sold by the United States to Iran under the Foreign Military Sales Program. The Tribunal found that the United States could not be found liable for breach of warranty or any other contractual obligation or latent defect.

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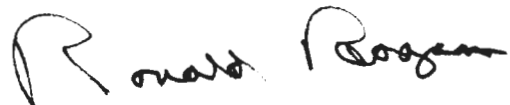
On August 5, 1988, Iran filed a new interpretive dispute, Case No. A/24, asking the Tribunal to hold that it is inconsistent with the Accords for U.S. courts to consider an expropriation claim against Iran when, Iran alleges, the Tribunal had previously considered the same claim and concluded that the expropriation had not occurred within the Tribunal's jurisdictional deadline, January 19, 1981.

6. Since my last report, two bank syndicates have completed negotiations with Bank Markazi Jomhuri Islami Iran ("Bank Markazi," Iran's central bank) and have been paid a total of \$812,649 for interest accruing for the period January 1-18, 1981 ("January Interest"). These payments were made from Dollar Account No. 1 at the Federal Reserve Bank of New York ("FRBNY"). Moreover, under the April 13, 1988, agreement between the FRBNY and Bank Markazi, the FRBNY transferred \$311,895 to Bank Markazi. That transfer represents the excess of amounts reserved in Dollar Account No. 1 to pay off each bank syndicate with a claim for January Interest against Bank Markazi.

7. Since my last report, there have been no amendments to the Iranian Assets Control Regulations, 31 C.F.R. Part 535, administered by FAC. There have been no amendments to the Iranian Transactions Regulations, 31 C.F.R. Part 560, since their publication on November 17, 1987.

8. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States properly to implement the Algiers Accords. Similarly, the Iranian Transactions Regulations issued pursuant to Executive Order No. 12613 continue to advance important objectives in combatting international terrorism. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

Sincerely,



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

TAB

B



THE SECRETARY OF THE TREASURY
WASHINGTON

November 10, 1988

8012

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

Dear Mr. President:

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

Enclosed is a proposed report covering events under the Iranian emergency declaration and the 1987 Iranian import embargo order during the period from April 30, 1988, through October 1, 1988. The proposed report indicates in its initial paragraph that it is not intended to report on all activities regarding Iran. The current report is due November 14, 1988.

Your last report to Congress on Iran under the International Emergency Economic Powers Act, dated June 7, 1988, is also enclosed for your reference.

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

Respectfully,

Nicholas F. Brady

Enclosures

88 NOV 10 P 1: 51

TAB

C

Message to the Congress Reporting on the National Emergency With Respect to Iran

June 7, 1988

To the Congress of the United States:

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

1. On October 29, 1987, after prior consultation with the Congress, I issued Executive Order No. 12613 invoking, *inter alia*, the authority of the International Security and Development Cooperation Act of 1985 to prohibit the importation of goods and services from Iran. As reported to the Congress on that date, this action was taken in response to the actions and policies of the Government of Iran in support of terrorism and acts of aggression against U.S. forces, U.S.-flag vessels, and other merchant vessels of nonbelligerent nations engaged in lawful and peaceful commerce in international waters of the Persian Gulf and territorial waters of nonbelligerent nations of that region. The Executive Order and my report noted that the import prohibition was in response to actions of the Government of Iran taken after the conclusion of the Claims Settlement Agreement of January 19, 1981 (the "Algiers Accords").

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

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

In the period ended April 30, 1988, FAC issued 74 specific licenses for imports of goods under preexisting contracts and 94 specific licenses for goods located outside Iran on the effective date of the Embargo Order. We believe that nearly all goods eligible for importation pursuant to the "in transit" exception were admitted within this reporting period.

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

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

To date, the Security Account has fallen below the required balance of \$500 million 11 times. Each time, Iran has replenished the account, as required by the Algiers Accords, by transferring funds from the separate account held by the NV Settlement Bank in which interest on the Security Account is deposited. Iran has also replenished the account once when it was not required by the Accords, for a total of 12 replenishments. The most recent replenishment occurred on April 20, 1988, in the amount of \$500,000, bringing the total in the Security Account to \$500,367,792. The aggregate amount that has been transferred from the interest account to the Security Account is approximately \$549.5 million.

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

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

4. The Tribunal continues to process claims of U.S. nationals against Iran of less than \$250,000 each. As of April 30, 1988, a total of 210 small claims have been resolved, 71 of them since my last report, as a result of decisions on the merits, awards on agreed terms, or Tribunal orders. Eight contested claims have been decided since my previous report, raising the total number of contested claims decided to 21, 12 of which favored the American claimant. These decisions will help in establishing guidelines for the adjudication or settlement of similar claims. To date, American claimants have also received 25 awards on agreed terms reflecting settlements of claims under \$250,000.

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

5. In coordination with concerned government agencies, the Department of State continues to present U.S. Government claims against Iran, as well as responses by the United States Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in 12 government-to-government claims based on contracts for the provision of goods and services.

In five related government-to-government claims, the Tribunal awarded damages to Iran Air for aircraft services and supplies it found to be owed by U.S. agencies. With these decisions, the Tribunal to date has made five awards in favor of the United States and nine in favor of Iran. The Tribunal has dismissed 12 claims that had been filed by the United States and three

claims that had been filed by Iran. In addition, Iran has withdrawn 13 of its government-to-government claims, while the United States has withdrawn five. No government-to-government claims have been finally settled since my last report, so 26 remain pending.

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

6. Since my last report, three bank syndicates have completed negotiations with Bank Markazi Jomhouri Islami Iran ("Bank Markazi," Iran's central bank) and have been paid a total of \$691,912.40 for interest accruing for the period January 1-18, 1981 ("January Interest"). These payments were made from Dollar Account No. 2 at the Bank of England.

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

7. Since my last report, there has been one amendment to the Iranian Assets Control Regulations, 31 C.F.R. Part 535 (the "Regulations"), administered by the Office of Foreign Assets Control. On January 26, 1988, FAC established administrative procedures for the imposition of civil monetary penalties for violation of the Regulations, as provided in section 206 of the International Emergency Economic Powers Act, 50

U.S.C. 1705. 53 *Fed. Reg.* 7355 (March 8, 1988). A copy of these amendments to the Regulations is attached. The new prepenalty and penalty procedures do not alter substantive obligations imposed by the Regulations.

There have been no amendments to the Iranian Transactions Regulations since their publication on November 17, 1987.

8. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States properly to implement the Algiers Accords. Similarly, the Iranian Transactions Regulations issued pursuant to Executive Order No. 12613 continue to advance important objectives in combatting international terrorism. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

Ronald Reagan

The White House,
June 7, 1988.

TO THE CONGRESS OF THE UNITED STATES:

This report with respect to Iran is made pursuant to Section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and Section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9. This report discusses only matters concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979, and matters relating to Executive Order No. 12613 of October 29, 1987. This report covers events through October 1, 1988, including those that occurred since my last report under Executive Order No. 12170 dated June 7, 1988. That report covered events through April 30, 1988.

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Pursuant to Executive Order No. 12613, the Secretary of the Treasury, in consultation with the Secretary of State, issued the Iranian Transactions Regulations, 31 C.F.R. Part 560 (the "ITRs"), administered by the Office of Foreign Assets Control ("FAC") on November 13, 1987. Since issuance of the ITRs, FAC

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Numerous Customs Service detentions and seizures of Iranian-origin goods (including carpets, caviar, dates, pistachios, and gold) have taken place, and a number of FAC and Customs investigations into potential violations of the ITRs are pending. Several of the seizures have led to forfeiture actions and imposition of civil monetary penalties.

2. The Iran-United States Claims Tribunal (the "Tribunal"), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered 30 awards, for a total of 390 awards. Of that total, 284 have been awards in favor of American claimants: 170 of these were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties, and 114 were decisions adjudicated on the merits. The Tribunal has dismissed a total of 25 other claims on the merits, and 54 for jurisdictional reasons. Of the 27 remaining awards, two represent withdrawals and 25 were in favor of Iranian claimants. As of September 30, 1988, total

payments to successful American claimants from the Security Account held by the NV Settlement Bank stood at approximately \$1.073 billion.

To date, the Security Account has fallen below the required balance of \$500 million 20 times. Each time, Iran has replenished the account, as required by the Algiers Accords, by transferring funds from the separate account held by the NV Settlement Bank in which interest on the Security Account is deposited. Iran has also replenished the account once when it was not required by the Accords, for a total of 21 replenishments. The most recent replenishment occurred on September 21, 1988, in the amount of \$250,000, bringing the total in the Security Account to \$500,222,351. The aggregate amount that has been transferred from the interest account to the Security Account is approximately \$573 million.

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consideration to 214. The Tribunal's small claims docket will be maintained at approximately 225 active cases. This represents a significantly increased commitment of Tribunal resources to small claims.

5. In coordination with concerned government agencies, the Department of State continues to present United States Government claims against Iran, as well as responses by the United States Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in nine government-to-government claims, while three claims have been settled; of these, one settlement resulted in a payment of \$18.85 million to the Commodity Credit Corporation of the U.S. Department of Agriculture.

On June 16, 1988, the Tribunal dismissed Iran's claim in Case No. B/1, Claim 5 for damages for allegedly defective helicopters sold by the United States to Iran under the Foreign Military Sales Program. The Tribunal found that the United States could not be found liable for breach of warranty or any other contractual obligation or latent defect.

On August 31, 1988, the Tribunal issued a partial award in Case No. B/1, Claim 4. The Tribunal held that the United States has no obligation under the Algiers Accords to return to Iran certain Iranian-titled military equipment, as the Algiers Accords make the return of Iranian property subject to United States law, and return of the property at issue was barred by the Arms Export Control Act. The Tribunal found that Iran is entitled to the monetary value of the equipment, which is to be determined in subsequent proceedings.

On August 5, 1988, Iran filed a new interpretive dispute, Case No. A/24, asking the Tribunal to hold that it is inconsistent with the Accords for United States courts to consider an expropriation claim against Iran, when, Iran alleges, the Tribunal had previously considered the same claim and concluded that the expropriation had not occurred within the Tribunal's jurisdictional deadline, January 19, 1981.

6. Since my last report, two bank syndicates have completed negotiations with Bank Markazi Jomhuri Islami Iran ("Bank Markazi," Iran's central bank) and have been paid a total of \$812,649 for interest accruing for the period January 1-18, 1981 ("January Interest"). These payments were made from Dollar Account No. 1 at the Federal Reserve Bank of New York ("FRBNY"). Moreover, under the April 13, 1988 agreement between the FRBNY and Bank Markazi, the FRBNY transferred \$311,895 to Bank Markazi. That transfer represents the excess of amounts reserved in Dollar Account No. 1 to pay off each bank syndicate with a claim for January Interest against Bank Markazi.

7. Since my last report, there have been no amendments to the Iranian Assets Control Regulations, 31 C.F.R. Part 535, administered by FAC. There have been no amendments to the Iranian Transactions Regulations, 31 C.F.R. Part 560, since their publication on November 17, 1987.

8. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals, and presents an unusual challenge to the national security and foreign policy of the

United States. The Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States properly to implement the Algiers Accords. Similarly, the Iranian Transactions Regulations issued pursuant to Executive Order No. 12613 continue to advance important objectives in combatting international terrorism. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

Ronald Reagan

The White House,
November __, 1988.

LETTERS TO THE SPEAKER/PRES. OF THE SENATE:
~~TO THE CONGRESS OF THE UNITED STATES.~~

This report with respect to Iran is made pursuant to Section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and Section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9. This report discusses only matters concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979, and matters relating to Executive Order No. 12613 of October 29, 1987. This report covers events through October 1, 1988, including those that occurred since my last report under Executive Order No. 12170 dated June 7, 1988. That report covered events through April 30, 1988.

1. On October 29, 1987, after prior consultation with the Congress, I issued Executive Order No. 12613, invoking, inter alia, the authority of the International Security and Development Cooperation Act of 1985 to prohibit the importation of goods and services from Iran. The Executive Order and my report noted that the import prohibition was in response to actions of the Government of Iran taken after the conclusion of the Claims Settlement Agreement of January 19, 1981 (the "Algiers Accords").

Pursuant to Executive Order No. 12613, the Secretary of the Treasury, in consultation with the Secretary of State, issued the Iranian Transactions Regulations, 31 C.F.R. Part 560 (the "ITRs"), administered by the Office of Foreign Assets Control ("FAC") on November 13, 1987. Since issuance of the ITRs, FAC

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has answered over 435 licensing-related requests made pursuant to the ITRs. Currently, the major focus of licensing activity for FAC relates to the importation of certain non-fungible Iranian-origin goods, principally carpets, which were located outside Iran before the embargo was imposed, and where no payment or benefit accrued to Iran after the effective date of the embargo.

Numerous Customs Service detentions and seizures of Iranian-origin goods (including carpets, caviar, dates, pistachios, and gold) have taken place, and a number of FAC and Customs investigations into potential violations of the ITRs are pending. Several of the seizures have led to forfeiture actions and imposition of civil monetary penalties.

2. The Iran-United States Claims Tribunal (the "Tribunal"), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered 30 awards, for a total of 390 awards. Of that total, 284 have been awards in favor of American claimants: 170 of these were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties, and 114 were decisions adjudicated on the merits. The Tribunal has dismissed a total of 25 other claims on the merits, and 54 for jurisdictional reasons. Of the 27 remaining awards, two represent withdrawals and 25 were in favor of Iranian claimants. As of September 30, 1988, total

payments to successful American claimants from the Security Account held by the NV Settlement Bank stood at approximately \$1.073 billion.

To date, the Security Account has fallen below the required balance of \$500 million 20 times. Each time, Iran has replenished the account, as required by the Algiers Accords, by transferring funds from the separate account held by the NV Settlement Bank in which interest on the Security Account is deposited. Iran has also replenished the account once when it was not required by the Accords, for a total of 21 replenishments. The most recent replenishment occurred on September 21, 1988, in the amount of \$250,000, bringing the total in the Security Account to \$500,222,351. The aggregate amount that has been transferred from the interest account to the Security Account is approximately \$573 million.

In June 1988, two arbitrators submitted letters of resignation: Professor Karl-Heinz Bockstiegel, the President of the Tribunal and Chairman of Chamber One; and Professor Michel Andre Virally, Chairman of Chamber Three. Professor Bockstiegel's resignation will take effect not later than December 15, 1988; Professor Virally intends to resign as of December 31, 1988. Since the arbitrators appointed by Iran and the United States had not yet agreed on replacements by September 8, 1988, on that date the United States requested that the former Netherlands Supreme Court Chief Judge Charles M.J.A. Moons, the appointing authority for the Tribunal, designate the two replacements. As of September 30, 1988, Judge Moons had not

yet named his selections, and the party-appointed arbitrators were also continuing their attempt to agree on replacements.

3. As stated in my last report, the Tribunal continues to make progress in the arbitration of claims of U.S. nationals for \$250,000 or more. Over 66 percent of the nonbank claims have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 178 such claims on the docket. The largest of the large claims, the progress of which has been slowed by their complexity, are finally being decided, sometimes with sizable damage awards to the U.S. claimant. Since the last report, eight large claims have been decided. One U.S. company received an award for \$18 million.

4. The Tribunal continues to process claims of U.S. nationals against Iran of less than \$250,000 each. As of September 30, 1988, a total of 280 small claims have been resolved, 70 of them since my last report, as a result of decisions on the merits, awards on agreed terms, or Tribunal orders. Two contested claims have been decided since my previous report, raising the total number of contested claims decided to 23, 14 of which favored the American claimant. These decisions will help in establishing guidelines for the adjudication or settlement of similar small claims. To date, American claimants have also received 46 awards on agreed terms reflecting settlements of claims under \$250,000.

Since my last report, the three Tribunal Chambers have selected 82 small claims for active arbitration, bringing the total number of small claims currently under active Tribunal

consideration to 214. The Tribunal's small claims docket will be maintained at approximately 225 active cases. This represents a significantly increased commitment of Tribunal resources to small claims.

5. In coordination with concerned government agencies, the Department of State continues to present United States Government claims against Iran, as well as responses by the United States Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in nine government-to-government claims, while three claims have been settled; of these, one settlement resulted in a payment of \$18.85 million to the Commodity Credit Corporation of the U.S. Department of Agriculture.

On June 16, 1988, the Tribunal dismissed Iran's claim in Case No. B/1, Claim 5 for damages for allegedly defective helicopters sold by the United States to Iran under the Foreign Military Sales Program. The Tribunal found that the United States could not be found liable for breach of warranty or any other contractual obligation or latent defect.

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On August 5, 1988, Iran filed a new interpretive dispute, Case No. A/24, asking the Tribunal to hold that it is inconsistent with the Accords for United States ^{U.S.} courts to consider an expropriation claim against Iran, when, Iran alleges, the Tribunal had previously considered the same claim and concluded that the expropriation had not occurred within the Tribunal's jurisdictional deadline, January 19, 1981.

6. Since my last report, two bank syndicates have completed negotiations with Bank Markazi Jomhuri Islami Iran ("Bank Markazi," Iran's central bank) and have been paid a total of \$812,649 for interest accruing for the period January 1-18, 1981 ("January Interest"). These payments were made from Dollar Account No. 1 at the Federal Reserve Bank of New York ("FRBNY"). Moreover, under the April 13, 1988 agreement between the FRBNY and Bank Markazi, the FRBNY transferred \$311,895 to Bank Markazi. That transfer represents the excess of amounts reserved in Dollar Account No. 1 to pay off each bank syndicate with a claim for January Interest against Bank Markazi.

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8. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals, and presents an unusual challenge to the national security and foreign policy of the

United States. The Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States properly to implement the Algiers Accords. Similarly, the Iranian Transactions Regulations issued pursuant to Executive Order No. 12613 continue to advance important objectives in combatting international terrorism. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

~~Ronald Reagan~~

~~The White House,~~

~~November 1, 1988.~~

THE WHITE HOUSE


WASHINGTON

ACTION

November 14, 1988

MEMORANDUM FOR THE PRESIDENT

THROUGH: WHITE HOUSE EXECUTIVE CLERK

FROM: COLIN L. POWELL 

SUBJECT: Semiannual Report to Congress on Iran

Issue

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

Facts

The law requires that you submit a report to Congress every six months on the Iranian emergency, which was declared on November 14, 1979. Your last report on this subject was submitted June 1988.

Discussion

The Treasury Department, supported by State and Justice, recommends that you sign the report at Tab A. It is a comprehensive summary of the work of the Iran-U.S. Claims Tribunal and our import ban against Iranian goods over the last six months.

Recommendation

OK No That you sign the report at Tab A.

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Attachments

Tab A Report to Congress

Tab B Letter from Treasury

Tab C Copy of June 1988 Report

cc Vice President
Chief of Staff (2)

~~LETTERS TO THE SPEAKER/PRES. OF THE SENATE:~~
~~TO THE CONGRESS OF THE UNITED STATES:~~

Final from this

This report with respect to Iran is made pursuant to Section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and Section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9. This report discusses only matters concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979, and matters relating to Executive Order No. 12613 of October 29, 1987. This report covers events through October 1, 1988, including those that occurred since my last report under Executive Order No. 12170 dated June 7, 1988. That report covered events through April 30, 1988.

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Pursuant to Executive Order No. 12613, the Secretary of the Treasury, in consultation with the Secretary of State, issued the Iranian Transactions Regulations, 31 C.F.R. Part 560 (the "ITRs"), administered by the Office of Foreign Assets Control ("FAC") on November 13, 1987. Since issuance of the ITRs, FAC

has answered over 435 licensing-related requests made pursuant to the ITRs. Currently, the major focus of licensing activity for FAC relates to the importation of certain non-fungible Iranian-origin goods, principally carpets, which were located outside Iran before the embargo was imposed, and where no payment or benefit accrued to Iran after the effective date of the embargo.

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payments to successful American claimants from the Security Account held by the NV Settlement Bank stood at approximately \$1.073 billion.

To date, the Security Account has fallen below the required balance of \$500 million 20 times. Each time, Iran has replenished the account, as required by the Algiers Accords, by transferring funds from the separate account held by the NV Settlement Bank in which interest on the Security Account is deposited. Iran has also replenished the account once when it was not required by the Accords, for a total of 21 replenishments. The most recent replenishment occurred on September 21, 1988, in the amount of \$250,000, bringing the total in the Security Account to \$500,222,351. The aggregate amount that has been transferred from the interest account to the Security Account is approximately \$573 million.

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yet named his selections, and the party-appointed arbitrators were also continuing their attempt to agree on replacements.

3. As stated in my last report, the Tribunal continues to make progress in the arbitration of claims of U.S. nationals for \$250,000 or more. Over 66 percent of the nonbank claims have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 178 such claims on the docket. The largest of the large claims, the progress of which has been slowed by their complexity, are finally being decided, sometimes with sizable damage awards to the U.S. claimant. Since the last report, eight large claims have been decided. One U.S. company received an award for \$18 million.

4. The Tribunal continues to process claims of U.S. nationals against Iran of less than \$250,000 each. As of September 30, 1988, a total of 280 small claims have been resolved, 70 of them since my last report, as a result of decisions on the merits, awards on agreed terms, or Tribunal orders. Two contested claims have been decided since my previous report, raising the total number of contested claims decided to 23, 14 of which favored the American claimant. These decisions will help in establishing guidelines for the adjudication or settlement of similar small claims. To date, American claimants have also received 46 awards on agreed terms reflecting settlements of claims under \$250,000.

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United States. The Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States properly to implement the Algiers Accords. Similarly, the Iranian Transactions Regulations issued pursuant to Executive Order No. 12613 continue to advance important objectives in combatting international terrorism. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

~~Ronald Reagan~~

~~The White House,~~

~~November __, 1988.~~



THE SECRETARY OF THE TREASURY
WASHINGTON

November 10, 1988

8012

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

Dear Mr. President:

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

Enclosed is a proposed report covering events under the Iranian emergency declaration and the 1987 Iranian import embargo order during the period from April 30, 1988, through October 1, 1988. The proposed report indicates in its initial paragraph that it is not intended to report on all activities regarding Iran. The current report is due November 14, 1988.

Your last report to Congress on Iran under the International Emergency Economic Powers Act, dated June 7, 1988, is also enclosed for your reference.

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

Respectfully,

Nicholas F. Brady

Enclosures

Message to the Congress Reporting on the National Emergency With Respect to Iran

June 7, 1988

To the Congress of the United States:

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

1. On October 29, 1987, after prior consultation with the Congress, I issued Executive Order No. 12613 invoking, *inter alia*, the authority of the International Security and Development Cooperation Act of 1985 to prohibit the importation of goods and services from Iran. As reported to the Congress on that date, this action was taken in response to the actions and policies of the Government of Iran in support of terrorism and acts of aggression against U.S. forces, U.S.-flag vessels, and other merchant vessels of nonbelligerent nations engaged in lawful and peaceful commerce in international waters of the Persian Gulf and territorial waters of nonbelligerent nations of that region. The Executive Order and my report noted that the import prohibition was in response to actions of the Government of Iran taken after the conclusion of the Claims Settlement Agreement of January 19, 1981 (the "Algiers Accords").

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

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

In the period ended April 30, 1988, FAC issued 74 specific licenses for imports of goods under preexisting contracts and 94 specific licenses for goods located outside Iran on the effective date of the Embargo Order. We believe that nearly all goods eligible for importation pursuant to the "in transit" exception were admitted within this reporting period.

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

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

To date, the Security Account has fallen below the required balance of \$500 million 11 times. Each time, Iran has replenished the account, as required by the Algiers Accords, by transferring funds from the separate account held by the NV Settlement Bank in which interest on the Security Account is deposited. Iran has also replenished the account once when it was not required by the Accords, for a total of 12 replenishments. The most recent replenishment occurred on April 20, 1988, in the amount of \$500,000, bringing the total in the Security Account to \$500,367,792. The aggregate amount that has been transferred from the interest account to the Security Account is approximately \$549.5 million.

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

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

4. The Tribunal continues to process claims of U.S. nationals against Iran of less than \$250,000 each. As of April 30, 1988, a total of 210 small claims have been resolved, 71 of them since my last report, as a result of decisions on the merits, awards on agreed terms, or Tribunal orders. Eight contested claims have been decided since my previous report, raising the total number of contested claims decided to 21, 12 of which favored the American claimant. These decisions will help in establishing guidelines for the adjudication or settlement of similar claims. To date, American claimants have also received 25 awards on agreed terms reflecting settlements of claims under \$250,000.

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

5. In coordination with concerned government agencies, the Department of State continues to present U.S. Government claims against Iran, as well as responses by the United States Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in 12 government-to-government claims based on contracts for the provision of goods and services.

In five related government-to-government claims, the Tribunal awarded damages to Iran Air for aircraft services and supplies it found to be owed by U.S. agencies. With these decisions, the Tribunal to date has made five awards in favor of the United States and nine in favor of Iran. The Tribunal has dismissed 12 claims that had been filed by the United States and three

claims that had been filed by Iran. In addition, Iran has withdrawn 13 of its government-to-government claims, while the United States has withdrawn five. No government-to-government claims have been finally settled since my last report, so 26 remain pending.

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

6. Since my last report, three bank syndicates have completed negotiations with Bank Markazi Jomhouri Islami Iran ("Bank Markazi," Iran's central bank) and have been paid a total of \$691,912.40 for interest accruing for the period January 1-18, 1981 ("January Interest"). These payments were made from Dollar Account No. 2 at the Bank of England.

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

7. Since my last report, there has been one amendment to the Iranian Assets Control Regulations, 31 C.F.R. Part 535 (the "Regulations"), administered by the Office of Foreign Assets Control. On January 26, 1988, FAC established administrative procedures for the imposition of civil monetary penalties for violation of the Regulations, as provided in section 206 of the International Emergency Economic Powers Act, 50

U.S.C. 1705. 53 *Fed. Reg.* 7355 (March 8, 1988). A copy of these amendments to the Regulations is attached. The new prepenalty and penalty procedures do not alter substantive obligations imposed by the Regulations.

There have been no amendments to the Iranian Transactions Regulations since their publication on November 17, 1987.

8. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States properly to implement the Algiers Accords. Similarly, the Iranian Transactions Regulations issued pursuant to Executive Order No. 12613 continue to advance important objectives in combatting international terrorism. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

Ronald Reagan

The White House,
June 7, 1988.

THE WHITE HOUSE

WASHINGTON

Dear Mr. President:

This report with respect to Iran is made pursuant to Section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and Section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9. This report discusses only matters concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979, and matters relating to Executive Order No. 12613 of October 29, 1987. This report covers events through October 1, 1988, including those that occurred since my last report under Executive Order No. 12170 dated June 7, 1988. That report covered events through April 30, 1988.

1. On October 29, 1987, after prior consultation with the Congress, I issued Executive Order No. 12613, invoking, inter alia, the authority of the International Security and Development Cooperation Act of 1985 to prohibit the importation of goods and services from Iran. The Executive Order and my report noted that the import prohibition was in response to actions of the Government of Iran taken after the conclusion of the Claims Settlement Agreement of January 19, 1981 (the "Algiers Accords").

Pursuant to Executive Order No. 12613, the Secretary of the Treasury, in consultation with the Secretary of State, issued the Iranian Transactions Regulations, 31 C.F.R. Part 560 (the "ITRs"), administered by the Office of Foreign Assets Control ("FAC") on November 13, 1987. Since issuance of the ITRs, FAC has answered over 435 licensing-related requests made pursuant to the ITRs. Currently, the major focus of licensing activity for FAC relates to the importation of certain non-fungible Iranian-origin goods, principally carpets, which were located outside Iran before the embargo was imposed, and where no payment or benefit accrued to Iran after the effective date of the embargo.

Numerous Customs Service detentions and seizures of Iranian-origin goods (including carpets, caviar, dates, pistachios, and gold) have taken place, and a number of FAC and Customs investigations into potential violations of the ITRs are pending. Several of the seizures have led to forfeiture actions and imposition of civil monetary penalties.

2. The Iran-United States Claims Tribunal (the "Tribunal"), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered 30 awards, for a total of 390 awards. Of that total, 284 have been awards in favor of American claimants: 170 of these were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties, and 114 were decisions adjudicated on the merits. The Tribunal has dismissed a total of 25 other claims on the merits and 54 for jurisdictional reasons. Of the 27 remaining awards, two represent withdrawals and 25 were in favor of Iranian claimants. As of September 30, 1988, total payments to successful American claimants from the Security Account held by the NV Settlement Bank stood at approximately \$1.073 billion.

To date, the Security Account has fallen below the required balance of \$500 million 20 times. Each time, Iran has replenished the account, as required by the Algiers Accords, by transferring funds from the separate account held by the NV Settlement Bank in which interest on the Security Account is deposited. Iran has also replenished the account once when it was not required by the Accords, for a total of 21 replenishments. The most recent replenishment occurred on September 21, 1988, in the amount of \$250,000, bringing the total in the Security Account to \$500,222,351. The aggregate amount that has been transferred from the interest account to the Security Account is approximately \$573 million.

In June 1988, two arbitrators submitted letters of resignation: Professor Karl-Heinz Bockstiegel, the President of the Tribunal and Chairman of Chamber One; and Professor Michel Andre Virally, Chairman of Chamber Three. Professor Bockstiegel's resignation will take effect not later than December 15, 1988; Professor Virally intends to resign as of December 31, 1988. Since the arbitrators appointed by Iran and the United States had not yet agreed on replacements by September 8, 1988, on that date the United States requested that the former Netherlands Supreme Court Chief Judge Charles M.J.A. Moons, the appointing authority for the Tribunal, designate the two replacements. As of September 30, 1988, Judge Moons had not yet named his selections, and the party-appointed arbitrators were also continuing their attempt to agree on replacements.

3. As stated in my last report, the Tribunal continues to make progress in the arbitration of claims of U.S. nationals for \$250,000 or more. Over 66 percent of the nonbank claims have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 178 such claims on the docket. The largest of the large claims, the progress of which has been slowed by their complexity, are finally being decided,

sometimes with sizable damage awards to the U.S. claimant. Since the last report, eight large claims have been decided. One U.S. company received an award for \$18 million.

4. The Tribunal continues to process claims of U.S. nationals against Iran of less than \$250,000 each. As of September 30, 1988, a total of 280 small claims have been resolved, 70 of them since my last report, as a result of decisions on the merits, awards on agreed terms, or Tribunal orders. Two contested claims have been decided since my previous report, raising the total number of contested claims decided to 23, 14 of which favored the American claimant. These decisions will help in establishing guidelines for the adjudication or settlement of similar small claims. To date, American claimants have also received 46 awards on agreed terms reflecting settlements of claims under \$250,000.

Since my last report, the three Tribunal Chambers have selected 82 small claims for active arbitration, bringing the total number of small claims currently under active Tribunal consideration to 214. The Tribunal's small claims docket will be maintained at approximately 225 active cases. This represents a significantly increased commitment of Tribunal resources to small claims.

5. In coordination with concerned Government agencies, the Department of State continues to present United States Government claims against Iran, as well as responses by the United States Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in nine government-to-government claims, while three claims have been settled; of these, one settlement resulted in a payment of \$18.85 million to the Commodity Credit Corporation of the U.S. Department of Agriculture.

On June 16, 1988, the Tribunal dismissed Iran's claim in Case No. B/1, Claim 5 for damages for allegedly defective helicopters sold by the United States to Iran under the Foreign Military Sales Program. The Tribunal found that the United States could not be found liable for breach of warranty or any other contractual obligation or latent defect.

On August 31, 1988, the Tribunal issued a partial award in Case No. B/1, Claim 4. The Tribunal held that the United States has no obligation under the Algiers Accords to return to Iran certain Iranian-titled military equipment, as the Algiers Accords make the return to Iranian property subject to U.S. law, and return of the property at issue was barred by the Arms Export Control Act. The Tribunal found that Iran is entitled to the monetary value of the equipment, which is to be determined in subsequent proceedings.

On August 5, 1988, Iran filed a new interpretive dispute, Case No. A/24, asking the Tribunal to hold that it is inconsistent with the Accords for U.S. courts to consider an expropriation claim against Iran when, Iran alleges, the Tribunal had previously considered the same claim and concluded that the expropriation had not occurred within the Tribunal's jurisdictional deadline, January 19, 1981.

6. Since my last report, two bank syndicates have completed negotiations with Bank Markazi Jomhuri Islami Iran ("Bank Markazi," Iran's central bank) and have been paid a total of \$812,649 for interest accruing for the period January 1-18, 1981 ("January Interest"). These payments were made from Dollar Account No. 1 at the Federal Reserve Bank of New York ("FRBNY"). Moreover, under the April 13, 1988, agreement between the FRBNY and Bank Markazi, the FRBNY transferred \$311,895 to Bank Markazi. That transfer represents the excess of amounts reserved in Dollar Account No. 1 to pay off each bank syndicate with a claim for January Interest against Bank Markazi.

7. Since my last report, there have been no amendments to the Iranian Assets Control Regulations, 31 C.F.R. Part 535, administered by FAC. There have been no amendments to the Iranian Transactions Regulations, 31 C.F.R. Part 560, since their publication on November 17, 1987.

8. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States properly to implement the Algiers Accords. Similarly, the Iranian Transactions Regulations issued pursuant to Executive Order No. 12613 continue to advance important objectives in combatting international terrorism. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

Sincerely,

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

THE WHITE HOUSE

WASHINGTON

Dear Mr. Speaker:

This report with respect to Iran is made pursuant to Section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and Section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9. This report discusses only matters concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979, and matters relating to Executive Order No. 12613 of October 29, 1987. This report covers events through October 1, 1988, including those that occurred since my last report under Executive Order No. 12170 dated June 7, 1988. That report covered events through April 30, 1988.

1. On October 29, 1987, after prior consultation with the Congress, I issued Executive Order No. 12613, invoking, inter alia, the authority of the International Security and Development Cooperation Act of 1985 to prohibit the importation of goods and services from Iran. The Executive Order and my report noted that the import prohibition was in response to actions of the Government of Iran taken after the conclusion of the Claims Settlement Agreement of January 19, 1981 (the "Algiers Accords").

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Numerous Customs Service detentions and seizures of Iranian-origin goods (including carpets, caviar, dates, pistachios, and gold) have taken place, and a number of FAC and Customs investigations into potential violations of the ITRs are pending. Several of the seizures have led to forfeiture actions and imposition of civil monetary penalties.

2. The Iran-United States Claims Tribunal (the "Tribunal"), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered 30 awards, for a total of 390 awards. Of that total, 284 have been awards in favor of American claimants: 170 of these were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties, and 114 were decisions adjudicated on the merits. The Tribunal has dismissed a total of 25 other claims on the merits and 54 for jurisdictional reasons. Of the 27 remaining awards, two represent withdrawals and 25 were in favor of Iranian claimants. As of September 30, 1988, total payments to successful American claimants from the Security Account held by the NV Settlement Bank stood at approximately \$1.073 billion.

To date, the Security Account has fallen below the required balance of \$500 million 20 times. Each time, Iran has replenished the account, as required by the Algiers Accords, by transferring funds from the separate account held by the NV Settlement Bank in which interest on the Security Account is deposited. Iran has also replenished the account once when it was not required by the Accords, for a total of 21 replenishments. The most recent replenishment occurred on September 21, 1988, in the amount of \$250,000, bringing the total in the Security Account to \$500,222,351. The aggregate amount that has been transferred from the interest account to the Security Account is approximately \$573 million.

In June 1988, two arbitrators submitted letters of resignation: Professor Karl-Heinz Bockstiegel, the President of the Tribunal and Chairman of Chamber One; and Professor Michel Andre Virally, Chairman of Chamber Three. Professor Bockstiegel's resignation will take effect not later than December 15, 1988; Professor Virally intends to resign as of December 31, 1988. Since the arbitrators appointed by Iran and the United States had not yet agreed on replacements by September 8, 1988, on that date the United States requested that the former Netherlands Supreme Court Chief Judge Charles M.J.A. Moons, the appointing authority for the Tribunal, designate the two replacements. As of September 30, 1988, Judge Moons had not yet named his selections, and the party-appointed arbitrators were also continuing their attempt to agree on replacements.

3. As stated in my last report, the Tribunal continues to make progress in the arbitration of claims of U.S. nationals for \$250,000 or more. Over 66 percent of the nonbank claims have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 178 such claims on the docket. The largest of the large claims, the progress of which has been slowed by their complexity, are finally being decided,

sometimes with sizable damage awards to the U.S. claimant. Since the last report, eight large claims have been decided. One U.S. company received an award for \$18 million.

4. The Tribunal continues to process claims of U.S. nationals against Iran of less than \$250,000 each. As of September 30, 1988, a total of 280 small claims have been resolved, 70 of them since my last report, as a result of decisions on the merits, awards on agreed terms, or Tribunal orders. Two contested claims have been decided since my previous report, raising the total number of contested claims decided to 23, 14 of which favored the American claimant. These decisions will help in establishing guidelines for the adjudication or settlement of similar small claims. To date, American claimants have also received 46 awards on agreed terms reflecting settlements of claims under \$250,000.

Since my last report, the three Tribunal Chambers have selected 82 small claims for active arbitration, bringing the total number of small claims currently under active Tribunal consideration to 214. The Tribunal's small claims docket will be maintained at approximately 225 active cases. This represents a significantly increased commitment of Tribunal resources to small claims.

5. In coordination with concerned Government agencies, the Department of State continues to present United States Government claims against Iran, as well as responses by the United States Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in nine government-to-government claims, while three claims have been settled; of these, one settlement resulted in a payment of \$18.85 million to the Commodity Credit Corporation of the U.S. Department of Agriculture.

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Sincerely,

The Honorable Jim Wright
Speaker of the
House of Representatives
Washington, D.C. 20515

Office of the Executive Clerk Receipt

TO: The Honorable George Bush
President of the Senate

NOVEMBER 15, 1988
(Date)

Received From The White House: Letter from the President, dtd. 11/15/88, wherein
he transmits a periodic report w/respect to the Iran Emergency.

Delivered by _____ Received by JHE ac 1
Time Received 4:36

Office of the Executive Clerk Receipt

TO: The Honorable Jim Wright
Speaker of the House of Representatives

NOVEMBER 15, 1988
(Date)

Received From The White House: Letter from the President, dtd. 11/15/88, wherein
he transmits a periodic report w/respect to the Iran Emergency.

Delivered by _____ Received by J. J. J. J.
Time Received 4:38 pm

OFFICE OF THE EXECUTIVE CLERK
TRACKING SHEET FOR PRESIDENTIAL DOCUMENTS

TITLE: IRAN SEMI-ANNUAL REPORT

TYPE DOCUMENT:

PROCLAMATION

LETTER (S)

EXECUTIVE ORDER

MESSAGE TO THE CONGRESS/SENATE

MEMORANDUM

STATEMENT BY THE PRESIDENT

DECISION MEMORANDUM

SIGNING STATEMENT

OTHER:

RECEIVED: (Advance: / /88 Time: a.m./p.m.)
11/14/88 Time: 4:15 a.m./p.m.

SENT TO CORRESPONDENCE FOR TYPING IN FINAL:

(Advance: / /88 Time: a.m./p.m.)
Date: 11/14/88 Time: 4:40 a.m./p.m.

TO RHETT B. DAWSON'S OFFICE:

Date: 11/15/88 Time: 10:00 a.m./p.m.

INFO, INCLUDING STENCIL, TO PRESS OFFICE:

Date: 11/15/88 Time: 3:45 a.m./p.m.

POSTED: 11/15/88 Time: 4:25 a.m./p.m.

NOTIFICATIONS:

OK - Jenny Dewy (Mary Ann)

(initial) Each time a report or message is transmitted to the Congress, call Legis. Affairs ext. 2230.

OK - Eraine Dewy

(initial) N.S.C., when appropriate (Cathy Millison, Ext. 2224)

OK - Dewy

TREASURY - KATHERINE MAUN - 376-0442

OTHER INFORMATION:

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

November 15, 1988

TEXT OF A LETTER FROM
THE PRESIDENT TO THE SPEAKER OF
THE HOUSE OF REPRESENTATIVES AND THE
PRESIDENT OF THE SENATE

November 15, 1988

Dear Mr. Speaker: (Dear Mr. President:)

This report with respect to Iran is made pursuant to Section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and Section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9. This report discusses only matters concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979, and matters relating to Executive Order No. 12613 of October 29, 1987. This report covers events through October 1, 1988, including those that occurred since my last report under Executive Order No. 12170 dated June 7, 1988. That report covered events through April 30, 1988.

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(OVER)

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6. Since my last report, two bank syndicates have completed negotiations with Bank Markazi Jomhuri Islami Iran ("Bank Markazi," Iran's central bank) and have been paid a total of \$812,649 for interest accruing for the period January 1-18, 1981 ("January Interest"). These payments were made from Dollar Account No. 1 at the Federal Reserve Bank of New York ("FRBNY"). Moreover, under the April 13, 1988, agreement between the FRBNY and Bank Markazi, the FRBNY transferred \$311,895 to Bank Markazi. That transfer represents the excess of amounts reserved in Dollar Account No. 1 to pay off each bank syndicate with a claim for January Interest against Bank Markazi.

7. Since my last report, there have been no amendments to the Iranian Assets Control Regulations, 31 C.F.R. Part 535, administered by FAC. There have been no amendments to the Iranian Transactions Regulations, 31 C.F.R. Part 560, since their publication on November 17, 1987.

8. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the

more

(OVER)

United States. The Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States properly to implement the Algiers Accords. Similarly, the Iranian Transactions Regulations issued pursuant to Executive Order No. 12613 continue to advance important objectives in combatting international terrorism. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

Sincerely,

RONALD REAGAN

#

56



THE WHITE HOUSE
WASHINGTON

0071

ACTION

November 14, 1988

MEMORANDUM FOR THE PRESIDENT

THROUGH: WHITE HOUSE EXECUTIVE CLERK

President sgd per WH
Executive Clerk 11/15

FROM: COLIN L. POWELL 

SUBJECT: Semiannual Report to Congress on Iran

Issue

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

Facts

The law requires that you submit a report to Congress every six months on the Iranian emergency, which was declared on November 14, 1979. Your last report on this subject was submitted June 1988.

Discussion

The Treasury Department, supported by State and Justice, recommends that you sign the report at Tab A. It is a comprehensive summary of the work of the Iran-U.S. Claims Tribunal and our import ban against Iranian goods over the last six months.

Recommendation

OK No That you sign the report at Tab A.

Attachments

Tab A Report to Congress
Tab B Letter from Treasury
Tab C Copy of June 1988 Report

cc Vice President
Chief of Staff (2)

TO THE CONGRESS OF THE UNITED STATES:

This report with respect to Iran is made pursuant to Section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and Section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9. This report discusses only matters concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979, and matters relating to Executive Order No. 12613 of October 29, 1987. This report covers events through October 1, 1988, including those that occurred since my last report under Executive Order No. 12170 dated June 7, 1988. That report covered events through April 30, 1988.

1. On October 29, 1987, after prior consultation with the Congress, I issued Executive Order No. 12613, invoking, inter alia, the authority of the International Security and Development Cooperation Act of 1985 to prohibit the importation of goods and services from Iran. The Executive Order and my report noted that the import prohibition was in response to actions of the Government of Iran taken after the conclusion of the Claims Settlement Agreement of January 19, 1981 (the "Algiers Accords").

Pursuant to Executive Order No. 12613, the Secretary of the Treasury, in consultation with the Secretary of State, issued the Iranian Transactions Regulations, 31 C.F.R. Part 560 (the "ITRs"), administered by the Office of Foreign Assets Control ("FAC") on November 13, 1987. Since issuance of the ITRs, FAC

has answered over 435 licensing-related requests made pursuant to the ITRs. Currently, the major focus of licensing activity for FAC relates to the importation of certain non-fungible Iranian-origin goods, principally carpets, which were located outside Iran before the embargo was imposed, and where no payment or benefit accrued to Iran after the effective date of the embargo.

Numerous Customs Service detentions and seizures of Iranian-origin goods (including carpets, caviar, dates, pistachios, and gold) have taken place, and a number of FAC and Customs investigations into potential violations of the ITRs are pending. Several of the seizures have led to forfeiture actions and imposition of civil monetary penalties.

2. The Iran-United States Claims Tribunal (the "Tribunal"), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered 30 awards, for a total of 390 awards. Of that total, 284 have been awards in favor of American claimants: 170 of these were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties, and 114 were decisions adjudicated on the merits. The Tribunal has dismissed a total of 25 other claims on the merits, and 54 for jurisdictional reasons. Of the 27 remaining awards, two represent withdrawals and 25 were in favor of Iranian claimants. As of September 30, 1988, total

payments to successful American claimants from the Security Account held by the NV Settlement Bank stood at approximately \$1.073 billion.

To date, the Security Account has fallen below the required balance of \$500 million 20 times. Each time, Iran has replenished the account, as required by the Algiers Accords, by transferring funds from the separate account held by the NV Settlement Bank in which interest on the Security Account is deposited. Iran has also replenished the account once when it was not required by the Accords, for a total of 21 replenishments. The most recent replenishment occurred on September 21, 1988, in the amount of \$250,000, bringing the total in the Security Account to \$500,222,351. The aggregate amount that has been transferred from the interest account to the Security Account is approximately \$573 million.

In June 1988, two arbitrators submitted letters of resignation: Professor Karl-Heinz Bockstiegel, the President of the Tribunal and Chairman of Chamber One; and Professor Michel Andre Virally, Chairman of Chamber Three. Professor Bockstiegel's resignation will take effect not later than December 15, 1988; Professor Virally intends to resign as of December 31, 1988. Since the arbitrators appointed by Iran and the United States had not yet agreed on replacements by September 8, 1988, on that date the United States requested that the former Netherlands Supreme Court Chief Judge Charles M.J.A. Moons, the appointing authority for the Tribunal, designate the two replacements. As of September 30, 1988, Judge Moons had not

yet named his selections, and the party-appointed arbitrators were also continuing their attempt to agree on replacements.

3. As stated in my last report, the Tribunal continues to make progress in the arbitration of claims of U.S. nationals for \$250,000 or more. Over 66 percent of the nonbank claims have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 178 such claims on the docket. The largest of the large claims, the progress of which has been slowed by their complexity, are finally being decided, sometimes with sizable damage awards to the U.S. claimant. Since the last report, eight large claims have been decided. One U.S. company received an award for \$18 million.

4. The Tribunal continues to process claims of U.S. nationals against Iran of less than \$250,000 each. As of September 30, 1988, a total of 280 small claims have been resolved, 70 of them since my last report, as a result of decisions on the merits, awards on agreed terms, or Tribunal orders. Two contested claims have been decided since my previous report, raising the total number of contested claims decided to 23, 14 of which favored the American claimant. These decisions will help in establishing guidelines for the adjudication or settlement of similar small claims. To date, American claimants have also received 46 awards on agreed terms reflecting settlements of claims under \$250,000.

Since my last report, the three Tribunal Chambers have selected 82 small claims for active arbitration, bringing the total number of small claims currently under active Tribunal

consideration to 214. The Tribunal's small claims docket will be maintained at approximately 225 active cases. This represents a significantly increased commitment of Tribunal resources to small claims.

5. In coordination with concerned government agencies, the Department of State continues to present United States Government claims against Iran, as well as responses by the United States Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in nine government-to-government claims, while three claims have been settled; of these, one settlement resulted in a payment of \$18.85 million to the Commodity Credit Corporation of the U.S. Department of Agriculture.

On June 16, 1988, the Tribunal dismissed Iran's claim in Case No. B/1, Claim 5 for damages for allegedly defective helicopters sold by the United States to Iran under the Foreign Military Sales Program. The Tribunal found that the United States could not be found liable for breach of warranty or any other contractual obligation or latent defect.

On August 31, 1988, the Tribunal issued a partial award in Case No. B/1, Claim 4. The Tribunal held that the United States has no obligation under the Algiers Accords to return to Iran certain Iranian-titled military equipment, as the Algiers Accords make the return of Iranian property subject to United States law, and return of the property at issue was barred by the Arms Export Control Act. The Tribunal found that Iran is entitled to the monetary value of the equipment, which is to be determined in subsequent proceedings.

On August 5, 1988, Iran filed a new interpretive dispute, Case No. A/24, asking the Tribunal to hold that it is inconsistent with the Accords for United States courts to consider an expropriation claim against Iran, when, Iran alleges, the Tribunal had previously considered the same claim and concluded that the expropriation had not occurred within the Tribunal's jurisdictional deadline, January 19, 1981.

6. Since my last report, two bank syndicates have completed negotiations with Bank Markazi Jomhuri Islami Iran ("Bank Markazi," Iran's central bank) and have been paid a total of \$812,649 for interest accruing for the period January 1-18, 1981 ("January Interest"). These payments were made from Dollar Account No. 1 at the Federal Reserve Bank of New York ("FRBNY"). Moreover, under the April 13, 1988 agreement between the FRBNY and Bank Markazi, the FRBNY transferred \$311,895 to Bank Markazi. That transfer represents the excess of amounts reserved in Dollar Account No. 1 to pay off each bank syndicate with a claim for January Interest against Bank Markazi.

7. Since my last report, there have been no amendments to the Iranian Assets Control Regulations, 31 C.F.R. Part 535, administered by FAC. There have been no amendments to the Iranian Transactions Regulations, 31 C.F.R. Part 560, since their publication on November 17, 1987.

8. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals, and presents an unusual challenge to the national security and foreign policy of the

United States. The Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States properly to implement the Algiers Accords. Similarly, the Iranian Transactions Regulations issued pursuant to Executive Order No. 12613 continue to advance important objectives in combatting international terrorism. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

Ronald Reagan

The White House,
November __, 1988.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

November 10, 1988

ACTION

MEMORANDUM FOR COLIN L. POWELL

FROM: ^{WJ}WILLIAM J. BURNS

SUBJECT: Semiannual Report to Congress on Iran

Natl Sec Advisor
has seen

The President is required by law to submit a report to Congress every six months on the Iranian emergency declared on November 14, 1979. The last such report was transmitted to Congress on June 7, 1988.

The proposed report prepared by Treasury (Tab A) covers events under the Iranian emergency declaration and the 1987 Iranian import embargo order during the period of April 30, 1988 through October 1, 1988. It summarizes the accomplishments of the Iran/U.S. Claims Tribunal and reviews our import ban against Iranian goods.

State and Justice have cleared the proposed report.

EM for Steve Farrar, AF Alison Fortier and OL for Nicholas Rostow concur.

RECOMMENDATION

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

Approve W Disapprove _____

Attachments

Tab I Memorandum for the President
Tab A Report to Congress
Tab B Letter from Treasury
Tab C Copy of June 1988 Report



THE SECRETARY OF THE TREASURY
WASHINGTON

November 10, 1988

8012

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

Dear Mr. President:

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

Enclosed is a proposed report covering events under the Iranian emergency declaration and the 1987 Iranian import embargo order during the period from April 30, 1988, through October 1, 1988. The proposed report indicates in its initial paragraph that it is not intended to report on all activities regarding Iran. The current report is due November 14, 1988.

Your last report to Congress on Iran under the International Emergency Economic Powers Act, dated June 7, 1988, is also enclosed for your reference.

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

Respectfully,

Nicholas F. Brady

Enclosures

**Message to the Congress Reporting on
the National Emergency With Respect
to Iran**

June 7, 1988

To the Congress of the United States:

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

1. On October 29, 1987, after prior consultation with the Congress, I issued Executive Order No. 12613 invoking, *inter alia*, the authority of the International Security and Development Cooperation Act of 1985 to prohibit the importation of goods and services from Iran. As reported to the Congress on that date, this action was taken in response to the actions and policies of the Government of Iran in support of terrorism and acts of aggression against U.S. forces, U.S.-flag vessels, and other merchant vessels of nonbelligerent nations engaged in lawful and peaceful commerce in international waters of the Persian Gulf and territorial waters of nonbelligerent nations of that region. The Executive Order and my report noted that the import prohibition was in response to actions of the Government of Iran taken after the conclusion of the Claims Settlement Agreement of January 19, 1981 (the "Algiers Accords").

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

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

In the period ended April 30, 1988, FAC issued 74 specific licenses for imports of goods under preexisting contracts and 94 specific licenses for goods located outside Iran on the effective date of the Embargo Order. We believe that nearly all goods eligible for importation pursuant to the "in transit" exception were admitted within this reporting period.

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

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

To date, the Security Account has fallen below the required balance of \$500 million 11 times. Each time, Iran has replenished the account, as required by the Algiers Accords, by transferring funds from the separate account held by the NV Settlement Bank in which interest on the Security Account is deposited. Iran has also replenished the account once when it was not required by the Accords, for a total of 12 replenishments. The most recent replenishment occurred on April 20, 1988, in the amount of \$500,000, bringing the total in the Security Account to \$500,367,792. The aggregate amount that has been transferred from the interest account to the Security Account is approximately \$549.5 million.

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

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

4. The Tribunal continues to process claims of U.S. nationals against Iran of less than \$250,000 each. As of April 30, 1988, a total of 210 small claims have been resolved, 71 of them since my last report, as a result of decisions on the merits, awards on agreed terms, or Tribunal orders. Eight contested claims have been decided since my previous report, raising the total number of contested claims decided to 21, 12 of which favored the American claimant. These decisions will help in establishing guidelines for the adjudication or settlement of similar claims. To date, American claimants have also received 25 awards on agreed terms reflecting settlements of claims under \$250,000.

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

5. In coordination with concerned government agencies, the Department of State continues to present U.S. Government claims against Iran, as well as responses by the United States Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in 12 government-to-government claims based on contracts for the provision of goods and services.

In five related government-to-government claims, the Tribunal awarded damages to Iran Air for aircraft services and supplies it found to be owed by U.S. agencies. With these decisions, the Tribunal to date has made five awards in favor of the United States and nine in favor of Iran. The Tribunal has dismissed 12 claims that had been filed by the United States and three

claims that had been filed by Iran. In addition, Iran has withdrawn 13 of its government-to-government claims, while the United States has withdrawn five. No government-to-government claims have been finally settled since my last report, so 26 remain pending.

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

6. Since my last report, three bank syndicates have completed negotiations with Bank Markazi Jomhouri Islami Iran ("Bank Markazi," Iran's central bank) and have been paid a total of \$691,912.40 for interest accruing for the period January 1-18, 1981 ("January Interest"). These payments were made from Dollar Account No. 2 at the Bank of England.

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

7. Since my last report, there has been one amendment to the Iranian Assets Control Regulations, 31 C.F.R. Part 535 (the "Regulations"), administered by the Office of Foreign Assets Control. On January 26, 1988, FAC established administrative procedures for the imposition of civil monetary penalties for violation of the Regulations, as provided in section 206 of the International Emergency Economic Powers Act. 50

U.S.C. 1705. 53 *Fed. Reg.* 7355 (March 8, 1988). A copy of these amendments to the Regulations is attached. The new prepenalty and penalty procedures do not alter substantive obligations imposed by the Regulations.

There have been no amendments to the Iranian Transactions Regulations since their publication on November 17, 1987.

8. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States properly to implement the Algiers Accords. Similarly, the Iranian Transactions Regulations issued pursuant to Executive Order No. 12613 continue to advance important objectives in combatting international terrorism. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

Ronald Reagan

The White House,
June 7, 1988.

National Security Council
The White House

CM

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Marybel Batjer			
Paul Stevens	<u>2</u>	<u>Copy</u>	
John Negroponte	<u>3</u>	<u>Jan</u>	
Colin Powell	<u>4</u>	<u>Col</u>	
Paul Stevens			
Situation Room			
West Wing Desk	<u>5</u>	<u>20/14</u>	<u>15</u>
NSC Secretariat	<u>6</u>		<u>N-Pres</u>
			<u>Sgd per Exec Clerk</u>

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

cc: VP Duberstein Other _____

COMMENTS Should be seen by: _____
(Date/Time)

(disc here)

UNCLASSIFIED
NSC/S PROFILE

RECORD ID: 8808012
RECEIVED: 10 NOV 88 14

TO: PRESIDENT

FROM: BRADY, N

DOC DATE: 10 NOV 88
SOURCE REF:

KEYWORDS: IRAN
ECONOMICS

CM
CONGRESSIONAL

PERSONS: BRADY, N

SUBJECT: RPT TO CONGRESS ON IRAN UNDER INTL EMERGENCY ECONOMIC POWERS ACT

ACTION: PREPARE MEMO FOR POWELL DUE DATE: 14 NOV 88 STATUS: S

STAFF OFFICER: BURNS

LOGREF: 8807646

FILES: WH

NSCIF:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION

BURNS

FOR CONCURRENCE

FARRAR
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FOR INFO

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COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSGAD

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DOC 1 OF 1

UNCLASSIFIED

UNCLASSIFIED
ACTION DATA SUMMARY REPORT

RECORD ID: 8808012

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001 BURNS	Z	88111014	PREPARE MEMO FOR POWELL
002 POWELL	Z	88111019	FWD TO PRES FOR SIG
003 PRESIDENT	Z	88111411	FOR SIGNATURE
003	X	88112514	PRES SGD PER EXEC CLERK

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UNCLASSIFIED
NSC/S PROFILE

RECORD ID: 8808012
RECEIVED: 10 NOV 88 14

TO: PRESIDENT

FROM: POWELL

DOC DATE: 14 NOV 88
SOURCE REF:

KEYWORDS: IRAN
ECONOMICS

CM
CONGRESSIONAL

PERSONS: BRADY, N

SUBJECT: RPT TO CONGRESS ON IRAN UNDER INTL EMERGENCY ECONOMIC POWERS ACT

ACTION: PRES SGD PER EXEC CLERK DUE DATE: 14 NOV 88 STATUS: C

STAFF OFFICER: BURNS

LOGREF: 8807646

FILES: WH

NSCIF:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION

FOR CONCURRENCE

FOR INFO
BURNS

COMMENTS: _____

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

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DOC 3 OF 3

UNCLASSIFIED

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