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WITHDRAWAL SHEET

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Withdrawer

SMF 7/3/2008

File Folder LEGAL: IRAN (1/22/1981-1/26/1981)

FOIA

M2008-113

Box Number 90301 *RAC Box 9*

FELIPPONE

10

ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
54679	LETTER	PRECHT TO LAINGEN RE PAPER <i>R 5/27/2011 M113/1</i>	1	8/2/1979	B1
54680	PAPER	RE VISIT OF SHAH TO US <i>R 5/27/2011 M113/1</i>	4	8/1/1979	B1
54681	CABLE	RE SHAH'S DESIRE TO RESIDE IN US <i>R 5/27/2011 M113/1</i>	1	7/25/1979	B1
54682	MEMO	SICK TO ALLEN RE HOSTAGE SUITS DOCUMENT PENDING REVIEW IN ACCORDANCE WITH E.O. 13233	1	1/27/1981	<i>OPEN 3/29/10</i>
54683	OUTLINE	ANALYSIS OF AGREEMENT DOCUMENT PENDING REVIEW IN ACCORDANCE WITH E.O. 13233	2	ND	
54684	MEMO	DUPLICATE OF 54679 <i>R 5/27/2011 M113/1</i>	1	8/2/1979	B1
54685	PAPER	DUPLICATE OF 54680 <i>R 5/27/2011 M113/1</i>	4	8/1/1979	B1
54686	CABLE	DUPLICATE OF 54681 <i>R 5/27/2011 M113/1</i>	1	7/25/1979	B1

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.

Legal - Iran

LAW OFFICES

JOHN P. COALE
ARTHUR LOWY

227 Massachusetts Ave., N. E., Suite 310, Washington, D. C. 20002
(202) 544-7177

January 22, 1981

President Ronald W. Reagan
The White House
Washington, D. C.

Dear Mr. President:

On December 6, 1979, I filed a suit under the Foreign Sovereign Immunities Act of 1976 (28 USCS 1602) against the State of Iran. By the end of March 1980, this suit included five black captives released around Thanksgiving of 1979 and three Americans who spent eleven weeks in hiding and then escaped with the help of Canada. Also included are the members of these captives' families, who of course also suffered as a result of Iran's criminal acts. A copy of the Complaint is enclosed.

My associates and I are really the only people who have represented hostages held in Iran with the perspective of making them whole for the personal damages inflicted on them by their captors. Over the year, I have seen what this experience has done to these eight and their families, and can imagine the horrendous harm done to the fifty-two now returned. The horror stories and the constant fear of death are only now coming to the surface.

It is my feeling that the Carter administration has grossly underestimated the resolve that all of the former hostages have and will have to make claims against Iran. Originally, the main purpose of my clients' suit was to make a statement against Iran.

On January 9, 1981, Jimmy Carter signed an Executive Order entitled "Non-Prosecution of Claims of Hostages and for Actions at the United States Embassy and Elsewhere". Within this Order Mr. Carter purports to have the authority to order that these American citizens may not use their Courts to redress their grievances against Iran. Of course, it is my feeling that there are serious Constitutional problems with this action. At the least, it can be argued that the United States should compensate the hostages at fair market value for their claims. Enclosed you will find a Secret cable dated August 2, 1979 and one dated July 1979 that evidences the fact that the United States had good cause to know that the admission of the Shah would have the result that it did. To my knowledge, there is also a State Department document dated April of 1979 that goes into much greater detail concerning the danger of hostages being taken in Iran.

My clients gave me these documents and are adamant about suing the United States if they can't be compensated by Iran. I must say that Mark Lijek, a foreign service officer who is more representative of the fifty-two returnees than most of my other clients, feels the strongest about suing the United States. It is my intention to avoid such a class action suit at all costs since it no doubt would become an ugly media event.

Therefore, Mr. President, I propose as a class action claim for all sixty-five hostages that you revoke former President Carter's Executive Orders pertaining to the remaining Iranian assets and refreeze at least ninety-one million dollars under the International Emergency Economic Powers Act (50 USC, Section 1702) and award 1.5 million dollars to each hostage just released and one million dollars to each hostage released earlier under your power to conduct foreign policy since this would set an example to terrorists throughout the world that they will have to pay the innocent victims of their criminal acts. I would also cite the World Court opinion of May 24, 1980 where the Court declared "that the government of the Islamic Republic of Iran must immediately take all steps to redress the situation resulting from events of 4 November 1979" and "that the government of the Islamic Republic of Iran is under an obligation to make reparations to the government of the United States of America for injuries caused to the latter by events of 4 November 1979 and what follows from these events".

I must point out that the amounts suggested are small relative to the compensatory and punitive damages that would be awarded by our courts if these cases ever went to trial. From a political standpoint, this type of compensation would benefit the American people. All Americans have vicariously suffered with the hostages and share the hostages' resentment and need for revenge against Iran. I believe that Americans would be extremely happy to see their fellow citizens who have suffered so much be justly compensated. The compensation offered by the Carter administration, i. e., medical care, tax benefits, etc., is uniformly taken as an insult by my clients, and I am sure will be by the freed captives now in Germany.

If this issue of compensation is not addressed now and there is a long Court battle with the United States brought in as a Co-Defendant with Iran, the hostages' suffering will just be extended. As I have indicated before, I think it was very naive of the Carter administration to believe that at least a large percentage of the hostages will not file suit against both Iran and the United States.

President Ronald W. Reagan

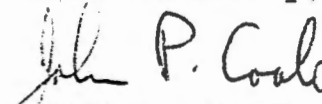
Page 3
January 22, 1981

Since the barbaric treatment the hostages received has come to the surface, there is a growing feeling in this country that the so-called deal made with Iran should be cancelled. Many argue that to cancel the entire agreement would harm the United States' credibility especially in the third world since Algeria played a large part in this agreement. There may be weight to the argument that a slight change in the agreement whereby the hostages are compensated from the Iranian assets as I have proposed above would diffuse the growing popular demand that the entire agreement be voided and still not harm our credibility around the world.

The Iranian issue is going to be fought over for a long time to come, and I feel the humane thing to do is to keep the hostages and their families out of the fray.

I would like a further opportunity to express this point of view if necessary.

Most Sincerely,


JOHN P. COALE

JPC/laf
Enclosure

DEPARTMENT OF STATE

Washington, D.C. 20520

54679

August 2, 1979

SECRET - EYES ONLY

The Honorable
L. Bruce Laingen
Charge d'Affaires, a.i.
American Embassy
Tehran

Dear Bruce:

I was finally able to see your cable dealing with the same subject as the enclosed piece. I liked your thoughts very much and believe -- with a few details of difference -- we are in accord. My paper was prepared at Newsom's request with strict instructions not to cut anyone else in except those shown as clearing and Peter. So please protect me absolutely.

Sincerely,

Henry Precht
Director
Office of Iranian Affairs

Enclosure.

SECRET - EYES ONLY

DECLASSIFIED

NLRR M08-18#54679

BY RW NARA DATE 5/27/11

DECLASSIFIED

NLRR MO8-113#54680

BY RW NARA DATE 5/22/11

54680

~~SECRET/SENSITIVE~~

Planning for the Shah to Come to the United States

This paper outlines some concepts we should address in considering the Shah's desire to come to the United States. We believe there are three broad questions:

- What new circumstances could justify a change in the USG position?
- What conditions should we seek from the Shah or state prior to his arrival here?
- What arrangements should we make for Embassy personnel to provide protection?

1. New Circumstances

The PGOI has laid out a plan for the adoption of a new constitution and election of a new government. If the plan is followed -- and that seems unlikely -- elections for an assembly of experts will be held on August 3. The assembly will conclude its work in one month; the draft constitution, which the experts will have reviewed, will be submitted to a popular referendum probably in September; and elections for a president and Majlis could take place as early as October. Because the Iranian government has placed a high priority on establishing a stronger and legitimate single authority for the country, we believe the PGOI and Khomeini will make every effort to meet this schedule. Even with the inevitable delays, there is a good chance that the process will be completed by the end of 1979.

Once it is completed, we should inform the new government that we wish to clear our decks of old issues on the agenda. One of those old issues will be the status of the Shah. We could inform the government that we have resisted intense pressures to allow him to come to the U.S. because we did not wish to complicate the PGOI's problems or our efforts to construct a new relationship. Now with the new government firmly established and accepted, it seems appropriate to admit the Shah to the U.S. The new government may not like it, but it is best to get the issue out of the way. This discussion with the new GOI should take place after it is in place some 2-3 weeks and some few days before the Shah would come here. In the meantime,

~~SECRET/SENSITIVE~~

we should begin to prepare the Iranians by telling them of the intense pressures for the Shah to come here -- pressures which we are resisting despite our traditional open-door policy.

If the constitutional process does not proceed and Iranian instability seriously increases, and if there is no prospect for Iran to settle down, there may be an argument for going ahead and admitting the Shah anyway to get that inevitable step behind us, but it will be necessary first to review how dangerous the situation is.

In either of these scenarios we should aim for a positive change in our position on the Shah by January 1980. If this plan is adopted it probably would not be advisable to disseminate it beyond a close circle in the Executive Branch; perhaps a few individuals outside might be informed so as to reduce pressures for a change. We would also have to discuss the issue with Members of Congress to indicate that we were addressing the issue and hope to resolve it successfully. This would reduce pressures which could lead, for example, to a Congressional resolution calling on the Administration to admit the Shah. However, this would increase the likelihood of leaks and our having to deal with the PGOI before we are ready.

2. Conditions

It would help substantially in explaining our position to the Iranians if the Shah were to renounce his family's claim to the throne. We believe the likelihood of his doing so is extremely remote, but the idea could be explored privately by trusted intermediaries so that if the Shah refused he would have no possibility of blaming the USG for a course he rejected.

Should the Shah refuse to renounce his claim, we should leave no doubt in the Iranian mind as to our attitude. We should make it quite clear publicly that we consider any claim to the throne by his family rendered invalid by the Iranian constitutional process, and we should make it clear privately to the Shah and his friend that we would not tolerate any counter-revolutionary acts here which might violate U.S. law, or our customary policies regarding political activities of persons admitted for temporary visits.

SECRET/SENSITIVE

(8)

3. Security.

We have the impression that the threat to U.S. Embassy personnel is less now than it was in the spring; presumably the threat will diminish somewhat further by the end of this year. Nevertheless, the danger of hostages being taken in Iran will persist.

We should make no move towards admitting the Shah until we have obtained and tested a new and substantially more effective guard force for the Embassy. Secondly, when the decision is made to admit the Shah, we should quietly assign additional American security guards to the Embassy to provide protection for key personnel until the danger period is considered over.

* * * * *

Before proceeding further we should have more detailed work on the legal, security and Congressional relations issues.

Drafted: NEA/IRN:HPrecht:amp
8/1/79 - ext:20313

Clearances: NEA - Mr. Saunders
L/NEA - Mr. Small

[illegible]

These voluntary efforts of the people have helped
keep the legal, security, and economic and political
issues.

(7)

BY RW NLRB DATE 5/27/11

32

Executive Order

Friday
January 23, 1981

Part XXII

The President

Executive Orders 12276 through 12285
Relating to the Release of the American
Hostages in Iran

Presidential Documents

Title 3—

Executive Order 12276 of January 19, 1981

The President

Direction Relating to Establishment of Escrow Accounts

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 I based my 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 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. The Secretary of the Treasury is authorized to enter into, and to license, authorize, direct, and compel any appropriate official and/or the Federal Reserve Bank of New York, as fiscal agent of the United States, to enter into escrow or related agreements with a foreign central bank and with the Central Bank of Algeria under which certain money and other assets, as and when directed by the Secretary of the Treasury, shall be credited by the foreign central bank to an escrow account on its books in the name of the Central Bank of Algeria, for transfer to the Government of Iran if and when the Central Bank of Algeria receives from the Government of Algeria a certification that the 52 U.S. diplomats and nationals being held hostage in Iran have safely departed from Iran. Such agreements shall include other parties and terms as determined by the Secretary of the Treasury to be appropriate to carry out the purposes of this Order.

1-102. The Secretary of the Treasury is authorized to license, authorize, direct, and compel the Federal Reserve Bank of New York, as fiscal agent of the United States, to receive certain money and other assets in which Iran or its agencies, instrumentalities, or controlled entities have an interest and to hold or transfer such money and other assets, and any interest earned thereon, in such a manner as he deems necessary to fulfill the rights and obligations of the United States under the Declaration of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981, and the escrow and related agreements described in paragraph 1-101 of this Order. Such money and other assets may be held in interest-bearing form and where possible shall be invested with or through the entity holding the money or asset on the effective date of this Order.

1-103. Compliance with this Executive Order, any other Executive Order licensing, authorizing, directing or compelling the transfer of the assets referred to in paragraphs 1-101 and 1-102 of this Order or any regulations, instructions, or directions issued thereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, such orders, regulations, instructions, or directions.

1-104. The Attorney General shall seek to intervene in any litigation within the United States which arises out of this Order and shall, among other things, defend the legality of, and all actions taken pursuant to, each of its provisions.

1-105. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to carry out the purposes of this Order.

1-106. This Order shall be effective immediately.

Jimmy Carter

THE WHITE HOUSE,

January 19, 1981.

[FR Doc. 81-2775]

Filed 1-22-81; 9:17 am]

Billing code 3195-01-M

Presidential Documents

Executive Order 12277 of January 19, 1981

Direction To Transfer Iranian Government Assets

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 I based my 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 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 and in which Iran and the United States instruct and require that the assets described in this order shall be transferred as set forth below by the holders of such assets, it is hereby ordered that as of the effective date of this Order:

1-101. The Federal Reserve Bank of New York is licensed, authorized, directed, and compelled to transfer to accounts at the Bank of England, and subsequently to transfer to accounts at the Bank of England established pursuant to an escrow agreement approved by the Secretary of the Treasury, all gold bullion, and other assets (or the equivalent thereof) in its custody, of the Government of Iran, or its agencies, instrumentalities or controlled entities. Such transfers shall be executed when and in the manner directed by the Secretary of the Treasury. The Secretary of the Treasury is also authorized to license, authorize, direct, and compel the Federal Reserve Bank of New York to engage in whatever further transactions he deems appropriate and consistent with the purposes of this Order, including any transactions related to the return of such bullion and other assets pursuant to the escrow agreement.

1-102. (a) All licenses and authorizations for acquiring or exercising any right, power, or privilege, by court order, attachment, or otherwise, including the license contained in Section 535.504 of the Iranian Assets Control Regulations, with respect to the properties described in Section 1-101 of this Order are revoked and withdrawn.

(b) All rights, powers, and privileges relating to the properties described in section 1-101 of this Order and which derive from any attachment, injunction, other like proceedings or process, or other action in any litigation after November 14, 1979, at 8:10 a.m. EST, including those derived from Section 535.504 of the Iranian Assets Control Regulations, other than rights, powers, and privileges of the Government of Iran and its agencies, instrumentalities, and controlled entities, whether acquired by court order or otherwise, are nullified, and all persons claiming any such right, power, or privilege are hereafter barred from exercising the same.

(c) All persons subject to the jurisdiction of the United States are prohibited from acquiring or exercising any right, power, or privilege, whether by court order or otherwise, with respect to the properties (and any income earned thereon) referred to in Section 1-101 of this Order.

1-103. Compliance with this Order, any other Executive Order licensing, authorizing, directing, or compelling the transfer of the assets described in

section 1-101 of this Order, or any regulations, instructions, or directions issued thereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, such orders, regulations, instructions, or directions.

1-104. The Attorney General shall seek to intervene in any litigation within the United States which arises out of this Order and shall, among other things, defend the legality of, and all actions taken pursuant to, each of its provisions.

1-105. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to carry out the purposes of this Order.

1-106. This Order shall be effective immediately.

THE WHITE HOUSE,

January 19, 1981.

Jimmy Carter

[FR Doc. 81-2776

Filed 1-22-81; 9:18 am]

Billing code 3195-01-M

Presidential Documents

Executive Order 12278 of January 19, 1981

Direction To Transfer Iranian Government Assets Overseas

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 I based my 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 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 and in which Iran and the United States instruct and require that the assets described in this Order shall be transferred as set forth below by the holders of such assets, it is hereby ordered that as of the effective date of this Order:

1-101. Any branch or office of a United States bank or subsidiary thereof, which branch or office is located outside the territory of the United States and which on or after 8:10 a.m. E.S.T. on November 14, 1979 (a) has been or is in possession of funds or securities legally or beneficially owned by the Government of Iran or its agencies, instrumentalities, or controlled entities, or (b) has carried or is carrying on its books deposits standing to the credit of or beneficially owned by such Government, agencies, instrumentalities, or controlled entities, is licensed, authorized, directed, and compelled to transfer such funds, securities, and deposits, including interest from November 14, 1979, at commercially reasonable rates, to the account of the Federal Reserve Bank of New York at the Bank of England, to be held or transferred as directed by the Secretary of the Treasury. The Secretary of the Treasury shall determine when the transfers required by this section shall take place. The funds, securities and deposits described in this section shall be further transferred as provided for in the Declaration of the Government of the Democratic and Popular Republic of Algeria and its Annex.

1-102. Any banking institution subject to the jurisdiction of the United States that has executed a set-off on or after November 14, 1979, at 8:10 a.m. E.S.T. against Iranian funds, securities, authorized, directed, and compelled to cancel such set-off and to transfer all funds, securities, and deposits which have been subject to such set-off, or deposits referred to in section 1-101 is hereby licensed, including interest from November 14, 1979, at commercially reasonable rates, pursuant to the provisions of section 1-101 of this Order.

1-103. If the funds, securities, and deposits described in section 1-101 are not promptly transferred to the control of the Government of Iran, such funds, securities, and deposits shall be returned to the banking institutions holding them on the effective date of this Order and the set-offs described in section 1-102 shall be in force as if this Order had not been issued and the status of all such funds, securities, deposits and set-offs shall be *status quo ante*.

1-104. (a) All licenses and authorizations for acquiring or exercising any right, power, or privilege, by court order, attachment, or otherwise, including the license contained in Section 535.504 of the Iranian Assets Control Regulations,

with respect to the properties described in Sections 1-101 and 1-102 of this Order are revoked and withdrawn.

(b) All rights, powers, and privileges relating to the properties described in Sections 1-101 and 1-102 of this Order and which derive from any attachment, injunction, other like proceedings or process, or other action in any litigation after November 14, 1979, at 8:10 a.m. E.S.T., including those derived from Section 535.504 of the Iranian Assets Control Regulations, other than rights, powers, and privileges of the Government of Iran and its agencies, instrumentalities, and controlled entities, whether acquired by court order or otherwise, are nullified, and all persons claiming any such right, power, or privilege are hereafter barred from exercising the same.

(c) All persons subject to the jurisdiction of the United States are prohibited from acquiring or exercising any right, power, or privilege, whether by court order or otherwise, with respect to the properties (and any income earned thereon) referred to in Sections 1-101 and 1-102 of this Order.

1-105. Compliance with this Order, any other Executive Order licensing, authorizing, directing, or compelling the transfer of the assets described in Sections 1-101 and 1-102 of this Order, or any regulations, instructions, or directions issued thereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, such orders, regulations, instructions, or directions.

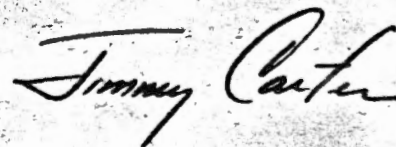
1-106. The Attorney General shall seek to intervene in any litigation within the United States which arises out of this Order and shall, among other things, defend the legality of, and all actions taken pursuant to, each of its provisions.

1-107. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to carry out the purposes of this Order.

1-108. This Order shall be effective immediately.

THE WHITE HOUSE,

January 19, 1981.



Presidential Documents

Executive Order 12279 of January 19, 1981

Direction: To Transfer Iranian Government Assets Held by Domestic Banks

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 22 of the United States Code, Section 1732 of 3 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 I based my 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 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 and in which Iran and the United States instruct and require that the assets described in this Order shall be transferred as set forth below by the holders of such assets, it is hereby ordered that as of the effective date of this Order:

1-101. Any branch or office of a banking institution subject to the jurisdiction of the United States, which branch or office is located within the United States and is, on the effective date, either (a) in possession of funds or securities legally or beneficially owned by the Government of Iran or its agencies, instrumentalities, or controlled entities, or (b) carrying on its books deposits standing to the credit of or beneficially owned by such Government, agencies, instrumentalities, or controlled entities is licensed, authorized, directed and compelled to transfer such funds, securities, and deposits, including interest from November 14, 1979, 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.

1-102. (a) All licenses and authorizations for acquiring or exercising any right, power, or privilege, by court order, attachment, or otherwise, including the license contained in Section 535.504 of the Iranian Assets Control Regulations, with respect to the properties described in Section 1-101 of this Order are revoked and withdrawn.

(b) All rights, powers, and privileges relating to the properties described in section 1-101 of this Order and which derive from any attachment, injunction, other like proceedings or process, or other action in any litigation after November 14, 1979, at 8:10 a.m. EST, including those derived from Section 535.504 of the Iranian Assets Control Regulations, other than rights, powers, and privileges of the Government of Iran and its agencies, instrumentalities, and controlled entities, whether acquired by court order or otherwise, are nullified, and all persons claiming any such right, power, or privilege are hereafter barred from exercising the same.

(c) All persons subject to the jurisdiction of the United States are prohibited from acquiring or exercising any right, power, or privilege whether by court order or otherwise, with respect to the properties (and any income earned thereon) referred to in Section 1-101 of this Order.

1-103. Compliance with this Order, any other Executive Order licensing, authorizing, directing or compelling the transfer of the assets described in section 1-101 of this Order, or any regulations, instructions, or directions issued thereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, such orders, regulations, instructions, or directions.

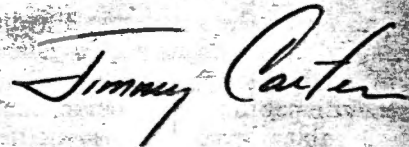
1-104. The Attorney General shall seek to intervene in any litigation within the United States which arises out of this Order and shall, among other things, defend the legality of, and all actions taken pursuant to, each of its provisions.

1-105. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to carry out the purposes of this Order.

1-106. This Order shall be effective immediately.

THE WHITE HOUSE,

January 19, 1981.



[FR Doc. 81-2778

Filed 1-22-81; 9:21 am]

Billing code 3195-01-M

Presidential Documents

Executive Order 12280 of January 19, 1981

Direction To Transfer Iranian Government Financial Assets Held by Non-Banking Institutions

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 I based my 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 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 and in which Iran and the United States instruct and require that the assets described in this Order shall be transferred as set forth below by the holders of such assets, it is hereby ordered that as of the effective date of this Order:

1-101. Any person subject to the jurisdiction of the United States which is not a banking institution and is on the effective date in possession or control of funds or securities of Iran or its agencies, instrumentalities, or controlled entities is licensed, authorized, directed and compelled to transfer such funds or securities to the Federal Reserve Bank of New York to be held or transferred as directed by the Secretary of the Treasury.

1-102. (a) All licenses and authorizations for acquiring or exercising any right, power, or privilege, by court order, attachment, or otherwise, including the license contained in Section 535.504 of the Iranian Assets Control Regulations, with respect to the properties described in Section 1-101 of this Order are revoked and withdrawn.

(b) All rights, powers, and privileges relating to the properties described in section 1-101 of this Order and which derive from any attachment, injunction, other like proceedings or process, or other action in any litigation after November 14, 1979, at 8:10 a.m. EST, including those derived from Section 535.504 of the Iranian Assets Control Regulations, other than rights, powers, and privileges of the Government of Iran and its agencies, instrumentalities, and controlled entities, whether acquired by court order or otherwise, are nullified; and all persons claiming any such right, power, or privilege are hereafter barred from exercising the same.

(c) All persons subject to the jurisdiction of the United States are prohibited from acquiring or exercising any right, power, or privilege, whether by court order or otherwise, with respect to the properties (and any income earned thereon) referred to in Section 1-101 of this Order.

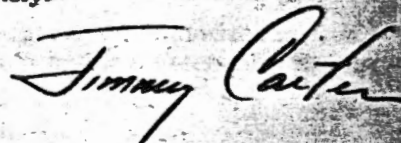
1-103. Compliance with this Executive Order, any other Executive Order licensing, authorizing, directing or compelling the transfer of the assets described in paragraph 1-101 of this Order, or any regulations, instructions, or directions issued thereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to

anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, such orders, regulations, instructions, or directions.

1-104. The Attorney General shall seek to intervene in any litigation within the United States which arises out of this Order and shall, among other things, defend the legality of and all actions taken pursuant to, each of its provisions.

1-105. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to carry out the purposes of this Order.

1-106. This Order shall be effective immediately.



THE WHITE HOUSE,

January 19, 1981.

[FR Doc. 81-2779

Filed 1-22-81; 9:22 am]

Billing code 3195-01-M

Presidential Documents

Executive Order 12281 of January 19, 1981

Direction To Transfer Certain Iranian Government Assets

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 I based my 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 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 and in which Iran and the United States instruct and require that the assets described in this Order shall be transferred as set forth below by the holders of such assets, it is hereby ordered that as of the effective date of this Order:

1-101. All persons subject to the jurisdiction of the United States in possession or control of properties, not including funds and securities, owned by Iran or its agencies, instrumentalities, or controlled entities are licensed, authorized, directed and compelled to transfer such properties, as directed after the effective date of this Order by the Government of Iran, acting through its authorized agent. Except where specifically stated, this license, authorization, and direction does not relieve persons subject to the jurisdiction of the United States from existing legal requirements other than those based upon the International Emergency Economic Powers Act.

1-102. (a) All licenses and authorizations for acquiring or exercising any right, power, or privilege, by court order, attachment, or otherwise, including the license contained in Section 535.504 of the Iranian Assets Control Regulations, with respect to the properties described in Section 1-101 of this Order are revoked and withdrawn.

(b) All rights, powers, and privileges relating to the properties described in section 1-101 of this Order and which derive from any attachment, injunction, other like proceedings or process, or other action in any litigation after November 14, 1979, at 8:10 a.m. EST, including those derived from Section 535.504 of the Iranian Assets Control Regulations, other than rights, powers, and privileges of the Government of Iran and its agencies, instrumentalities, and controlled entities, whether acquired by court order or otherwise, are nullified, and all persons claiming any such right, power, or privilege are hereafter barred from exercising the same.

(c) All persons subject to the jurisdiction of the United States are prohibited from acquiring or exercising any right, power, or privilege, whether by court order or otherwise, with respect to the properties (and any income earned thereon) referred to in Section 1-101 of this Order.

1-103. Compliance with this Executive Order, any other Executive Order licensing, authorizing, directing or compelling the transfer of the assets described in paragraph 1-101 of this Order, or any regulations, instructions, or directions issued thereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the

same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, such orders, regulations, instructions, or directions.

1-104. The Attorney General shall seek to intervene in any litigation within the United States which arises out of this Order and shall, among other things, defend the legality of, and all actions taken pursuant to, each of its provisions.

1-105. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to carry out the purposes of this Order.

1-106. This Order shall be effective immediately.

THE WHITE HOUSE,
January 19, 1981.

Jimmy Carter

Doc. 81-2780
1-22-81; 9:23 am]
code 3195-01-M

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Presidential Documents

Executive Order 12282 of January 19, 1981

Revocation of Prohibitions Against Transactions Involving Iran

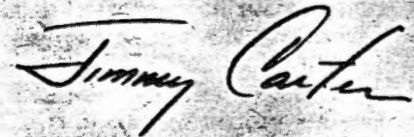
By the authority vested in me as President by the Constitution and statutes of the United States, including Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702), Section 301 of Title 3 of the United States Code, Section 1732 of Title 22 of the United States Code, and Section 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 I based my 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 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 hostage 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:

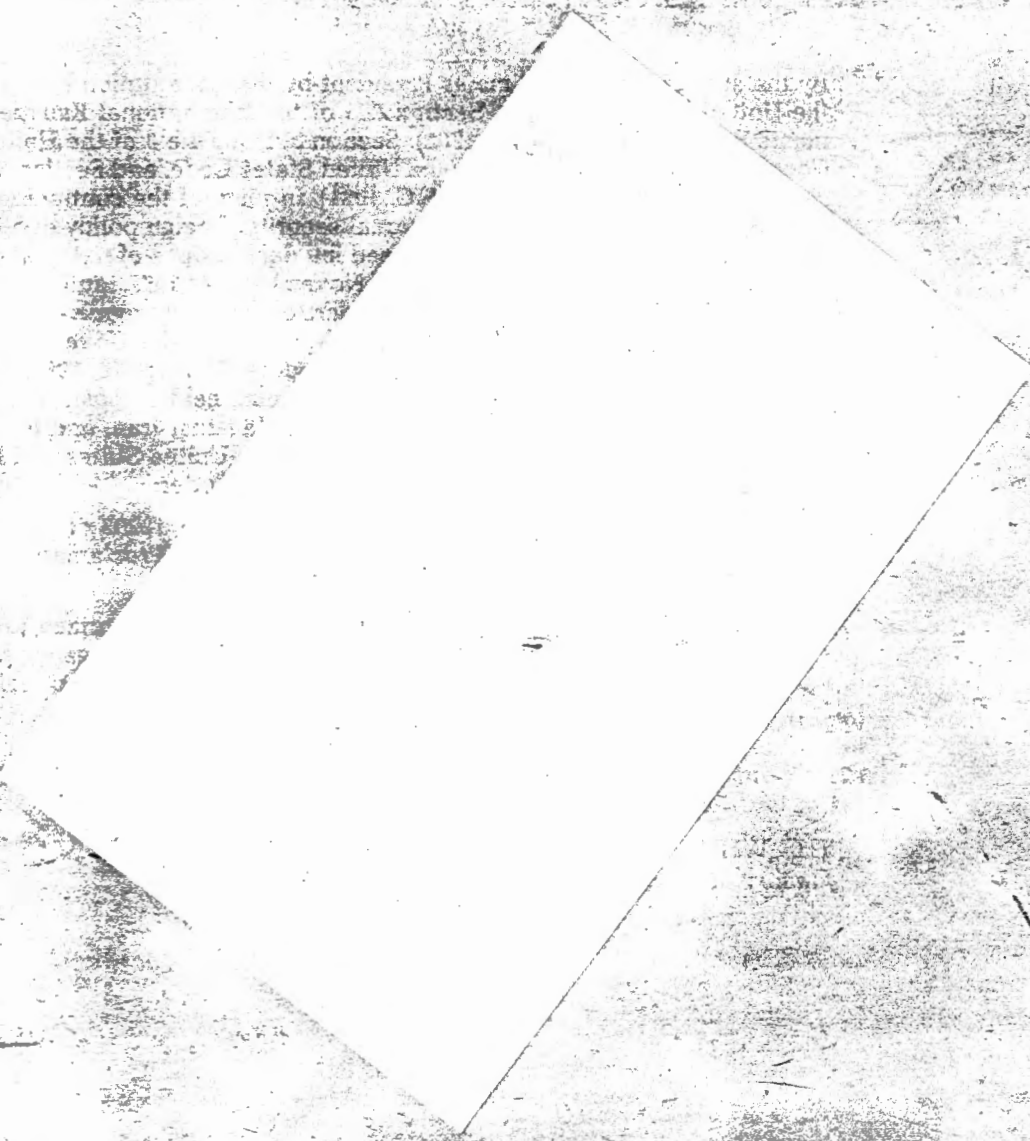
1-101. The prohibitions contained in Executive Order 12205 of April 7, 1980, and Executive Order 12211 of April 17, 1980, and Proclamation 4702 of November 12, 1979, are hereby revoked.

1-102. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to carry out the purpose of this Order.

1-103. This Order shall be effective immediately.

THE WHITE HOUSE,
January 19, 1981.





Presidential Documents

Executive Order 12283 of January 19, 1981

Non-Prosecution of Claims of Hostages and for Actions at the United States Embassy and Elsewhere

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 I based my 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 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:

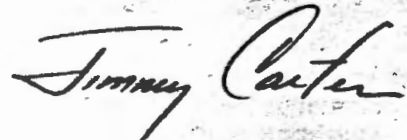
1-101. The Secretary of the Treasury shall promulgate regulations: (a) prohibiting any person subject to U.S. jurisdiction from prosecuting in any court within the United States or elsewhere any claim against the Government of Iran arising out of events occurring before the date of this Order relating to (1) the seizure of the hostages on November 4, 1979, (2) their subsequent detention, (3) injury to United States property or property of United States nationals within the United States Embassy compound in Tehran after November 3, 1979, or (4) 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.

1-102. The Attorney General of the United States is authorized and directed, immediately upon the issuance of regulations in accordance with Section 1-101, to take all appropriate measures to notify all appropriate courts of the existence of this Order and implementing regulations and the resulting termination of litigation.

1-103. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to carry out the purpose of this Order.

1-104. This Order shall be effective immediately.

THE WHITE HOUSE,
January 19, 1981.



Presidential Documents

Executive Order 12284 of January 19, 1981

Restrictions on the Transfer of Property of the Former Shah of Iran

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 I based my 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 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. For the purpose of protecting the rights of litigants in courts within the United States, all property and assets located in the United States within the control of the estate of Mohammad Reza Pahlavi, the former Shah of Iran, or any close relative of the former Shah served as a defendant in litigation in such courts brought by Iran seeking the return of property alleged to belong to Iran, is hereby blocked as to each such estate or person until all such litigation against such estate or person is finally terminated.

1-102. The Secretary of the Treasury is authorized and directed (a) to promulgate regulations requiring all persons who are subject to the jurisdiction of the United States and who, as of November 3, 1979, or as of this date, have actual or constructive possession of property of the kind described in Section 1-101, or knowledge of such possession by others, to report such possession or knowledge thereof, to the Secretary of the Treasury in accordance with such regulations and (b) to make available to the Government of Iran or its designated agents all identifying information derived from such reports to the fullest extent permitted by law. Such reports shall be required as to all individuals described in 1-101 and shall be required to be filed within 30 days after publication of a notice in the Federal Register.

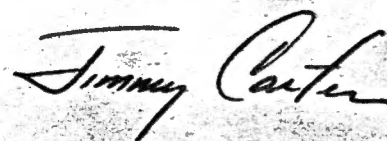
1-103. The Secretary of the Treasury is authorized and directed (a) to require all agencies within the Executive Branch of the United States Government to deliver to the Secretary all official financial books and records which serve to identify any property of the kind described in Section 1-101 of this Order, and (b) to make available to the Government of Iran or its designated agents all identifying information derived from such books and records to the fullest extent permitted by law.

1-104. The Attorney General of the United States having advised the President of his opinion that no claim on behalf of the Government of Iran for recovery of property of the kind described in Section 1-101 of this Order should be considered legally barred either by sovereign immunity principles or by the act of state doctrine, the Attorney General is authorized and directed to prepare, and upon the request of counsel representing the Government of Iran to present to the appropriate court or courts within the United States, suggestions of interest reflecting that such is the position of the United States, and

that it is also the position of the United States that Iranian decrees and judgments relating to the assets of the former Shah and the persons described in Section 1-101 should be enforced by such courts in accordance with United States law.

1-105. The Secretary of the Treasury is delegated and authorized to exercise all functions vested in the President by the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to carry out the purposes of this Order.

1-106. This Order shall be effective immediately.



THE WHITE HOUSE,

January 19, 1981.

[FR Doc. 81-2783

Filed 1-22-81; 9:26 am]

Billing code 3195-01-M

Presidential Documents

Executive Order 12285 of January 19, 1981

President's Commission on Hostage Compensation

By the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered as follows:

1-1. Establishment.

1-101. There is established the President's Commission on Hostage Compensation, hereinafter referred to as the Commission, which shall be composed of not more than nine members who shall be appointed by the President.

1-102. The President shall designate a Chairman from among the members.

1-2. Functions.

1-201. The Commission shall study and analyze, and make recommendations to the President on, the question whether the United States should provide financial compensation to United States nationals who have been held in captivity outside the United States, either (1) by or with the approval of a foreign government, or (2) by reason of their status as employees of the United States Government or as dependents of such employees.

1-202. The Commission shall submit a report to the President ninety days after the date of this Order. The report shall contain the Commission's recommendations as to whether legislation to deal with the foregoing compensation issue is appropriate and, if so, as to what such legislation should provide. The report shall specifically contain the Commission's recommendations concerning the compensation of United States nationals held hostage in Iran on and after November 4, 1979.

1-203. In analyzing the foregoing issues the Commission shall consider all factors which it may consider relevant, including the prior practice with respect to governmental compensation, both by the United States Government and by foreign governments, of persons held in captivity abroad.

1-204. In the performance of its functions the Commission shall specifically address the following issues:

(a) whether any legislation authorizing compensation should set forth specific legislative standards, or whether the standards by which to award compensation should be administratively developed;

(b) whether any standards developed either legislatively or administratively should be applied uniformly to civilian and military government employees, dependents of such employees, and private citizens, or whether separate criteria should be developed for these or other categories;

(c) whether an existing administrative body should determine amounts of compensation, or whether a new body should be established for this purpose; and

(d) whether compensation should be paid for injuries suffered by members of families of persons who have been held in captivity.

1-3. Administrative Provisions.

1-301. In performing its functions the Commission shall conduct such studies, reviews, and inquiries as may be necessary. In addition to conducting open meetings in accordance with the Federal Advisory Committee Act, the Com-

mission shall conduct public hearings to identify critical issues and possible solutions related to compensation.

1-302. The Commission is authorized to request from any Executive agency such information that may be deemed necessary to carry out its functions under this Order. Each Executive agency shall, to the extent permitted by law, furnish such information to the Commission in the performance of its functions under this Order.

1-303. Each member of the Commission who is not otherwise employed in the Federal Government may receive, to the extent permitted by law, compensation for each day he or she is engaged in the work of the Commission at a rate not to exceed the maximum daily rate now or hereafter prescribed by law for GS-18 of the General Schedule, and may also receive transportation and travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5702 and 5703).

1-304. All necessary administrative staff services, support, facilities, and expenses of the Commission shall, to the extent permitted by law, be furnished by the Department of State.

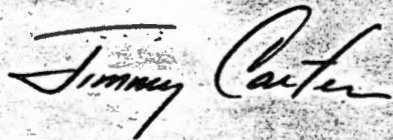
1-4. General Provisions

1-401. Notwithstanding the provisions of any other Executive Order, the functions of the President under the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), except that of reporting annually to the Congress, which are applicable to the Commission, shall be performed by the Secretary of State in accordance with guidelines and procedures established by the Administrator of General Services.

1-402. The Commission shall terminate thirty days after submitting its report.

THE WHITE HOUSE,

January 19, 1981.



[FR Doc. 81-2784

Filed 1-22-81; 9:27 am]

Billing Code 3195-01-M

B. Kimmitt

Legal.. Iran

MEMORANDUM

NATIONAL SECURITY COUNCIL

33
56

January 27, 1981

54682

ACTION

MEMORANDUM FOR: RICHARD ALLEN
FROM: GARY SICK *JS*
SUBJECT: Hostage Suits

The letter at Tab B raises both policy and legal questions concerning prosecution of individual suits by former hostages against Iran or against the U.S. Government.

Policy. Arguments can be made that the U.S. should: (1) abrogate the agreement; (2) attempt to reject certain aspects of the agreement, e.g. voiding of individual claims in U.S. courts; or (3) accept the agreement as written. I have outlined very briefly the pros and cons of these choices and their policy implications at Tab A. Bob Kimmitt and I would welcome the opportunity to discuss this issue with you.

Legal. Depending on the policy decision, a series of legal consequences will result. The actual implementation of the policy, with all its legal implications, will be the responsibility of the Department of Justice in coordination with the Legal Advisor of the Department of State and Counsel to the Department of Treasury. Since the implementation of the agreement will itself have policy ramifications, the NSC should at least maintain a watching brief as the issue inevitably moves into the courts.

In my view it would not be appropriate for you or Admiral Garrick to respond to this letter in a substantive manner. The points which Mr. Coale raises are matters of legal interpretation which properly should be the responsibility of the Attorney General, pursuant to a general policy determination.

Recommendation: That you recommend to Admiral Garrick that the letter at Tab B be forwarded to the Attorney General for reply.

_____ Approve

_____ Disapprove

Robert Kimmitt concurs

ABBREVIATED ANALYSIS OF ALGIERS AGREEMENT

1. Abrogate Agreement

Pros

-- Clearly rejects concept of negotiating with terrorists or accepting the results of any agreement negotiated under the threat or use of force.

-- Makes explicit U.S. interpretation of the hostage incident as government terrorism and demonstrates to Iran that it cannot expect to do business with the U.S. using terrorist tactics.

-- Removes U.S. responsibility to implement the terms of the agreement, viz. voiding of individual claims against Iran; return of remaining \$4 billion of frozen assets; U.S. assistance in tracing assets of the Shah; transfer of private claims to a claims settlement procedure; withdrawal of U.S. suit in the International Court of Justice; etc.

Cons

-- Will require U.S. claimants to pursue their cases in U.S. courts (instead of a claims settlement procedure), where they will be subject to the Act of State doctrine and Sovereign Immunity. Their prospects of actually collecting on their claims will probably be significantly reduced.

-- The banks would probably lose the existing \$1.4 billion escrow account for security on disputed loans, thereby greatly reducing their prospects of obtaining payment from Iran. In addition, the U.S. Government may be liable to suits by the banks for reneging on this aspect of the agreement, thereby depriving them of fair compensation.

-- There will be considerable pressure for seizure (vesting) of the remaining Iranian assets to insure payment of claims. If assets are not vested, legal access to the money may be lost. If assets are vested, it will establish a precedent which is certain to be troublesome to other nations who invest large sums of money here. (Note that the British did not seize German assets during W.W.II for this reason.)

-- The Algerians will be severely embarrassed, since they acted, in effect, as guarantors of the reliability of U.S. word.

-- The issue of Iranian assets will remain a serious bone of contention between the U.S. and Iran for the foreseeable future and complicate any future efforts to restore more normal relations with the present government or its successor.

-- Doubts will be raised about the future willingness of a new U.S. administration to accept the obligations of a previous administration, and a precedent will have been established about U.S. good faith performance on obligations of a controversial nature.

2. Abrogate Certain Elements of the Agreement

This is a highly complex legal issue which would require analysis in depth by counsel. One approach would be to submit the agreement to the World Court for an opinion concerning its validity. If it was found to be invalid, then the Administration could choose to enforce unilaterally only those portions which are deemed to be in the U.S. national interest. Alternatively, the U.S. could simply announce that we do not intend to honor certain elements of the agreement (e.g. prohibiting claims by hostages against Iran) which are of questionable legal validity and appear to go beyond the mere restoration of the status quo ante. However, it is very doubtful that the Iranians would accept either the verdict of the ICJ or agree to perform only those parts of the agreement which we select. Rather, they would probably abrogate the entire agreement, and we would sustain the same tangible disadvantages as in 1. above.

3. Accept the Agreement.

Pros

-- Retains the benefits for U.S. claimants of a claims settlement procedure, with full security of \$2.4 billion of Iranian assets in escrow and binding arbitration of all contact and financial disputes.

-- Maintains the principle of obligations carrying over from one administration to another.

-- Provides a mechanism for settling promptly the many outstanding disputes between Iran and the U.S., thereby potentially removing obstacles to a reestablishment of more normal relations with Iran at some point in the future.

Cons

-- Would be subject to criticism that the U.S. had negotiated with terrorists and accepted an agreement under duress.

-- Would require the U.S. to implement the terms of the agreement in full, including the voiding of individual claims and their transfer to a claims settlement procedure; providing information to Iran about the location of the Shah's assets in the U.S. (if any); opposing claims by former hostages against Iran; withdrawal of U.S. suit in the International Court of Justice; and pursuing numerous anticipated legal challenges in the courts, in circumstances which may be distasteful since they can give the appearance of taking Iran's side in a legal dispute.

JAN 22 1981

THE WHITE HOUSE
WASHINGTON

33

January 22, 1981

MEMORANDUM FOR RICHARD ALLEN

FROM: ROBERT M. GARRICK
Rear Admiral USNR (Ret.)



I would appreciate your reviewing the attached material from John P. Coale, and then discussing the same with me.

Attachment

LAW OFFICES

JOHN P. COALE
ARTHUR LOWY

227 Massachusetts Ave., N. E., Suite 310, Washington, D. C. 20002
(202) 544-7177

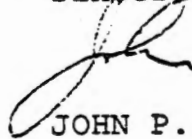
January 22, 1981

Admiral Robert M. Garrick
The White House
Washington, D. C.

Dear Admiral Garrick:

I hope this letter to the President will be helpful in the present situation. I greatly appreciate you giving me the opportunity to express this point of view. This letter is somewhat of a thumb sketch of what I believe will be the hostages' viewpoint concerning this matter. If a further expression of this viewpoint is desired, of course I will be more than happy to do so.

Sincerely yours,



JOHN P. COALE

JPC/laf

JOHN P. COALE
ARTHUR LOWY

227 Massachusetts Ave., N.E., Suite 310, Washington, D.C. 20002
(202) 544-7177

January 22, 1981

President Ronald W. Reagan
The White House
Washington, D. C.

Dear Mr. President:

On December 6, 1979, I filed a suit under the Foreign Sovereign Immunities Act of 1976 (28 USCS 1602) against the State of Iran. By the end of March 1980, this suit included five black captives released around Thanksgiving of 1979 and three Americans who spent eleven weeks in hiding and then escaped with the help of Canada. Also included are the members of these captives' families, who of course also suffered as a result of Iran's criminal acts. A copy of the Complaint is enclosed.

My associates and I are really the only people who have represented hostages held in Iran with the perspective of making them whole for the personal damages inflicted on them by their captors. Over the year, I have seen what this experience has done to these eight and their families, and can imagine the horrendous harm done to the fifty-two now returned. The horror stories and the constant fear of death are only now coming to the surface.

It is my feeling that the Carter administration has grossly underestimated the resolve that all of the former hostages have and will have to make claims against Iran. Originally, the main purpose of my clients' suit was to make a statement against Iran.

On January 9, 1981, Jimmy Carter signed an Executive Order entitled "Non-Prosecution of Claims of Hostages and for Actions at the United States Embassy and Elsewhere". Within this Order Mr. Carter purports to have the authority to order that these American citizens may not use their Courts to redress their grievances against Iran. Of course, it is my feeling that there are serious Constitutional problems with this action. At the least, it can be argued that the United States should compensate the hostages at fair market value for their claims. Enclosed you will find a Secret cable dated August 2, 1979 and one dated July 1979 that evidences the fact that the United States had good cause to know that the admission of the Shah would have the result that it did. To my knowledge, there is also a State Department document dated April of 1979 that goes into much greater detail concerning the danger of hostages being taken in Iran.

My clients gave me these documents and are adamant about suing the United States if they can't be compensated by Iran. I must say that Mark Lijek, a foreign service officer who is more representative of the fifty-two returnees than most of my other clients, feels the strongest about suing the United States. It is my intention to avoid such a class action suit at all costs since it no doubt would become an ugly media event.

Therefore, Mr. President, I propose as a class action claim for all sixty-five hostages that you revoke former President Carter's Executive Orders pertaining to the remaining Iranian assets and refreeze at least ninety-one million dollars under the International Emergency Economic Powers Act (50 USC, Section 1702) and award 1.5 million dollars to each hostage just released and one million dollars to each hostage released earlier under your power to conduct foreign policy since this would set an example to terrorists throughout the world that they will have to pay the innocent victims of their criminal acts. I would also cite the World Court opinion of May 24, 1980 where the Court declared "that the government of the Islamic Republic of Iran must immediately take all steps to redress the situation resulting from events of 4 November 1979" and "that the government of the Islamic Republic of Iran is under an obligation to make reparations to the government of the United States of America for injuries caused to the latter by events of 4 November 1979 and what follows from these events".

I must point out that the amounts suggested are small relative to the compensatory and punitive damages that would be awarded by our courts if these cases ever went to trial. From a political standpoint, this type of compensation would benefit the American people. All Americans have vicariously suffered with the hostages and share the hostages' resentment and need for revenge against Iran. I believe that Americans would be extremely happy to see their fellow citizens who have suffered so much be justly compensated. The compensation offered by the Carter administration, i. e., medical care, tax benefits, etc., is uniformly taken as an insult by my clients, and I am sure will be by the freed captives now in Germany.

If this issue of compensation is not addressed now and there is a long Court battle with the United States brought in as a Co-Defendant with Iran, the hostages' suffering will just be extended. As I have indicated before, I think it was very naive of the Carter administration to believe that at least a large percentage of the hostages will not file suit against both Iran and the United States.

President Ronald W. Reagan

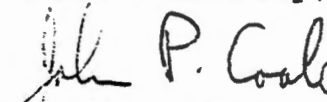
Page 3
January 22, 1981

Since the barbaric treatment the hostages received has come to the surface, there is a growing feeling in this country that the so-called deal made with Iran should be cancelled. Many argue that to cancel the entire agreement would harm the United States' credibility especially in the third world since Algeria played a large part in this agreement. There may be weight to the argument that a slight change in the agreement whereby the hostages are compensated from the Iranian assets as I have proposed above would diffuse the growing popular demand that the entire agreement be voided and still not harm our credibility around the world.

The Iranian issue is going to be fought over for a long time to come, and I feel the humane thing to do is to keep the hostages and their families out of the fray.

I would like a further opportunity to express this point of view if necessary.

Most Sincerely,


JOHN P. COALE

JPC/laf
Enclosure

DEPARTMENT OF STATE

Washington, D.C. 20520

54684

August 2, 1979

~~SECRET~~ - ~~EYES ONLY~~

The Honorable
L. Bruce Laingen
Charge d'Affaires, a.i.
American Embassy
Tehran

Dear Bruce:

I was finally able to see your cable dealing with the same subject as the enclosed piece. I liked your thoughts very much and believe -- with a few details of difference -- we are in accord. My paper was prepared at Newsom's request with strict instructions not to cut anyone else in except those shown as clearing and Peter. So please protect me absolutely.

Sincerely,

Henry Precht
Director
Office of Iranian Affairs

Enclosure.

~~SECRET~~ - ~~EYES ONLY~~

DECLASSIFIED

NLRR MD8-113#54684
BY RW NARA DATE 5/27/11

DECLASSIFIED

NR 108-113 # 54685

BY RW NARA DATE 5/27/11

54685

SECRET/SENSITIVE

1

Planning for the Shah to Come to the United States

This paper outlines some concepts we should address in considering the Shah's desire to come to the United States. We believe there are three broad questions:

- What new circumstances could justify a change in the USG position?
- What conditions should we seek from the Shah or state prior to his arrival here?
- What arrangements should we make for Embassy personnel to provide protection?

1. New Circumstances

The PGOI has laid out a plan for the adoption of a new constitution and election of a new government. If the plan is followed -- and that seems unlikely -- elections for an assembly of experts will be held on August 3. The assembly will conclude its work in one month; the draft constitution, which the experts will have reviewed, will be submitted to a popular referendum probably in September; and elections for a president and Majlis could take place as early as October. Because the Iranian government has placed a high priority on establishing a stronger and legitimate single authority for the country, we believe the PGOI and Khomeini will make every effort to meet this schedule. Even with the inevitable delays, there is a good chance that the process will be completed by the end of 1979.

Once it is completed, we should inform the new government that we wish to clear our decks of old issues on the agenda. One of those old issues will be the status of the Shah. We could inform the government that we have resisted intense pressures to allow him to come to the U.S. because we did not wish to complicate the PGOI's problems or our efforts to construct a new relationship. Now with the new government firmly established and accepted, it seems appropriate to admit the Shah to the U.S. The new government may not like it, but it is best to get the issue out of the way. This discussion with the new GOI should take place after it is in place some 2-3 weeks and some few days before the Shah would come here. In the meantime,

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we should begin to prepare the Iranians by telling them of the intense pressures for the Shah to come here -- pressures which we are resisting despite our traditional open-door policy.

If the constitutional process does not proceed and Iranian instability seriously increases, and if there is no prospect for Iran to settle down, there may be an argument for going ahead and admitting the Shah anyway to get that inevitable step behind us, but it will be necessary first to review how dangerous the situation is.

In either of these scenarios we should aim for a positive change in our position on the Shah by January 1980. If this plan is adopted it probably would not be advisable to disseminate it beyond a close circle in the Executive Branch; perhaps a few individuals outside might be informed so as to reduce pressures for a change. We would also have to discuss the issue with Members of Congress to indicate that we were addressing the issue and hope to resolve it successfully. This would reduce pressures which could lead, for example, to a Congressional resolution calling on the Administration to admit the Shah. However, this would increase the likelihood of leaks and our having to deal with the PGOI before we are ready.

2. Conditions

It would help substantially in explaining our position to the Iranians if the Shah were to renounce his family's claim to the throne. We believe the likelihood of his doing so is extremely remote, but the idea could be explored privately by trusted intermediaries so that if the Shah refused he would have no possibility of blaming the USG for a course he rejected.

Should the Shah refuse to renounce his claim, we should leave no doubt in the Iranian mind as to our attitude. We should make it quite clear publicly that we consider any claim to the throne by his family rendered invalid by the Iranian constitutional process, and we should make it clear privately to the Shah and his friends that we would not tolerate any counter-revolutionary acts here which might violate U.S. law, or our customary policies regarding political activities of persons admitted for temporary visits.

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3. Security.

We have the impression that the threat to U.S. Embassy personnel is less now than it was in the spring; presumably the threat will diminish somewhat further by the end of this year. Nevertheless, the danger of hostages being taken in Iran will persist.

We should make no move towards admitting the Shah until we have obtained and tested a new and substantially more effective guard force for the Embassy. Secondly, when the decision is made to admit the Shah, we should quietly assign additional American security guards to the Embassy to provide protection for key personnel until the danger period is considered over.

* * * * *

Before proceeding further we should have more detailed work on the legal, security and Congressional relations issues.

3. 5.

Drafted: NEA/IRN:HPrecht:amp
8/1/79 - ext:20313

Clearances: NEA - Mr. Saunders
L/NEA - Mr. Small

We should have a copy of the report on the water
quality in the area of the dam. The report should
be submitted to the NEA and the L/NEA. The report
should also be submitted to the NEA and the L/NEA.
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NLRB MO8-113#546810
BY AW NARA DATE 5/27/11

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~~SECRET~~ 10:7:22

5-11552: 305-3, 7/25/69 (TAR) DT, PETER
FROM THE SECRETARY.
1969: 305-3

1. WE ARE AGAIN CONSIDERING HOW TO RESPOND TO THE SEAF'S CONTINUING QUERY TO US THROUGH VARIOUS CHANNELS REGARDING ESTABLISHING RESIDENCE FOR HIMSELF, THE SEAFBATION, AND HIS FAMILY IN THE U.S. (HE CAN REMAIN IN MEXICO AT LEAST THROUGH OCTOBER.) I WOULD LIKE TO HAVE YOUR PERSONAL AND PRIVATE EVALUATION OF THE EFFECT OF SUCH A MOVE ON THE SAFETY OF AMERICANS IN IRAN (ESPECIALLY THE OFFICIAL AMERICANS IN THE COMPOUND) AS WELL AS ON OUR RELATIONS WITH THE GOVERNMENT OF IRAN.

3. WE CLEARLY UNDERSTAND THAT THE KEY TO MINIMIZING THE IMPACT OF THE SHAH'S ADMISSION WOULD BE IN PAPER 111 AND THE GOVERNMENT'S WILLINGNESS AND ABILITY IN SUCH A SITUATION TO CONTROL AND COMMAND THE SECURITY FORCES GUARDING OUR PEOPLE AND TO MINIMIZE ANY HOSTILE PUBLIC REACTION AGAINST OUR PEOPLE OR OUR RELATIONS.

YALCO