

Ronald Reagan Presidential Library  
Digital Library Collections

---

This is a PDF of a folder from our textual collections.

---

**Collection:** Fielding, Fred: Files  
**Folder Title:** Iran – [Index of Executive Documents as of 01/19/1981] (2)  
**Box:** 31F

---

To see more digitized collections visit:  
<https://reaganlibrary.gov/archives/digital-library>

To see all Ronald Reagan Presidential Library inventories visit:  
<https://reaganlibrary.gov/document-collection>

Contact a reference archivist at: [reagan.library@nara.gov](mailto:reagan.library@nara.gov)

Citation Guidelines: <https://reaganlibrary.gov/citing>

National Archives Catalogue: <https://catalog.archives.gov/>

# WITHDRAWAL SHEET

## Ronald Reagan Library

**Collection Name** FIELDING, FRED: FILES

**Withdrawer**

DLB 12/2/2014

**File Folder** IRAN - [INDEX OF EXECUTED DOCUMENTS AS OF  
01/19/1981] (2 OF 2)

**FOIA**

S643/2

**Box Number** 31F

SYSTEMATIC

25

ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
166095	PAPER	DECISIONS AND ACTIONS TO BE TAKEN WITH RESPECT TO THE US-IRAN CLAIMS/ASSETS SETTLEMENT	3	ND	B1

The above documents were not referred for declassification review at time of processing

Freedom of Information Act - [5 U.S.C. 552(b)]

- B-1 National security classified information [(b)(1) of the FOIA]
- B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- B-3 Release would violate a Federal statute [(b)(3) of the FOIA]
- B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.



## Office of the White House Press Secretary

---

THE WHITE HOUSE

TO THE CONGRESS OF THE UNITED STATES:

Pursuant to Section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703, I hereby report to the Congress that I have today exercised the authority granted by this Act to take certain measures with respect to property of the Government of Iran and its controlled entities and instrumentalities.

1. On November 14, 1979, I took the step of blocking certain property and interests in property of the Government of Iran and its controlled entities and instrumentalities. This action was taken in response to a series of aggressive actions by Iran, including the attack on the United States Embassy in Tehran, the holding of U.S. citizens and diplomats as hostages, and threats to withdraw assets from United States banks, and otherwise seek to harm the economic and political interests of the United States. Subsequently, on April 7, 1980, and April 17, 1980, I took further action restricting various kinds of transactions with Iran by persons subject to the jurisdiction of the United States.

2. Agreement has now been reached with Iran concerning the release of the hostages and the settlement of claims of U.S. nationals against Iran. Among other things this agreement involves the payment by Iran of approximately \$3.67 billion to pay off principal and interest outstanding on syndicated loan agreements in which a U.S. bank is a party. This includes making all necessary payments to the foreign members of these syndicates. An additional \$1.418 billion shall remain available to pay all other loans as soon as any disputes as to the amounts involved are settled and to pay additional interest to banks upon agreement or arbitration with Iran. In addition, there will be established an international tribunal to adjudicate various disputed claims by U.S. nationals against Iran; and the deposit of \$1 billion by Iran from previously blocked assets as released, which will be available for payments of awards against Iran. Iran has committed itself to replenish this fund as necessary. This tribunal, among other things, will also hear certain disputes between Iranian nationals and the United States Government and contractual disputes between Iran and the United States.

In connection with this agreement, and to begin the process of normalization of relations between the two countries, I have issued and will issue, a series of Orders.

3. First, I have signed an Executive Order authorizing the Secretary of the Treasury to enter into or to direct the Federal Reserve Bank of New York to enter into escrow and depositary agreements with the Bank of England.

more

(OVER)

14



Under these agreements, assets in the escrow account will be returned to the control of Iran upon the safe departure of the United States hostages from Iran. I have also by this Order instructed the Federal Reserve Bank of New York, as fiscal agent of the United States, to receive other blocked Iranian assets, and, as further directed by the Secretary of the Treasury, to transfer these assets to the escrow account.

4. Second, I have signed an Executive Order directing the Federal Reserve Bank of New York to transfer to its account at the Bank of England and then to the escrow account referred to in the preceding paragraph, the assets of the Government of Iran, both transfers to take place as and when directed by the Secretary of the Treasury.

In order to assure that this transaction can be executed, and having considered the claims settlement agreement described above, I have exercised my authority to nullify, and barred the exercise of, all rights, powers or privileges acquired by anyone; I have revoked all licenses and authorizations for acquiring any rights, powers, or privileges; and I have prohibited anyone from acquiring or exercising any right, power, or privileges, all with respect to these properties of Iran. These prohibitions and nullifications apply to rights, powers, or privileges whether acquired by court order, attachment, or otherwise. I have also prohibited any attachment or other like proceeding or process affecting these properties.

5. Third, I have signed an Executive Order which directs branches and offices of United States banks located outside the United States to transfer all Iranian government funds, deposits and securities held by them on their books on or after November 14, 1979 at 8:10 a.m. EST to the account of the Federal Reserve Bank of New York at the Bank of England in London. These assets will be transferred to the account of the Central Bank of Algeria, as escrow agent. The transfer is to include interest from the date of the blocking order at commercially reasonable rates. In addition, any banking institution that has executed a set-off subsequent to the date of the blocking order against Iranian deposits covered by this order is directed to cancel the set-off and to transfer the funds that had been subject to the set-off in the same manner as the other overseas deposits.

This Order also provides for the revocation of licenses and the nullifications and bars described in paragraph 4 of this report.

6. Fourth, I will have signed an Executive Order directing American banks located within the United States which hold Iranian deposits to transfer those deposits, including interest from the date of entry of the blocking order at commercially reasonable rates, to the Federal Reserve Bank of New York, to be held or transferred as directed by the Secretary of the Treasury. Half of these funds will be transferred to Iran and the other half (up to a maximum of \$1 billion) will be placed in a security account as provided in the Declaration and the Claims Settlement Agreement that are part of the agreement we have reached with Iran. This fund will be maintained at a \$500 million level until the claims program is concluded. While these transfers should take place as soon as possible, I have been advised that court actions may delay it. This Order also provides for the revocation of licenses and the nullifications and bars described in paragraph 4 of this report.

more



7. Fifth, I have signed an Executive Order directing the transfer to the Federal Reserve Bank of New York by non-banking institutions of funds and securities held by them for the Government of Iran, to be held or transferred as directed by the Secretary of the Treasury. This transfer will be accomplished at approximately the same time as that described in paragraph 6.

This Order also provides for the revocation of licenses and the nullifications and bars described in paragraph 4 of this report.

8. Sixth, I will sign, upon release of the hostages, an Executive Order directing any person subject to the jurisdiction of the United States who is in possession or control of properties owned by Iran, not including funds and securities, to transfer the property as directed by the Government of Iran acting through its authorized agent. The Order recites that it does not relieve persons subject to it from existing legal requirements other than those based on the International Emergency Economic Powers Act. This Order does not apply to contingent liabilities. This Order also provides for the revocation of licenses and the nullifications and bars described in paragraph 4 of this report.

9. Seventh, I will sign, upon release of the hostages, an Executive Order revoking prohibitions previously imposed against transactions involving Iran. The Executive Order revokes prohibitions contained in Executive Order No. 12205 of April 7, 1980; and Executive Order No. 12211 of April 17, 1980; and the amendments contained in Proclamation No. 4702 of November 12, 1979. The two Executive Orders limited trade and financial transactions involving Iran and travel to Iran. The proclamation restricted oil imports. In revoking these sanctions I have no intention of superseding other existing controls relating to exports including the Arms Export Control Act and the Export Administration Act.

10. Eighth, I will sign, upon release of the hostages, an Executive Order providing for the waiver of certain claims against Iran. The Order directs that the Secretary of the Treasury shall promulgate regulations: (a) prohibiting any person subject to U.S. jurisdiction from prosecuting in any court within the United States or elsewhere any claim against the Government of Iran arising out of events occurring before the date of this Order arising out: (1) the seizure of the hostages on November 4, 1979; (2) their subsequent detention; (3) injury to the United States property or property of United States nationals within the United States Embassy compound in Tehran after November 1979; (4) or injury to United States nationals or their property as a result of popular movements in the course of the Islamic Revolution in Iran which were not an act of the Government of Iran; (b) prohibiting any person not a U.S. national from prosecuting any such claim in any court within the United States; (c) ordering the termination of any previously instituted judicial proceedings based upon such claims; and (d) prohibiting the enforcement of any judicial order issued in the course of such proceedings.

The Order also authorizes and directs the Attorney General of the United States immediately upon the issuance of such a Treasury regulation to notify all appropriate courts of the existence of the Executive Order and implementing regulations and the resulting termination of relevant litigation. At the same time, I will create a commission to make recommendations on the issue of compensation for those who have been held as hostages.



11. Finally, I will sign, upon release of the hostages, an Executive Order invoking the blocking powers of the International Emergency Economic Powers Act to prevent the transfer of property located in the United States and controlled by the estate of Mohammed Reza Pahlavi, the former Shah of Iran, or by any close relative of the former Shah served as a defendant in litigation in United States courts brought by Iran seeking the return of property alleged to belong to Iran. This Order will remain effective as to each person until litigation concerning such person or estate is terminated. The Order also requires reports from private citizens and Federal agencies concerning this property so that information can be made available to the Government of Iran about this property.

The Order would further direct the Attorney General to assert in appropriate courts that claims of Iran for recovery of this property are not barred by principles of sovereign immunity or the act of state doctrine.

12. In addition to these actions taken pursuant to the International Economic Emergency Powers Act, other relevant statutes, and my powers under the Constitution, I will take the steps necessary to withdraw all claims now pending against Iran before the International Court of Justice. Copies of the Executive Orders are attached.

JIMMY CARTER

THE WHITE HOUSE,

January 19, 1981.

# # # #



Office of the Attorney General  
Washington, D. C. 20530

January 19, 1981

The President,

The White House

My dear Mr. President:

I have been asked for my opinion concerning the legality of certain actions designed to resolve issues arising from the detention in Iran of 52 American hostages, including the diplomatic and consular staff in Tehran.

An international agreement has been reached with Iran. The agreement, which consists of four separate documents, commits the United States and Iran to take specified steps to free the hostages and to resolve specified claims between the United States and its nationals and Iran and its nationals. These documents embody the interdependent commitments made by the two parties for which Algeria has been acting as intermediary.

The first document is captioned "Declaration of the Government of the Democratic and Popular Republic of Algeria" ("Declaration"). The Declaration provides, first, for non-intervention by the United States in the internal political and military affairs of Iran.

Second, the Declaration provides generally for return of Iranian assets. The transfer utilizes the Central Bank of Algeria as escrow agent and the Bank of England in London as depository; their obligations and powers are specified in two other documents, the "Escrow Agreement" and the "Depository Agreement." Separate timetables and conditions are described for assets in the Federal Reserve Bank of New York ("Fed"), in foreign branches of United States banks, and in domestic branches of United States banks, and for other financial assets and other property located in the United States and abroad. The transfer of the assets in the Fed and in the foreign branches to the Bank of England is scheduled to take place first. Upon Iran's release of the hostages, the Central Bank of Algeria, as escrow agent, shall direct the Bank of England, under the terms of the Escrow and Depository Agreements, to disburse the escrow account in accordance with the undertakings of the United States and Iran with respect to the Declaration.



The transfer from the Central Bank of Algeria to Iran of the assets presently in the domestic branches will take place upon Iran's establishment with a foreign central bank of a Security Account to be used for the purpose of paying claims against Iran in accordance with a "Claims Settlement Agreement" set forth in the fourth document, which is captioned "Declaration of the Government of the Democratic and Popular Republic of Algeria Concerning the Settlement of Claims by the Government of the United States of America and the Government of the Islamic Republic of Iran" ("Claims Settlement Agreement"). The Claims Settlement Agreement provides for the establishment of an Iran-United States Claims Tribunal, which will have jurisdiction to decide three categories of claims: (1) claims by United States nationals against Iran and claims by Iranian nationals against the United States, and counterclaims arising out of the same transaction or occurrence, for claims and counterclaims outstanding on the date of the Agreement 1/; (2) official claims of the Governments of the United States and Iran against each other arising out of contracts for the purchase and sale of goods and services; and (3) any dispute as to the interpretation or performance of any provision of the Declaration.

Third, the Declaration provides for nullification of trade sanctions against Iran and withdrawal of claims now pending in the International Court of Justice. The United States also agrees not to prosecute its claims and to preclude prosecution by a United States national or in the United States courts of claims arising out of the seizure of the embassy and excluded by the Claims Settlement Agreement.

Fourth, the Declaration provides for actions by the United States designed to help effectuate the return to Iran of the assets of the family of the former Shah.

A series of Executive orders has been proposed to carry out the domestic, and some foreign, aspects of the international agreement. It is my opinion that under the Constitution, treaties, and laws of the United States you, your subordinates, the Fed,

---

1/ Two categories of claims are specifically excluded: (1) claims relating to the seizure or detention of the hostages, injury to United States property or property within the compound of the embassy in Tehran, and injury to persons or property as a result of actions in the course of the Islamic Revolution in Iran which were not actions of the Government of Iran and (2) claims arising under the terms of a binding contract specifically providing that any disputes thereunder shall be within the sole jurisdiction of the competent Iranian courts.



and the Federal Reserve Board are authorized to take the actions described in the four documents constituting the international agreement and in the Executive orders. 2/

I shall first examine the proposed Executive orders and consider them as to form and legality. Subsequently I shall consider certain questions which arise from other proposed actions and documents related thereto.

1. The first proposed Executive order is captioned "Direction Relating to Establishment of Escrow Accounts." Under it, the Secretary of the Treasury is authorized to direct the establishment of an appropriate escrow agreement with the Bank of England and with the Central Bank of Algeria to provide as necessary for distribution of funds in connection with the release of the hostages. The Escrow Agreement provides, among other things, that certain assets in which Iran has an interest shall be credited by the Bank of England to an escrow account in the name of the Central Bank of Algeria and transferred to Iran after the Central Bank of Algeria receives certification from the Algerian Government that the 52 hostages have safely departed from Iran.

The International Emergency Economic Powers Act, 50 U.S.C. § 1701 et seq. ("IEEPA"), provides you with authority, during a declared national emergency, to direct transactions and transfers of property in which a foreign country has an interest under such regulations as you may prescribe. As the proposed order recites, such an emergency has been declared. IEEPA was the authority for the blocking order of November 14, 1979, E.O. No. 12170, which asserted control over Iranian government assets. Moreover, the statute known as the Hostage Act, 22 U.S.C. § 1732, authorizes the President, when American citizens are unjustly deprived of liberty by a foreign government, to use such means, not amounting to acts of war, as he may think "necessary and proper" to bring about their release. The phrase "necessary and proper" is, of course, borrowed from the Constitution, and has been construed as providing very broad discretionary powers for legitimate ends. U.S. Const. Art. I, § 8, cl. 18; McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316 (1819). Establishment of the escrow

2/ Documents testifying to the adherence to the agreement by both the United States and Iran will also be executed; these documents present no substantive legal issues.



account is directed to the release of the hostages. This order thus falls within your powers under these Acts. 3/

It is approved as to form and legality.

2. The second proposed Executive order is captioned "Direction to Transfer Iranian Government Assets." The Fed is directed to transfer to its account at the Bank of England, and then to the escrow account referred to in paragraph 1, the assets of the Government of Iran, as directed by the Secretary of the Treasury. The order also revokes the authorization for, and nullifies all interests in, the frozen Iranian government property except the interests of Iran and its agents. The effect of this order will be to void the rights of plaintiffs in any possible litigation to enforce certain attachments and other prejudgment remedies that were issued against the blocked assets following the original blocking order.

I believe that this provision is lawful for several reasons. I am informed, first, that the Iranian funds on deposit in the Fed are funds of the Bank Markazi, the Central Bank of Iran. As such, they are clearly not subject to attachment. The Foreign Sovereign Immunities Act of 1976 specifically states that the property of a foreign central bank held for its own account shall be immune from attachment and execution unless that immunity has been explicitly waived. 28 U.S.C. § 1611(b). It is my view that there has been no such waiver.

Even assuming, *arguendo*, that the attachments are not precluded by 28 U.S.C. § 1611(b), there is power under IEEPA to nullify them or to prevent the exercise of any right under them. Under IEEPA, the President has authority in time of emergency to prevent the acquisition of interests in foreign property and to nullify new interests that are acquired through ongoing transactions. The original blocking order delegated this power to the Secretary of the Treasury, who promulgated regulations prohibiting the acquisition, through attachment or any other court process, of any new interest in the blocked property. The effect of these regulations was to modify both the substantive and the procedural law governing the availability of prejudgment remedies to creditors of Iran. The regulations contemplated that provisional remedies might be permitted at a later date but provided that any unauthorized remedy would be "null and void." 31 C.F.R. § 535.203(e).

Subsequently, all of the attachments and all of the other court orders against the Iranian assets held by the Fed were

---

3/ Although I do not specifically discuss the applicability of the Hostage Act to the other proposed orders described in this opinion, I believe that it generally supports their issuance.



entered pursuant to a general license or authorization given by the Secretary of the Treasury effective November 23, 1979. This authorization, like all authorizations issued under the blocking regulations, may be revoked at any time in accordance with 31 C.F.R. § 535.805, which expressly provides that any authorization issued under the blocking order could be "amended, modified, or revoked at any time." See Orvis v. Brownell, 345 U.S. 183 (1953). The regulations did not purport to authorize any transaction to the extent that it was prohibited by any other law (other than IEEPA), such as the Foreign Sovereign Immunities Act. 4/ 31 C.F.R. § 535.101(b).

Upon revocation, the exercise or prosecution of any interests created by the outstanding attachments and other orders will be unauthorized. The orders themselves will no longer confer any enforceable right upon the creditors. Indeed, because IEEPA expressly grants to the President a power of nullification, the interests created by these provisional remedies are themselves subject to nullification, in addition to nullification by the revocation of the underlying authorization. In this respect the President's power under IEEPA is analogous to his constitutional power to enter into international agreements that terminate provisional interests in foreign property acquired through domestic litigation if necessary in the conduct of foreign affairs. See The Schooner Peggy, 5 U.S. (1 Cranch) 103 (1801). The nullification of these interests is an appropriate exercise of the President's traditional power to settle international claims. United States v. Pink, 315 U.S. 203 (1942); United States v. Belmont, 301 U.S. 325 (1937).

Upon the direction of the Secretary of the Treasury, the Fed will be free to transfer the Iranian assets; the attachments and other prejudgment encumbrances will have been rendered unenforceable by the contemporaneous change in law. Moreover,

4/ In New England Merchants National Bank v. Iran Power Generation and Transmission Co., 79 Civ. 6380 (KTD) (S.D.N.Y., Sept. 26, 1980), the District Court took the position that the freeze order under IEEPA took precedence over the Foreign Sovereign Immunities Act, thus removing Iran's immunity. Assuming, arguendo, the correctness of that position, the legal effect of the totality of actions discussed herein would be to reinstate Iran's immunity, thereby removing the ratio decedendi of the District Court's decision.



the Fed may comply with the Secretary's directive without litigating in advance the issue of the Secretary's authority to nullify the provisional interests. IEEPA explicitly states, and the proposed order affirms, that "[n]o person shall be liable in any court . . . for anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, [IEEPA] or any regulation, instruction, or direction issued under [IEEPA]." 50 U.S.C. § 1702 (a)(3). I believe that Congress intended this provision to relieve holders of foreign property, as well as individuals administering or carrying out orders issued pursuant to IEEPA, from any liability for actions taken in good faith in reliance on IEEPA and Presidential directives issued under IEEPA. This provision protects not only the Fed and the Federal Reserve Board but Executive Branch officials as well. In my opinion, this provision is valid and effective for that purpose.

Similarly, the Secretary himself is empowered, in my opinion, to nullify these provisional interests and to license the transfer of the assets without submitting the issue to litigation and without insisting that the Fed refuse any transfer until all objections to the transfer have been definitively rejected by the courts. As noted, the interests, if any, created by these prejudgment remedies were created upon the condition that the authority for the underlying transactions might be revoked "at any time"; and that condition may be invoked without delay. The powers that the Constitution gives and the Congress has given the President to resolve this kind of crisis could be rendered totally ineffective if they could not be exercised expeditiously to meet opportunities as they arise. The primary implication of an emergency power is that it should be effective to deal with a national emergency successfully. United States v. Yoshida International, 526 F.2d 560, 573 (C.C.P.A. 1975).

Moreover, the Fed may transfer the assets before the outstanding court orders have been formally vacated. When a supervening legislative act expressly authorizes a course of conduct forbidden by an outstanding judicial order, the new legislation need not require the persons subject to it to submit the matter to litigation before pursuing the newly authorized course. See Pennsylvania v. Wheeling & Belmont Bridge Co., 59 U.S. (18 How.) 421 (1855). I believe that this case is closely on point. A valid Executive order has the force of a federal statute, superseding state actions to the extent that it is inconsistent. Contractors Association of Eastern Pennsylvania v. Secretary of Labor, 442 F.2d 159, 166 (3d Cir.), cert. denied, 404 U.S. 854 (1971). Thus, the holding of the Bridge case applies here.



The order is approved as to form and legality, and actions taken consistent with and pursuant to it will be lawful and valid.

3. The third proposed Executive order is captioned "Direction to Transfer Iranian Government Assets Overseas." In general, it directs branches of United States banks outside the country to transfer Iranian government funds and property to the account of the Fed in the Bank of England. The transfer is to include interest at commercially reasonable rates from the date of the blocking order. The Secretary of the Treasury shall determine when the transfers shall take place. Any banking institution that executed a set-off against Iranian funds after entry of the blocking order is directed to cancel the set-off and to transfer the funds in the same manner as the other overseas deposits.

The Iranian funds in the branches of American banks overseas were subject to the November 1979 blocking order. Subsequently, the Secretary of the Treasury licensed foreign branches and subsidiaries of American banks to set off their claims against Iran or Iranian entities by debit to the blocked accounts held by them for Iran or Iranian entities. 31 C.F.R. § 535.902. As a result of this license, American banks with branches overseas set off various debts owing to them by Iran and Iranian entities. I understand that most of the debts were loans originally made from offices in the United States and that most of the overseas deposits were in branches located in the United Kingdom. The banks with overseas Iranian accounts set off amounts owing not only to them directly but to other banks with whom they were participants in syndicated loans. The banks have acted on the assumption that any loan made to Iran or an Iranian entity could be set off against any account of Iran or an Iranian entity or enterprise on the theory that, as a result of the control of the Iranian economy by the Government of Iran and nationalization of private enterprises, all such entities and enterprises were the same party for purpose of setting off debts. In addition, the banks accelerated the amounts due on loans that were in default, and, under the doctrine of anticipatory breach, set off loans that had not come due.

The blocking order delegated to the Secretary of the Treasury the authority to license the set-offs to the extent that the Executive order prevented them. The license did not, however, determine whether the set-offs were valid under any other law. 31 C.F.R. § 535.101(b). I understand that Iran and its entities are contesting in litigation overseas whether the set-offs are



lawful. The issues include the proper situs of the debts, identity of the parties, the propriety of acceleration, and the anticipation of breach.

IEEPA authorizes the President, under such regulations as he may prescribe, to nullify and void transactions involving property in which a foreign country has an interest and to nullify and void any right respecting property in which a foreign country has an interest. 50 U.S.C. § 1702. Either analysis is appropriate here: Iran had an interest in the original set-off transaction and continues to have an interest both in the amounts in the accounts which have and have not been set off. The latter, as noted, are the subject of litigation abroad. See 31 C.F.R. § 535.311, .312. Cf. Behring International v. Miller, Civ. Action No. 80-2864 (D.N.J., Dec. 24, 1980) (holding that Iran continues to have interest in a trust account created to pay debt). The very use of the words "nullify" and "void" persuades me that Congress intended to authorize the President to set aside preexisting transactions. 5/

As noted, the order also requires the overseas banks, when transferring the Iranian assets, to include interest on those assets from November 14, 1979, at commercially reasonable rates. I understand that in most cases the accounts in overseas branches of American banks are interest-bearing. To the extent that they are not, such interest represents the benefit realized by the banks from holding the blocked Iranian assets which, under the law of restitution, should accrue to the owners of the assets. Cf. Phillips Petroleum Co. v. Adams, 513 F.2d 355 (5th Cir.), cert. denied, 423 U.S. 930 (1975). As such, the interest or benefit realized by the banks is property in which Iran has an interest. 6/

5/ I believe that the present case is distinguishable in several respects from that in Brownell v. National City Bank, 131 F. Supp. 60 (S.D.N.Y. 1955). There, the District Court concluded that the mere revocation of a license did not serve to void a preexisting and apparently uncontested set-off; the bank, moreover, had no opportunity to recoup its potential loss by bringing the loan current.

6/ See also Art. VII(2)(b) of the Treaty of Amity, Economic Relations, and Consular Rights with Iran, 8 U.S.T. 901, 905.



For these reasons, I believe that you are thus authorized under IEEPA to compel the transfer of both principal and interest to the Federal Reserve account at the Bank of England as provided by the order and to nullify or prevent the exercise of any interests in this property by anyone other than Iran. I also believe, as discussed in paragraph 2 above, that 50 U.S.C. § 1702(a)(3) relieves from liability anyone taking action in good faith under this Executive order. 7/

The proposed order is approved as to form and legality, and actions taken consistent with and pursuant to it will be lawful and valid.

4. The fourth proposed Executive order is captioned "Direction to Transfer Iranian Government Assets Held by Domestic Banks." The proposed order directs American banks in the United States with Iranian deposits to transfer them, including interest from the date of blocking at commercially reasonable rates, to the Fed, which will hold the funds subject to the direction of the Secretary of the Treasury.

As discussed in paragraphs 2 and 3, the President has power under IEEPA to direct the transfer of funds of Iran, including interest, and to nullify or prevent the exercise of any interests of anyone other than Iran in Iranian property. Actions taken in good faith pursuant to this order will be, as discussed above, immune from liability.

The order is approved as to form and legality, and actions taken consistent with and pursuant to it will be lawful and valid.

5. The fifth proposed Executive order is captioned "Direction to Transfer Iranian Government Financial Assets Held by Non-Banking Institutions." This order is similar to the order described in paragraph 4 except that it requires the transfer to the Fed of funds and securities held by non-banking institutions. The President has the power to direct the transfer of funds and securities of Iran held by non-banking institutions, and actions taken in good faith pursuant to this order shall likewise enjoy the immunity from liability as reflected in 50 U.S.C. § 1702(a)(3).

7/ Cf. Cities Service Co. v. McGrath, 342 U.S. 330, 334-36 (1952). It is my opinion that a person who has taken action in compliance with this Executive order and is subsequently finally required by any court to pay amounts with respect to funds transferred pursuant to this Executive order will have the right as a matter of due process to recover such amount from the United States to the extent of any double liability.



The proposed order is approved as to form and legality, and actions taken consistent with and pursuant to it will be lawful and valid.

6. The sixth proposed Executive order is captioned "Direction to Transfer Certain Iranian Government Assets." The order would require anyone in possession or control of property owned by Iran, not including funds and securities, to transfer the property as directed by the Iranian government. The order recites that it does not relieve persons subject to it from existing legal requirements other than those based on IEEPA. It does, however, nullify outstanding attachments and court orders in the same manner as does the order discussed in paragraph 2.

For the reasons discussed in the preceding paragraphs, the President has power under IEEPA to order the transfer of property owned by Iran as directed by Iran and to nullify outstanding attachments and court orders related to such property. Actions taken in good faith pursuant to this order shall likewise enjoy the immunity from liability as reflected in 50 U.S.C. § 1702(a)(3).

The order is approved as to form and legality, and actions taken consistent with and pursuant to it will be lawful and valid.

7. The seventh proposed Executive order is captioned "Revocation of Prohibitions against Transactions Involving Iran." It revokes the prohibitions of Executive Order No. 12205 of April 7, 1980; Executive Order No. 12211 of April 17, 1980; and Proclamation 4702 of November 12, 1979. The two Executive orders limited trade with and travel to Iran. The proclamation restricted oil imports from Iran. It is my understanding that although the prohibitions are revoked, the underlying declarations of emergency remain in effect.

The order is approved as to form and legality.

8. The eighth proposed Executive order is captioned "Non-Prosecution of Claims of Hostages and for Actions at the United States Embassy and Elsewhere." The order directs the Secretary of the Treasury to promulgate regulations prohibiting



persons subject to United States jurisdiction from prosecuting in any court or elsewhere any claim against Iran arising from the hostage seizure on November 4, 1979, and the occupation of the embassy in Tehran, and also terminating any previously instituted judicial proceedings based upon such claims.

The President has the power under IEEPA and the Hostage Act to take steps in aid of his constitutional authority 8/ to settle claims of the United States or its nationals against a foreign government. 9/ Thus, he has the right to license litigation involving property in which a foreign national has an interest, as described in paragraph 2. That license can be suspended by the Executive acting alone. New England Merchants National Bank v. Iran Power Generation and Transmission Co., 79 Civ. 6380 (KTD) (S.D.N.Y., Nov. 5, 1980) (Duffy, J.). But see National Airmotive Corp. v. The Government and State of Iran, Civ. Action No. 80-0711 (D.D.C., Oct. 16, 1980) (Greene, J.). 10/

The order is approved as to form and legality.

9. The final proposed Executive order is captioned "Restrictions on the Transfer of Property of the Former Shah of Iran." It invokes the blocking powers of IEEPA to prevent transfer of property located in the United States and controlled by the Shah's estate or by any close relative until litigation surrounding the estate is terminated. The order also invokes

8/ See, e.g., Restatement (Second) of Foreign Relations Law of the United States § 213 (1965).

9/ IEEPA was drafted and enacted with the explicit recognition that the blocking of assets could be directly related to a later claims settlement. H. R. Rep. No. 459, 95th Cong., 1st Sess. 17 (1977); S. Rep. No. 466, 95th Cong., 1st Sess. 6 (1977). See 50 U.S.C. § 1706(a)(1) (authorizing continuation of controls, after the emergency has ended, where necessary for claims settlement purposes).

10/ I note that the issue of appropriate compensation for the hostages will be considered by a Commission on Hostage Compensation established by separate Executive order. Moreover, this eighth order does not, of course, purport to preclude any claimant from presenting his claim to Congress and petitioning for relief; nor could it constitutionally do so.



the reporting provisions of IEEPA, 50 U.S.C. § 1702(a)(2), to require all persons subject to the jurisdiction of the United States to submit to the Secretary of the Treasury information about this property to be made available to the Government of Iran. The property involved is property in which "[a] foreign country or a national thereof" has an interest. Restrictions on transfer and reporting requirements therefore fall within the authority provided by IEEPA.

The order would further direct me, as Attorney General, to assert in appropriate courts that claims of Iran for recovery of this property are not barred by principles of sovereign immunity or the act of state doctrine. I have previously communicated to you and to the Department of State my view to this effect (based on advice furnished to me by the Office of Legal Counsel and the Civil Division of this Department) and will so assert in appropriate proceedings. The proposed order also recites that it is the position of the United States that all Iranian decrees relating to the assets of the former Shah and his family should be enforced in our courts in accordance with United States law.

The proposed order is approved as to form and legality.

10. The other questions relate to the Claims Settlement Agreement. I conclude that you have the authority to enter an agreement designating the Iran-United Claims Tribunal as the sole forum for determination of claims by United States nationals or by the United States itself against Iran and to confer upon the Tribunal jurisdiction over claims against the United States, including both official contract claims and disputes arising under the Declaration.

The authority to agree to the establishment of the Tribunal as an initial matter cannot be challenged. The Claims Settlement Agreement falls squarely within powers granted to the Executive by the Constitution, by treaty, and by statute.

As a step in the reestablishment of diplomatic relations with Iran, the Claims Settlement Agreement represents an appropriate exercise of the President's powers under Article II of the Constitution to conduct foreign relations. Moreover, by Article XXI(2) of the 1957 Treaty with Iran, the Senate gave its agreement for the two nations to settle disputes as to the interpretation or application of the treaty by submission



to the International Court of Justice or by any "pacific means. "11/ Arbitration by the Iran-United States Claims Tribunal is a pacific means of dispute settlement. Finally, by the Hostage Act, 22 U.S.C. § 1732, Congress has conferred upon the President specific statutory powers applicable to this crisis. The agreement to resolve by arbitration the disputes now obstructing the release of the hostages is a proper exercise of this power.

I note in conclusion the congruence of your Constitutional powers and the congressionally conferred authority. In this situation, of course, your authority is at its maximum. Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 635-36 (1952) (Jackson, J., concurring).

The specific jurisdiction conferred upon the Tribunal must be further examined. The first category of claims, the private claims based on debts, contracts, expropriations, or other measures affecting property rights, includes both claims by United States nationals against Iran and claims by Iranian nationals against the United States. The former are referable to the Tribunal under the constitutional authority to settle claims recognized

11/ Art. XXI(2) provides:

Any dispute between the High Contracting Parties as to the interpretation or application of the present Treaty, not satisfactorily adjusted by diplomacy, shall be submitted to the International Court of Justice, unless the High Contracting Parties agree to settlement by some other pacific means.

Because the Treaty provides for peace and friendship between the two nations, trade and commercial freedom, protection and security of nationals, prompt and just compensation for the taking of property, and the absence of restrictions on the transfer of funds, the disputes to be referred to the Tribunal are disputes "as to the interpretation or application of the . . . Treaty."



in United States v. Pink, 315 U.S. 203 (1942), and United States v. Belmont, 301 U.S. 324 (1937). See also Restatement (Second) of Foreign Relations Law of the United States § 213 (1965). <sup>12/</sup>

From these claims are excluded claims arising out of the seizure of the embassy and claims on binding contracts providing for dispute resolution solely by Iranian courts. Again, the power to settle claims includes the power to exclude certain claims from the settlement process. Cf. Aris Gloves, Inc. v. United States, 420 F.2d 1386 (Ct. Cl. 1970). Moreover, the exclusion is not intended to be a final settlement or determination of these claims. I understand that the claims based on the seizure will be given separate consideration, see note 10 supra. I note also that the exclusion of the claims on binding contracts that provide the exclusive procedure for dispute resolution does not adversely affect any option that these claimants would have had prior to the hostage crisis and all the actions taken in response to it. These claimants are not disadvantaged by the Claims Settlement Agreement; as to them, the status quo as of the time that the hostages were taken is merely preserved.

The latter claims in the first category, the claims by Iranian nationals against the United States, and also the official claims in the second category by Iran against the United States, are referable to the Tribunal for adjudication under the same authority. The President's power to refer these claims to binding arbitration as part of an overall settlement of our disputes with Iran is within the authority conferred on him by the Treaty and the Hostage Act and is also within his sole authority under Article II of the Constitution. Any award made by the Tribunal against the United States would create an obligation under international law. Such obligations have invariably been honored by the Congress in our constitutional system.

The remainder of the claims in this second category are official claims of the United States against Iran. The submission of the claims to the Tribunal is a matter for the Executive's sole determination in the conduct of foreign relations.

Finally, jurisdiction over the third category of claims, consisting of disputes as to the interpretation or performance of the Declaration, is appropriately conferred upon the Tribunal incident to the exercise of the power to agree to the Declaration in the first instance.


---

<sup>12/</sup> Here again your constitutional powers are supplemented by statute. See note 9 supra.



For these reasons, I conclude that the United States may enter into the international agreement and that you have legal authority to issue all of these documents and Executive orders.

Respectfully,

  
Benjamin R. Civiletti  
Attorney General





United States Department of Justice  
Washington, D.C. 20530

ASSISTANT ATTORNEY GENERAL  
OFFICE OF LEGAL COUNSEL

22 JAN 1981

MEMORANDUM FOR FRANK HODSOLL  
Deputy to the Chief of Staff

Re: Materials Related to the Hostage Agreement

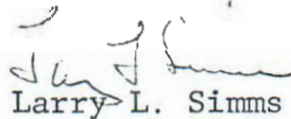
Pursuant to our conversation of yesterday, I am forwarding to you a package of materials on this subject which I believe will be useful to you in advising the Chief of Staff on this matter.

The basic substantive documents include the Presidential Statement of Adherence, the two Declarations, the "Undertakings" (which have not as yet been made public), and the Escrow Agreement (which I believe has also not been made public as yet). The implementing documents include the Executive Orders signed by former President Carter on January 19, 1981. Finally, the Attorney General's opinion to the President of January 19, 1981 briefly explains the relationships between the four documents relating to the overall agreement and the Executive Orders and analyzes the major legal issues raised by each of the documents. The legal analysis in the Attorney General's opinion is derived from a number of legal memoranda prepared by this Office over the course of the last fifteen months. If any of the legal issues discussed in the Attorney General's January 19 opinion are of particular interest to you, I would be more than happy to provide you with the back-up material. For your purposes, it might be even more efficient just to give me a call if the papers raise legal issues (or, indeed, practical issues) which you would like to explore further.

Finally, I am attaching a copy of the Statement of Interest filed by the Civil Division on January 20 and 21 with those courts which had issued attachments against the Iranian assets held by the Federal Reserve Bank in New York. One of the most difficult legal issues we faced was whether these assets could be moved without our going back to the courts involved and seeking dissolution of the attachments. The Attorney General ultimately concluded that while those courts would have the power to hold the various officials involved in contempt for taking that action, he did not believe, under these facts and circumstances and the most relevant Supreme Court precedent,



that such contempt would be appropriate. We should know by early next week whether any of the courts involved or the plaintiffs who secured attachments from those courts will seek contempt orders. Such orders would presumably run against officials of the Federal Reserve Bank in New York. The Department of Justice would, of course, defend against any show-cause order that might be issued.



Larry L. Simms  
Acting Assistant Attorney General  
Office of Legal Counsel

Enclosures

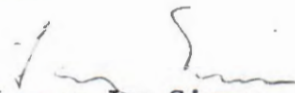




January 22, 1981

TO: ✓ Frank Hodsoll  
Richard Davis  
Mark Feldman

I would appreciate any comments you may have by 10:00 a.m. Friday morning, January 23, 1981. I can take comments on either document (633-2059); call Benna Solomon regarding the draft E.O. (633-2048); call Jack Goldklang regarding the draft Statement of Interest (633-4173).

  
Larry L. Simms

*Frank - please pass to staff  
with Mr. [unclear] New on the NISC  
staff.*





# DRAFT

Executive Order No. \_\_\_\_\_

By the authority vested in me as President by the Constitution and statutes of the United States, including Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702), Section 301 of Title 3 of the United States Code, Section 1732 of Title 22 of the United States Code, and Section 301 of the National Emergencies Act (50 U.S.C. 1631), in view of the continuing unusual and extraordinary threat to the national security, foreign policy and economy of the United States upon which were based the declarations of national emergency in Executive Order 12170, issued November 14, 1979, and in Executive Order 12211, issued April 17, 1980, in order to implement agreements with the Government of Iran, as reflected in the Declarations of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981, relating to the release of U.S. diplomats and nationals being held as hostages and to the resolution of claims of United States nationals against Iran, and to begin the process of normalization of relations between the United States and Iran, it is hereby ordered that as of the effective date of this Order:

1-101. With respect to any claim within the jurisdiction of the Iran-United States Claims Tribunal as described in Article II of the Declaration of the Government of Algeria concerning the settlement of claims, no United States national shall, in any



civil action pending in the courts of the United States on the date of this order, file or prosecute further any claim, complaint, motion, or appeal asserting any right, power, or privilege with respect to any property or any transaction involving property in which on or after 8:10 a.m., e.s.t., November 14, 1979, there existed an interest of the Government of Iran or Iranian entities.

1-102. With respect to any claim within the jurisdiction of the Iran-United States Claims Tribunal, no United States national shall institute and prosecute any civil action in the courts of the United States for the purpose of asserting or establishing or requiring an adjudication of any right, power, or privilege with respect to any property or any transaction involving property in which on or after 8:10 a.m., e.s.t., November 14, 1979, there existed an interest of the Government of Iran or Iranian entities.

1-103. Nothing in this order shall prevent any person asserting a claim within the jurisdiction of the Iran-United States Claim Tribunal from filing any complaint or notice or seeking the issuance of any summons or other process for the purpose of tolling any relevant statute limiting the time of the commencement of actions or the appeal of any decision taken by any judicial officer.

1-104. No action taken by a litigant in violation of this order shall be sufficient in law for the purpose of asserting or establishing or requiring an adjudication of any right, power,



or privilege with respect to any property or any transaction involving property in which on or after 8:10 a.m., e.s.t., November 14, 1979, there existed an interest in the Government of Iran or Iranian entities. No claim asserted with respect to such property or transaction in a complaint, prayer, or motion for judgment pending for decision on the date of this order shall be sufficient in law for the purpose of asserting or establishing or requiring an adjudication of the right, power, or privilege asserted therein, if the continued prosecution of the claim or the execution of judgment with respect thereto would violate this order.

1-105. Upon a determination by the Iran-United States Claims Tribunal that it does not have jurisdiction over a claim submitted to it for adjudication, the restrictions and prohibitions of this order shall not apply to that claimant in any further prosecution or subsequent filing of a claim in the courts of the United States.

1-106. Nothing in this order shall invalidate in law or require the dismissal or reversal of any authorized and lawful action taken by any litigant or any judicial officer prior to the date of this order. Nothing in this order shall require dismissal of any action for want of prosecution.

1-107. The Secretary of the Treasury is authorized to employ all powers granted to me by the International Emergency Economic Powers Act to carry out the provisions of this order.



This order shall be effective immediately and shall be transmitted to the Congress and published in the Federal Register.

.....  
Ronald Reagan



SUGGESTION OF INTEREST OF  
THE UNITED STATES OF AMERICA

At the direction of the Attorney General of the United States made pursuant to 28 U.S.C. § 517, counsel for the United States files this Suggestion to manifest to the court the interest of the United States in this action.

In furtherance of that purpose, we respectfully submit:

1. As part of the settlement of the hostage crisis, the United States entered a series of agreements with Iran. One of the agreements, captioned Declaration of the Government of the Democratic and Popular Republic of Algeria, includes a section relating to the return of the assets of the family of the former Shah. It provides, in pertinent part, that following release of the hostages, the United States will take certain action in litigation brought by Iran to recover, as the property of Iran, the estate of the former Shah or any close relative of the former Shah served as a defendant by Iran. The United States committed itself to "make known, to all appropriate United States courts," that in the described litigation, "the claims of Iran should not be legally barred either by sovereign immunity principles or by the act of state doctrine."

2. It is the view of the Executive that the Foreign Sovereign Immunities Act of 1976 does not deal explicitly with this case since it applies only in terms to foreign states and not to former monarchs. Based on the pleadings and the particular circumstances of this case, the Executive does not believe the law of the United States regarding sovereign immunity bars the instant suit. Cf. Jimenez v. Aristigueta, 311 F. 2d 547 (5th Cir. 1962).

3. The Executive further expresses the view that it would be entirely consistent with the foreign policy of the United States for the court to consider the merits of this case without regard to the act of state doctrine. See Jimenez v. Aristigueta, supra.



Outline of Discussion Memorandum on Iranian AgreementsA. Background

- Nature of final negotiations leading to agreements.
- Nature of agreements (Declarations, Undertaking, Escrow Agreement, Executive Orders, Regulations).
- Economic Impact of Implementing Agreements.
- Legal Impact of Implementation.
- International Impact

B. Issues

1. Do ~~we~~ <sup>posture on</sup> continue to implement the unexecuted parts of the agreement?
  - a. Iranian assets in the U.S. in U.S. banks and non-banking institutions and Settlement Commission.
  - b. Shah's assets.
  - c. Non-prosecution of Hostage Claims and Hostage Claims Compensation Commission.
2. Posture on spare parts and arms.
3. Posture on lifting of sanctions.
4. Posture on

C. Options

DECLARATION OF DAVID D. NEWSOM

I, DAVID D. NEWSOM, declare as follows:

1. I am the Secretary of State ad interim of the United States. I have worked closely with Secretary of State Muskie and Deputy Secretary Christopher in the process of formulating the responses of the United States to the current crisis in Iran, in consultation with the President and other senior administration officials. In addition, in my capacity as Under Secretary of State for Political Affairs, I have had an opportunity to observe the effects of that crisis on the foreign policy and national security interests of the United States.

2. At long last the United States has obtained the release of the hostages and a resolution of the crisis in our relations with Iran. Iran and the United States have made interdependent commitments which have resolved the crisis. These commitments are reflected in the Declaration of the Democratic and Popular Republic of Algeria, attached to this Declaration. Major elements of that resolution are Iran's safe release of the hostages, the release to Iran of certain frozen assets, and Iran's agreement to international arbitration of certain claims of United States nationals against it.

---



3. In order to secure the release of the hostages, the United States committed itself to bring about the transfer of a number of categories of Iranian financial assets into an escrow account with a mutually agreeable central bank in the name of the Algerian Central Bank as escrow agent. Upon certification of the Government of Algeria to the Algerian Central Bank that the 52 hostages had safely departed from Iran, the Algerian Central Bank directed the transfer of certain of the assets in the escrow account immediately to Iran.

4. One category of assets which the United States was committed to cause to be transferred into the escrow account consisted of all Iranian assets in the custody of the Federal Reserve Bank of New York. These assets included gold bullion and securities with a total value of approximately \$2.5 billion. The transfer was carried out as required under the agreement.

5. Another category of assets to be transferred into the escrow account consisted of Iranian assets in foreign branches of United States banks. That transfer also occurred. The United States also made

---

a commitment, contingent on Iran's adherence to a claims settlement agreement providing for the determination and payment of certain claims of United States nationals against Iran, and contingent also on the conclusion of arrangements for the establishment of a security account that will fund awards made pursuant to the claims settlement process, to bring about the transfer of certain Iranian assets into the escrow account. Assets in this category consist of Iranian deposits and securities in domestic offices of United States banks and all Iranian financial assets (funds or securities), other than those already mentioned, that are located in the United States or abroad in the custody of persons subject to United States jurisdiction. Finally, the United States agreed, contingent on release of the hostages and Iran's adherence to the claims settlement agreement, to arrange for the transfer directly to Iran of all Iranian properties not included in the categories just described. Iran adhered to the claims settlement agreement on January 19, 1981.

6. To meet the commitments of the United States and make possible the release of the hostages, the President issued a series of Executive Orders. One of these concerned the assets in the custody of the Federal Reserve Bank of New York. That order directed the Secretary of the Treasury to license and direct



a commitment, contingent on Iran's adherence to a claims settlement agreement providing for the determination and payment of certain claims of United States nationals against Iran, and contingent also on the conclusion of arrangements for the establishment of a security account that will fund awards made pursuant to the claims settlement process, to bring about the transfer of certain Iranian assets into the escrow account. Assets in this category consist of Iranian deposits and securities in domestic offices of United States banks and all Iranian financial assets (funds or securities), other than those already mentioned, that are located in the United States or abroad in the custody of persons subject to United States jurisdiction. Finally, the United States agreed, contingent on release of the hostages and Iran's adherence to the claims settlement agreement, to arrange for the transfer directly to Iran of all Iranian properties not included in the categories just described. Iran adhered to the claims settlement agreement on January 19, 1981.

6. To meet the commitments of the United States and make possible the release of the hostages, the President issued a series of Executive Orders. One of these concerned the assets in the custody of the Federal Reserve Bank of New York. That order directed the Secretary of the Treasury to license and direct

a commitment, contingent on Iran's adherence to a claims settlement agreement providing for the determination and payment of certain claims of United States nationals against Iran, and contingent also on the conclusion of arrangements for the establishment of a security account that will fund awards made pursuant to the claims settlement process, to bring about the transfer of certain Iranian assets into the escrow account. Assets in this category consist of Iranian deposits and securities in domestic offices of United States banks and all Iranian financial assets (funds or securities), other than those already mentioned, that are located in the United States or abroad in the custody of persons subject to United States jurisdiction. Finally, the United States agreed, contingent on release of the hostages and Iran's adherence to the claims settlement agreement, to arrange for the transfer directly to Iran of all Iranian properties not included in the categories just described. Iran adhered to the claims settlement agreement on January 19, 1981.

6. To meet the commitments of the United States and make possible the release of the hostages, the President issued a series of Executive Orders. One of these concerned the assets in the custody of the Federal Reserve Bank of New York. That order directed the Secretary of the Treasury to license and direct



the Federal Reserve Bank of New York to enter into arrangements to transfer the assets to the Bank of England, where they were held in an account in the name of the Algerian Central Bank, as escrow agent, subject to certain conditions. The Secretary of the Treasury licensed and directed the Federal Reserve Bank of New York to make the necessary transfers, and the transfers were made pursuant to that authority.

7. In order to ensure that the assets in the Federal Reserve Bank of New York could be transferred without any delays that might have jeopardized the agreement, the President, by the same Executive Order, revoked all licenses for acquiring any right in Iranian assets in the custody of the Federal Reserve Bank, nullified rights relating to those assets which derive from any attachment or similar order in connection with litigation subsequent to November 14, 1979, and prohibited persons subject to the jurisdiction of the United States from acquiring or exercising any right, whether by court order or otherwise, with respect to those assets.

8. In my judgment, it was essential to securing the release of the hostages that the Federal Reserve immediately transfer to the escrow account the Iranian assets held by it, upon the conclusion of the agreement with Iran. Under the terms of the agreement, as set forth in the Declaration of the Algerian Government, the release of the hostages could not occur unless and until the United States fulfilled its commitment to cause the transfer of these assets into the escrow account. Even a short delay would have seriously jeopardized the carrying out of the agreement. If, as a result of this delay, the agreement had failed, the hostages would have been left in captivity for an indeterminate period of time, and tensions in U.S. relations with Iran would have escalated.

9. In this regard, it should be noted that paragraph 3 of the Declaration of the Algerian Government gave Iran and the United States an opportunity to terminate their commitments under the Declaration at any time before the hostages were released. If the transfer of the assets held in the Federal Reserve Bank of New York had been delayed, the Iranian authorities might well have concluded that the United States could



not, or would not, meet its commitments. Our failure to bring about the transfer of these assets might have led Iran to terminate its commitments under the Declaration and refuse to release the hostages. Under that circumstance there would have been no assurance that a new basis for agreement could have been achieved. Indeed, because a failure of the United States to bring about the transfer of these assets could have engendered doubts as to our willingness and ability to live up to our commitments, I believe that such a failure would have made it exceptionally difficult for the United States to reach a new agreement with Iran.

10. It is my judgment that the resolution of the hostage crisis on the terms described in the attached Declaration by the Government of Algeria is strongly in the interests of the United States foreign policy and national security. The hostage crisis has persisted for over fourteen months. It has already claimed the lives of eight American servicemen and has inflicted incalculable stress on the hostages and their families. In addition, it has threatened peace and security in the Persian Gulf.

region, which is of great strategic importance to the United States. It is very much in the interest of world stability that the crisis be resolved without any further delay.

I declare, under penalty of perjury, that the foregoing is true and correct.

  
\_\_\_\_\_  
DAVID D. NEWSOM

Executed on January 20, 1981.



~~SECRET~~

DECLASSIFIED  
Sec.3.4(b), E.O. 12958, as amended  
White House Guidelines, Sept. 11, 2008  
BY NARA dl, DATE 12/21/19

Iran Inter-Agency Meeting: Agenda

I. Agreements

Explanation of agreements  
Immediate actions required  
Likely challenges  
Assignments of responsibility  
Claims commission members

II. Other Issues

U.S. trade policy  
Travel advisory  
Guidance to Swiss on protection issues  
(property, etc.)  
Visa policy  
Military equipment

III. Public Affairs Aspects

~~SECRET~~

# WITHDRAWAL SHEET

Ronald Reagan Library

*Collection Name*  
FIELDING, FRED: FILES

*Withdrawer*  
DLB 12/2/2014

*File Folder*  
IRAN - [INDEX OF EXECUTED DOCUMENTS AS OF  
01/19/1981] (2 OF 2)

*FOIA*  
S643/2  
SYSTEMATIC

*Box Number*  
31F

25

---

<i>ID</i>	<i>Document Type</i> <i>Document Description</i>	<i>No of</i> <i>pages</i>	<i>Doc Date</i>	<i>Restric-</i> <i>tions</i>
-----------	---	------------------------------	-----------------	---------------------------------

---

166095 PAPER

3 ND B1

DECISIONS AND ACTIONS TO BE TAKEN WITH  
RESPECT TO THE US-IRAN CLAIMS/ASSETS  
SETTLEMENT

---

The above documents were not referred for declassification review at time of processing  
Freedom of Information Act - [5 U.S.C. 552(b)]

- B-1 National security classified information [(b)(1) of the FOIA]
- B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- B-3 Release would violate a Federal statute [(b)(3) of the FOIA]
- B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

---