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78 Box 29 - JGR/Iran Emergency – Roberts, John G.: Files
SERIES I: Subject File

THE WHITE HOUSE
WASHINGTON

November 12, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Semi-Annual Report to Congress
on Iran Emergency


Treasury now advises, after consultation with State, that the error in point four of the draft report is in the number of new successful small claimants, not the total number of such claimants. Thus, in the last sentence of point four, "five" should be changed to "two." To cure the second error noted in my November 6 memorandum, Treasury has agreed to delete, in the first line of the second paragraph of point 8, on page 4, "On July 31, 1985, Congress passed, and." The sentence would thus begin "On August 16." In the next line, the comma after "signed" should then be deleted.

THE WHITE HOUSE

WASHINGTON

November 6, 1985

MEMORANDUM FOR DAVID L. CHEW
STAFF SECRETARY

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Semi-Annual Report to Congress
on Iran Emergency

Counsel's Office has reviewed the above-referenced proposed report to Congress. In point 4 on page 2, it appears that the last word should be "fifteen" not "twelve." The previous report of April 22, 1985, stated that a total of ten small claimants had received awards on agreed terms. This report states that there have been five additional such cases, which would bring the total to fifteen, not twelve.

In the first line of the second paragraph of point 8 on page 4, "July 31" should be changed to "August 1." The Senate agreed to the conference report on what became Public Law 99-93 on July 31, but the House did not do so until August 1. (Alternatively, the reference to when Congress passed this statute can be deleted altogether. The legally significant date is the date the President signed the bill into law.)

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING

Date Correspondence Received (YY/MM/DD) 1 1 1

Name of Correspondent: Dave Chew

MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Semi-annual report to Congress on Iran emergency

ROUTE TO:		ACTION		DISPOSITION	
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response Code	Completion Date YY/MM/DD
<u>CUTROLL</u>		<u>ORIGINATOR</u>	<u>15, 11, 06</u>		<u>1 1</u>
		Referral Note:			
<u>CUAT 18</u>		<u>R</u>	<u>15, 11, 06</u>	<u>3</u>	<u>15 11 07</u>
		Referral Note:			
			<u>1 1</u>		<u>1 1</u>
		Referral Note:			
			<u>1 1</u>		<u>1 1</u>
		Referral Note:			
			<u>1 1</u>		<u>1 1</u>
		Referral Note:			

ACTION CODES:

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet
to be used as Enclosure

- J - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

DISPOSITION CODES:

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suggested

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
 Send all routing updates to Central Reference (Room 75, DEOB).
 Always return completed correspondence record to Central Files.
 Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 11/05/85 ACTION/CONCURRENCE/COMMENT DUE BY: 11/07/85

SUBJECT: SEMI-ANNUAL REPORT TO CONGRESS ON IRAN EMERGENCY

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	OGLESBY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
REGAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	RILEY	<input type="checkbox"/>	<input type="checkbox"/>
MILLER	<input type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input type="checkbox"/>
BUCHANAN	<input type="checkbox"/>	<input type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CHAVEZ	<input type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input type="checkbox"/>
CHEW	<input type="checkbox"/>	<input checked="" type="checkbox"/>	SVAHN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DANIELS	<input type="checkbox"/>	<input type="checkbox"/>	THOMAS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
HENKEL	<input type="checkbox"/>	<input type="checkbox"/>	CLERK	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HICKS	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
KINGON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
LACY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
McFARLANE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

Would you please comment on the attached and give them to me by Thursday, November 7. Thank you.

RESPONSE:

David L. Chew
Staff Secretary
Ext. 2702



THE SECRETARY OF THE TREASURY
WASHINGTON


November 5, 1985

Dear Mr. President:

Under Section 204(c) of the International Emergency Economic Powers Act, you are required to submit a report to the Congress concerning the Iran emergency every six months. A proposed report, which summarizes developments concerning the Iran emergency during the past six months, is enclosed at Tab A. Your last report to Congress, dated April 22, 1985, is enclosed for your reference at Tab B.

I recommend that you forward the proposed report to Congress by November 14, 1985, the end of the current six-month period.

Respectfully,


James A. Baker, III

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

Enclosures

THE WHITE HOUSE

WASHINGTON

National Emergency With Respect to Iran

Message to Congress, November , 1985

To the Congress of the United States:

Pursuant to Section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. Section 1703(c), I hereby report to the Congress with respect to developments since my last report of April 22, 1985, concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979.

1. The Iran-United States Claims Tribunal, established at The Hague pursuant to the Claims Settlement Agreement of January 19, 1981 (the "Algiers Accords"), continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered 25 more decisions, for a total of 194 final decisions. Of these, 146 have been awards in favor of American claimants; 101 were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties; and 45 were adjudicated decisions. As of October 15, 1985, total payments to successful American claimants from the Security Account stood at approximately \$368 million. In cases between the governments, the Tribunal has issued two decisions in favor of each government, dismissed one claim that had been filed by the United States, and dismissed four claims that had been filed by Iran. In addition, Iran has withdrawn fifteen of its government-to-government claims, while the United States has withdrawn only three.

2. My last report noted various changes in the composition of the Tribunal, including the designation of Karl-Heinz Bockstiegel as President of the Tribunal and Chairman of Chamber One. During the past six months, Swiss lawyer Robert Briner and French law professor Michel Virally have assumed their new positions as Chairmen of Chambers Two and Three, respectively. Shortly before Messrs. Briner and Virally assumed their new positions, Tribunal proceedings had been briefly disrupted because of travel difficulties allegedly encountered by Iranian respondents in connection with the Iran-Iraq war. With these alleged difficulties having abated, and the two new arbitrators having assumed their roles as Chairmen, the Tribunal has resumed normal operations.

The Tribunal continues to make progress in the arbitration of claims of U.S. nationals for \$250,000 or more. More than 36 percent of the claims for over \$250,000 have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 330 such claims on the docket. The Tribunal issued long-awaited orders in claims involving dual United States-Iranian nationals, allowing these claimants to resume actively arbitrating their claims by demonstrating their dominant and effective U.S. nationality. The Chambers have also made significant awards to several American claimants, including a \$7.3 million contested award to Sylvania Technical Systems, Inc. The Sylvania decision also purports to set forth a uniform standard for awarding interest in Tribunal cases. In another important decision, the Tribunal decided that, at least in the context of that case, the Treaty of Amity, Economic Relations and Consular Rights between Iran and the United States governs the standard of compensation in claims for expropriation of property, and determined that the claimant in that case was entitled to recover the fair market value of the going concern that had been expropriated by Iran. Settlement discussions continue to proceed between numerous American claimants and Iranian respondents.

4. The Tribunal has made significant progress in the arbitration of the claims of U.S. nationals against Iran of less than \$250,000 each. As described in my last report, in addition to 18 test cases, the Tribunal has selected 100 other claims for active arbitration. As of October 15, 1985, the Department of State had submitted Supplemental Statements of Claim in 85 of these claims, containing more than 25,000 pages of text and evidence. Additional pleadings are being filed weekly. Although Iran repeatedly seeks extensions of time within which to file its responsive pleadings to these claims, the Tribunal has continued to press for their resolution. At the Tribunal, three senior legal officers and a law clerk work exclusively on these claims. The first three test case hearings have been set for December, and six additional cases have been set for hearing during the spring of 1986. The Department of State remains optimistic that the Tribunal will issue its first decision in a fully arbitrated small claim in early 1986. Finally, since my last report, another five small claimants have received awards on agreed terms, bringing the total to twelve.

5. The Department of State continues to coordinate the efforts of concerned governmental agencies in presenting U.S. claims against Iran as well as responses by the U.S. Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in six government-to-government claims based on contracts for the provision of goods and services. The Tribunal held one

hearing in a major contract dispute on whether it could hear approximately 1500 cases under the Iranian Foreign Military Sales Program closed before October 1, 1978.

In addition to work on the government-to-government claims, the Department of State, working together with the Department of the Treasury and the Department of Justice, filed five pleadings in disputes concerning the interpretation and/or performance of various provisions of the Algiers Accords. The Tribunal issued one significant decision in an interpretive dispute, ruling that -- subject to a limited exception, which Iran has stated does not apply to any of its claims -- the Tribunal lacks jurisdiction over claims brought by Iran against U.S. banks for allegedly unpaid deposits and for interest on transferred deposits. This, together with the Tribunal's earlier decision that it lacked jurisdiction over standby letter of credit claims asserted by Iran against U.S. banks, has resulted in the dismissal of more than 400 of Iran's claims against such banks.

Since my last report, Iran has initiated two new interpretive disputes. The first concerns the purported obligation of the U.S. Government to satisfy Tribunal awards issued in favor of Iran against private U.S. claimants. The second concerns the Tribunal's jurisdiction over indirect claims for losses incurred by corporations (and similar entities) that lack U.S. nationality, but which are controlled by U.S. nationals. The Department of State is now preparing responsive pleadings in both these proceedings.

6. The Algiers Accords also provide for direct negotiations between U.S. banks and Bank Markazi Iran concerning the payment from Dollar Account No. 2 (the interest-bearing escrow account established at the Bank of England in January 1981 with the deposit of \$1.418 billion of previously blocked Iranian funds) of nonsyndicated debt claims of U.S. banks against Iran. Since my last report, Continental Illinois National Bank and Trust Company of Chicago reached a settlement with Iran, bringing to 30 the total number of bank settlements involving payments from Dollar Account No. 2. About 16 banks have yet to settle their claims. In addition, a number of those banks that have already reached settlements with Iran have reserved claims against Dollar Account No. 2.

As mentioned in my previous report, attorneys from the Department of the Treasury and the Federal Reserve Bank of New York have been negotiating an "Agreed Clarification" with Bank Markazi to allow for the payment from Dollar Account No. 2 of certain amounts still owing on Iran's syndicated debt. Agreement on the text of this "Agreed Clarification" was reached in June, and Treasury instructed the Federal Reserve Bank of New York, as fiscal agent of the United States, to

sign the document; however, the Bank Markazī representatives were not prepared to sign. They claimed the delay was due to the need to obtain additional formal clearances in Tehran and that there was no substantive problem with the agreement. The Department of the Treasury is hopeful that the necessary approval in Tehran will be forthcoming.

7. There have been no changes in the Iranian Assets Control Regulations since my last report.

8. Pursuant to a June 7, 1982 Directive License from the Department of the Treasury, the Federal Reserve Bank of New York had been deducting two percent from amounts received from the Security Account in satisfaction of awards rendered by the Tribunal in favor of U.S. claimants. The purpose of the deduction was to reimburse the U.S. Government for a portion of the expenses incurred in connection with the arbitration of claims of U.S. persons against Iran before the Tribunal and the maintenance of the Security Account from which such claims are paid. In ordering the deduction of this user fee, Treasury relied solely on the authority of the Independent Offices Appropriation Act (the "IOAA"). The amounts deducted, which as of August 16, 1985, totaled \$7.3 million, had been paid into the Treasury as miscellaneous receipts. Last May, in a case brought by Sperry Corporation, the U.S. Claims Court issued a bench ruling holding that the two percent fee did not comply with the requirements of the IOAA and hence was invalid. No judgment has yet been issued, and, in light of the new legislation described below, it is unlikely that one will be issued.

2/1
House
passed

On July 31, 1985, Congress passed, and on August 16, 1985, the President signed, the Foreign Relations Authorization Act for Fiscal Years 1986 and 1987, Public Law 99-93, Title V of which deals with claims against Iran. Section 502 of this legislation directs the Federal Reserve Bank of New York to deduct one and one-half percent from the first \$5 million awarded on each claim paid from the Security Account, and one percent from any amount over \$5 million, and to deposit the amounts deducted into the Treasury to the credit of miscellaneous receipts. The constitutionality of this legislation has been challenged, however, in a continuation of the litigation by Sperry. By its terms, Section 502 is effective as of June 7, 1982. Consequently, the Department of the Treasury is in the process of refunding to those claimants that have received awards paid from the Security Account the difference between the two percent fee already deducted and the one and one-half/one percent fee authorized by Section 502 of Public Law 99-93. These refunds will total approximately \$2.6 million.

Title V of Public Law 99-93 also grants standby authority to the Foreign Claims Settlement Commission to determine the validity and amounts of any claims against Iran which are settled en bloc by the United States and Iran, and provides certain limited exceptions to the disclosure provisions of the Freedom of Information Act for Tribunal-related documents within the possession of the U.S. Government.

9. Financial and diplomatic aspects of the relationship with Iran continue to present an unusual challenge to the national security and foreign policy of the United States. In particular, the Iranian Assets Control Regulations, issued pursuant to Executive Order No. 12170, continue to play an important role in regulating that relationship and in enabling the United States properly to implement the Algiers Accords. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

Ronald Reagan

The White House,

November , 1985

**National Emergency With Respect to
Iran**

Message to the Congress. April 22, 1985

To the Congress of the United States:

Pursuant to Section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. Section 1703(c), I hereby report to the Congress on developments since my last report of October 31, 1984, concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979.

1. The Iran-United States Claims Tribunal, established at The Hague pursuant to the Claims Settlement Agreement of Janu-

ary 19, 1981 (the "Algiers Accords"), continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered 18 more decisions for a total of 169 final decisions. Of these, 125 have been awards in favor of American claimants; 89 were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties, and 36 were adjudicated decisions. As of March 31, 1984, total payments to successful American claimants from the Security Account stood at over \$337 million. Of the remaining 44 decisions, 22 dismissed claims for lack of jurisdiction, 3 partially dismissed claims for lack of jurisdiction, 13 dismissed claims on the merits, one approved the withdrawal of a claim, four were awards in favor of the Government of Iran, and one was an award in favor of the United States Government.

2. In the past six months, there have been significant changes in the composition of the Tribunal. As I noted in my last report, Professor Karl-Heinz Bockstiegel of the Federal Republic of Germany was selected to replace President Gunnar Lagergren, who resigned effective October 1, 1984. On December 1, 1984, Professor Bockstiegel was designated President of the Tribunal, in addition to his duties as Chairman of Chamber One. On November 29, 1984, the Government of Iran appointed two new arbitrators to replace Judges Mahmoud M. Kashani and Shafei Shafeiei, whose qualifications had been challenged by the United States following their unprecedented attack on one of the third-party arbitrators, Judge Mangard, in September 1984. The two new Iranian arbitrators, Hamid Bahrami Ahmadi and Seyed Mohsen Mostafavi Tafreshi, assumed their duties on January 15, 1985. In addition, the Chairman of Chamber Two, Willem Riphagen, submitted his resignation for health reasons, effective April 1, 1985, and the Chairman of Chamber Three, Nils Mangard, has submitted his resignation for personal reasons, effective no later than July 1, 1985. Swiss lawyer Robert Briner and French law professor Michel Virally have recently accepted invitations from the U.S. and Iranian arbitrators to join the Tribunal in place of Chairmen Riphagen and Mangard.

3. In spite of the disruptions that I described in my last report, the Tribunal

made some progress in arbitrating the claims of U.S. nationals for \$250,000 or more. The Special Chamber, which was established to consider requests for withdrawals or terminations of claims and for awards on agreed terms, rendered 13 awards on agreed terms prior to its dissolution on January 15, 1985. With the arrival of the two new Iranian arbitrators, the Chambers have once again begun hearing and deciding cases. On March 1, the Tribunal awarded R. J. Reynolds Tobacco Co. an additional \$12 million in interest on its claim, the decision in which was described in my last report. In total, more than 35 percent of the claims for over \$250,000 have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 344 such claims on the docket.

4. The Tribunal has continued with the arbitration of the claims of U.S. nationals against Iran of less than \$250,000 each. In addition to 18 test cases, the Tribunal has selected 100 other claims for active arbitration. In 62 of these claims, the Department of State has submitted Supplemental Statements of Claim, containing more than 16,000 pages of text and evidence. Additional pleadings are being filed weekly. Although Iran repeatedly seeks extensions of time within which to file its responsive pleadings to these claims, the Tribunal has continued to press for their resolution. At the Tribunal, three senior legal officers and a law clerk work exclusively on these claims. Finally, since my last report, another seven of these claimants have received awards on agreed terms, bringing the total to ten.

5. The Department of State continues to coordinate the efforts of concerned governmental agencies in presenting U.S. claims against Iran as well as responses by the U.S. Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in seven government-to-government claims based on contracts for the provision of goods and services. These claims include a claim on behalf of the Agency for International Development for over \$38 million based on outstanding developmental loans to the Government of Iran. In addition, the Department of State, working together with the Department of

the Treasury and the Department of Justice, filed responsive pleadings in two major interpretive disputes. One related to Iran's claim to over \$400 million remaining from funds transferred pursuant to the Algiers Accords for payment of Iran's syndicated debt. The other was in response to Iran's allegations that the United States breached its obligation under the Algiers Accords to terminate litigation against Iran. The Department of State also filed pleadings in four other interpretive disputes. The Tribunal held one hearing in an interpretive dispute on whether the Tribunal has jurisdiction to arbitrate approximately 111 claims brought by Iran directly against U.S. banks which do not involve standby letters of credit. Finally, two of the Tribunal's chambers have confirmed that action will be taken on or about May 20 to strike or otherwise dispose of 248 claims brought by Iran against U.S. banks based on standby letters of credit.

6. The Algiers Accords also provided for direct negotiations between U.S. banks and Bank Markazi Iran concerning the payment of nonsyndicated debt claims of U.S. banks against Iran from Dollar Account No. 2 (the interest-bearing escrow account established at the Bank of England in January 1981 with the deposit of \$1.418 billion of previously blocked Iranian funds). As of April 10, 1985, three additional settlements had been reached since my last report between Iran and U.S. banks. The three settling banks, Irving Trust Company, Morgan Guaranty Trust Company, and Banker's Trust Company, received a total of \$81.91 million from Dollar Account No. 2 in payment of their claims against Iran. From this amount, \$73.595 million was subsequently paid by these banks to Iran in settlement of Iran's claims against them, primarily for interest on Iran's domestic deposits with these banks. (One of these banks paid Iran an additional \$8.45 million from other funds.) Thus, as of April 10, 1985, there have been 29 bank settlements resulting in payments to the settling banks of approximately \$1.5 billion from Dollar Account No. 2. From that amount, the banks have paid approximately \$693 million to Iran in settlement of Iran's claims against them. About 17 banks have yet to settle their claims. In addition, attorneys from the Department of the

Treasury and the Federal Reserve Bank of New York have been negotiating an "Agreed Clarification" with Bank Markazi to allow the payment from Dollar Account No. 2 of certain amounts still owing on Iran's syndicated debt.

7. There have been no changes in the Iranian Assets Control Regulations since my last report.

8. Although the attack on Judge Mangard in September seriously disrupted and delayed proceedings for three months, the Tribunal resumed full operation in January of this year and the two Iranian arbitrators who committed the attack were removed by the Government of Iran. Since that time, the Tribunal has actively pursued the arbitration of both private and government claims. Prehearing conferences and hearings that had been cancelled are being rescheduled. The Tribunal has made provision for the issuance of awards in cases heard prior to the removal of the two Iranian arbitrators and the resignations of President Lagergren and Chairmen Riphagen and Mangard. This resumption of Tribunal activities provides reason to expect that more progress will be made in the coming months.

9. Financial and diplomatic aspects of the relationship with Iran continue to present an unusual challenge to the national security and foreign policy of the United States. 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.

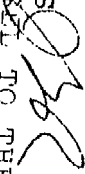
Ronald Reagan

The White House,
April 22, 1985.

THE WHITE HOUSE
WASHINGTON

October 30, 1985

MEMORANDUM FOR DAVID I. CHEW
STAFF SECRETARY

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Continuation of Iran Emergency

Counsel's Office has reviewed the above-referenced proposed notice and letter to Congress, and finds no objection to them from a legal perspective. Solely in the interests of stylistic conformity with last year's notices, a comma should be added after "policy" in line three, and the comma should "move" in line five should be deleted. In addition, "Federal Register" in the last sentence should be underlined.

ID #

CU

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

O OUTGOING

H INTERNAL

I INCOMING

Date Correspondence Received (YY/MM/DD) 1 1



Name of Correspondent: D Chew

Mt Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Continuation of war in Vietnam

ROUTE TO:

ACTION

DISPOSITION

Office Agency	Staff Name	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>State Dept</u>		<u>ORIGINATOR</u>	<u>5/1/75</u>			
<u>State Dept</u>		<u>Referral Note</u>	<u>5/1/75</u>			
		<u>Referral Note</u>	<u>1 1</u>			
		<u>Referral Note</u>	<u>1 1</u>			
		<u>Referral Note</u>	<u>1 1</u>			
		<u>Referral Note</u>	<u>1 1</u>			

ACTION CODES

- A Appropriate Action
- C Comment/Recommendation
- D Draft Response
- F Furnish Fact Sheet to be used as Enclosure

- I Info Copy Only/No Action Necessary
- R Direct Reply w/Copy
- S For Signature
- X Interim Reply

DISPOSITION CODES

- A Answered
- B Non-Special Referral
- C Completed
- S Suspended

FOR OUTGOING CORRESPONDENCE

Type of Response = initials of Signer
Code = A
Completion Date = Date of Outgoing

Comments:

Keep this worksheet attached to the original incoming letter
Send all routing updates to [unclear] (Room 7510-3)

Always return to [unclear] to [unclear] files.
Date of return [unclear]

WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/30/85

ACTION/CONCURRENCE/COMMENT DUE BY: October 31st

SUBJECT: Continuation of Iran Emergency

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	LACY	<input type="checkbox"/>	<input type="checkbox"/>
REGAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	McFARLANE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MILLER	<input type="checkbox"/>	<input type="checkbox"/>	OGLESBY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BUCHANAN	<input type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input type="checkbox"/>
CHAVEZ	<input type="checkbox"/>	<input type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
CHEW	<input type="checkbox"/>	<input checked="" type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input type="checkbox"/>
DANIELS	<input type="checkbox"/>	<input type="checkbox"/>	SVAHN	<input type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input checked="" type="checkbox"/>	<input type="checkbox"/>	THOMAS	<input type="checkbox"/>	<input type="checkbox"/>
FRIEDERSDORF	<input checked="" type="checkbox"/>	<input type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
HENKEL	<input type="checkbox"/>	<input type="checkbox"/>	<i>Clark</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HICKEY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
HICKS	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
KINGON	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

Please give your recommendations to my office by Thursday, October 31st. Thanks.

RESPONSE:



THE SECRETARY OF THE TREASURY
WASHINGTON

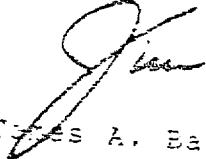
October 29, 1985

Dear Mr. President:

Under the National Emergencies Act, the authorities now being exercised pursuant to the November 14, 1979, declaration of national emergency with respect to Iran will lapse on November 14, 1985, unless, prior to that date, you publish in the Federal Register and transmit to the Congress a notice that those authorities are to continue in effect. If the Iran emergency were allowed to lapse, the Government would be limited to the existing measures regarding Iran. This could prevent you from taking steps necessary to implement the January 1981 agreements with Iran, from effectuating new settlements with Iran, or from protecting the interests of U.S. nationals with claims against Iran. It could also impair the Government's position in litigation involving Iran.

For these reasons, I recommend that you sign, transmit to the Congress, and publish in the Federal Register the necessary notice. Enclosed are a proposed notice of extension (Tab 1) and a letter transmitting the notice to the Congress (Tab 2).

Respectfully,


James A. Baker, III

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

Enclosures

THE WHITE HOUSE

WASHINGTON

TO THE CONGRESS OF THE UNITED STATES:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency is to continue in effect beyond November 14, 1985, to the Federal Register for publication. Similar notices were sent to the Congress and the Federal Register on November 12, 1980, November 12, 1981, November 8, 1982, November 4, 1983, and November 7, 1984.

The crisis between the United States and Iran that began in 1979 has not been fully resolved. Although the international tribunal established to adjudicate claims of U.S. nationals against Iran and of Iranian nationals against the United States continues to function, full normalization of commercial and diplomatic relations between the United States and Iran will require more time. In these circumstances, I have determined that it is necessary to maintain in force the broad authorities that may be needed in the process of implementing the January 1981 agreements with Iran and in the eventual normalization of relations with that country.

Enclosure

NOTICE

CONTINUATION OF IRAN EMERGENCY

On November 14, 1979, by Executive Order No. 12170, the President declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States constituted by the situation in Iran. Notices of the continuation of this national emergency were transmitted by the President to the Congress and the Federal Register on November 12, 1980, November 12, 1981, November 8, 1982, November 4, 1983, and November 7, 1984. Because our relations with Iran have not yet returned to normal and the process of implementing the January 19, 1981, agreements with Iran is still underway, the national emergency declared on November 14, 1979, must continue in effect beyond November 14, 1985. Therefore, in accordance with Section 202(d) of the National Emergencies Act, I am continuing the national emergency with respect to Iran. This notice shall be published in the Federal Register and transmitted to the Congress.

THE WHITE HOUSE,

November 1, 1985

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

November 13, 1985

THE CONGRESS OF THE UNITED STATES:

Pursuant to Section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. Section 1703(c), I hereby report to the Congress with respect to developments since my last report of April 22, 1985, concerning the international emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979.

1. The Iran-United States Claims Tribunal, established in The Hague pursuant to the Claims Settlement Agreement of January 19, 1981 (the "Algiers Accords"), continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered 25 more decisions, for a total of 194 final decisions. Of these, 146 have been awards in favor of American claimants; 101 were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties; and 45 were adjudicated decisions. As of October 15, 1985, total payments to successful American claimants from the Security Account stood at approximately \$68 million. In cases between the governments, the Tribunal has issued two decisions in favor of each government, dismissed one claim that had been filed by the United States, and dismissed four claims that had been filed by Iran. In addition, Iran has withdrawn fifteen of its government-to-government claims, while the United States has withdrawn only one.

2. My last report noted various changes in the composition of the Tribunal, including the designation of Carl Heinz Bockstiegel as President of the Tribunal and Chairman of Chamber One. During the past six months, Swiss lawyer Robert Briner and French law professor Michel Virally have assumed their new positions as Chairmen of Chambers Two and Three, respectively. Shortly before Messrs. Briner and Virally assumed their new positions, Tribunal proceedings had been briefly disrupted because of travel difficulties allegedly encountered by Iranian respondents in connection with the Iran-Iraq war. With these alleged difficulties having abated, and the two new arbitrators having assumed their roles as Chairmen, the Tribunal has resumed normal operations.

3. The Tribunal continues to make progress in the arbitration of claims of U.S. nationals for \$250,000 or more. More than 36 percent of the claims for over \$250,000 have now been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 330 such claims on the docket. The Tribunal issued long-awaited orders in claims involving United States-Iranian nationals, allowing these claimants to resume actively arbitrating their claims by demonstrating their dominant and effective U.S. nationality. The Chambers have also made significant awards to several American claimants, including a \$7.3 million contested award to Sylvania Technical Systems, Inc. The Sylvania decision also reports to set forth a uniform standard for awarding interest in Tribunal cases. In another important decision, the

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tribunal decided that, at least in the context of that case, the Treaty of Amity, Economic Relations and Consular Rights between Iran and the United States governs the standard of compensation in claims for expropriation of property, and determined that the claimant in that case was entitled to recover the fair market value of the going concern that had been expropriated by Iran. Settlement discussions continue to proceed between numerous American claimants and Iranian respondents.

4. The Tribunal has made significant progress in the arbitration of the claims of U.S. nationals against Iran of less than \$250,000 each. As described in my last report, in addition to 18 test cases, the Tribunal has selected 100 other claims for active arbitration. As of October 15, 1985, the Department of State had submitted Supplemental Statements of Claim in 85 of these claims, containing more than 25,000 pages of text and evidence. Additional pleadings are being filed weekly. Although Iran repeatedly seeks extensions of time within which to file its responsive pleadings to these claims, the Tribunal has continued to press for their resolution. At the Tribunal, three senior legal officers and a law clerk work exclusively on these claims. The first three test case hearings have been set for December, and six additional cases have been set for hearing during the spring of 1986. The Department of State remains optimistic that the Tribunal will issue its first decision in a fully arbitrated small claim in early 1986. Finally, since my last report, another two small claimants have received awards on agreed terms, bringing the total to twelve.

5. The Department of State continues to coordinate the efforts of concerned governmental agencies in representing U.S. claims against Iran as well as responses by the U.S. Government to claims brought against it by Iran. Since my last report, the Department has filed pleadings in six government-to-government claims based on contracts for the provision of goods and services. The Tribunal held one hearing in a major contract dispute on whether it could hear approximately 1500 cases under the Iranian Foreign Military Sales Program closed before October 1, 1978.

In addition to work on the government-to-government claims, the Department of State, working together with the Department of the Treasury and the Department of Justice, filed five pleadings in disputes concerning the interpretation and/or performance of various provisions of the Algiers Accords. The Tribunal issued one significant decision in an interpretive dispute, ruling that -- subject to a limited exception, which Iran has stated does not apply to any of its claims -- the Tribunal lacks jurisdiction over claims brought by Iran against U.S. banks for allegedly unpaid deposits and for interest on transferred deposits. This, together with the Tribunal's earlier decision that it lacked jurisdiction over standby letter of credit claims asserted by Iran against U.S. banks, has resulted in the dismissal of more than 400 of Iran's claims against such banks.

Since my last report, Iran has initiated two new interpretive disputes. The first concerns the purported obligation of the U.S. Government to satisfy Tribunal awards issued in favor of Iran against private U.S. claimants. The second concerns the Tribunal's jurisdiction over indirect claims for losses incurred by corporations (and similar entities) that lack U.S. nationality, but which are controlled by U.S. nationals. The Department of State is now preparing responsive pleadings in both these proceedings.

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6. The Algiers Accords also provide for direct negotiations between U.S. banks and Bank Markazi Iran concerning the payment from Dollar Account No. 2 (the interest-bearing escrow account established at the Bank of England in January 1981 with the deposit of \$1.418 billion of previously blocked Iranian funds) of nonsyndicated debt claims of U.S. banks against Iran. Since my last report, Continental Illinois National Bank and Trust Company of Chicago reached a settlement with Iran, bringing to 30 the total number of bank settlements involving payments from Dollar Account No. 2. About 16 banks have yet to settle their claims. In addition, a number of those banks that have already reached settlements with Iran have reserved claims against Dollar Account No. 2.

As mentioned in my previous report, attorneys from the Department of the Treasury and the Federal Reserve Bank of New York have been negotiating an "Agreed Clarification" with Bank Markazi to allow for the payment from Dollar account No. 2 of certain amounts still owing on Iran's syndicated debt. Agreement on the text of this "Agreed Clarification" was reached in June, and Treasury instructed the Federal Reserve Bank of New York, as fiscal agent of the United States, to sign the document; however, the Bank Markazi representatives were not prepared to sign. They claimed the delay was due to the need to obtain additional formal clearances in Tehran and that there was no substantive problem with the agreement. The Department of the Treasury is hopeful that the necessary approval in Tehran will be forthcoming.

7. There have been no changes in the Iranian Assets Control Regulations since my last report.

8. Pursuant to a June 7, 1982, Directive License from the Department of the Treasury, the Federal Reserve Bank of New York had been deducting two percent from amounts received from the Security Account in satisfaction of awards rendered by the Tribunal in favor of U.S. claimants. The purpose of the deduction was to reimburse the U.S. Government for a portion of the expenses incurred in connection with the arbitration of claims of U.S. persons against Iran before the Tribunal and the maintenance of the Security Account from which such claims are paid. In ordering the deduction of this user fee, Treasury relied solely on the authority of the Independent Offices Appropriation Act (the "IOAA"). The amounts deducted, which as of August 16, 1985, totaled \$7.3 million, had been paid into the Treasury as miscellaneous receipts. Last May, in a case brought by Sperry Corporation, the U.S. Claims Court issued a bench ruling holding that the two percent fee did not comply with the requirements of the IOAA and hence was invalid. No judgment has yet been issued, and, in light of the new legislation described below, it is unlikely that one will be issued.

On August 16, 1985, the President signed the Foreign Relations Authorization Act for Fiscal Years 1986 and 1987, Public Law 99-93, Title V of which deals with claims against Iran. Section 502 of this legislation directs the Federal Reserve Bank of New York to deduct one and one-half percent from the first \$5 million awarded on each claim paid from the Security Account, and one percent from any amount over \$5 million, and to deposit the amounts deducted into the Treasury to the credit of miscellaneous receipts. The constitutionality of this legislation has been challenged, however, in a continuation of the litigation by Sperry. By its terms, Section 502 is effective as of June 7, 1982. Consequently, the Department of the Treasury is in the process of refunding to those claimants that have received awards paid

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from the Security Account the difference between the two percent fee already deducted and the one and one-half/one percent fee authorized by Section 502 of Public Law 99-93. These refunds will total approximately \$2.6 million.

Title V of Public Law 99-93 also grants standby authority to the Foreign Claims Settlement Commission to determine the validity and amounts of any claims against Iran that are settled en bloc by the United States and Iran, and provides certain limited exceptions to the disclosure provisions of the Freedom of Information Act for Tribunal-related documents within the possession of the U.S. Government.

9. Financial and diplomatic aspects of the relationship with Iran continue to present an unusual challenge to the national security and foreign policy of the United States. In particular, the Iranian Assets Control Regulations, issued pursuant to Executive Order No. 12170, continue to play an important role in regulating that relationship and in enabling the United States properly to implement the Algiers Accords. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

RONALD REAGAN

THE WHITE HOUSE,
November 13, 1985.

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