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WITHDRAWAL SHEET

Ronald Reagan Library

Collection Name KIMMITT, ROBERT: FILES

Withdrawer

SMF 7/3/2008

File Folder LEGAL: IRAN (1/27/1981-3/18/1981)

FOIA

M2008-113

Box Number 90301 *RAC Box 9*

FELIPPONE

11

ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
54696	MEMO	KIMMITT TO FIELDING RE IRAN <i>D 5/27/2011 M113/1</i>	1	3/18/1981	B1 B3
54697	MEMO	KIMMITT TO ALLEN RE IRAN (DUP OF 54597) <i>D 6/16/2010 M113/1</i>	1	3/18/1981	B1
54698	MEMO	ALLEN TO THE PRESIDENT RE IRAN (DUP OF 54595) <i>D 6/16/2010 M113/1</i>	1	ND	B1
54699	MEMO	HAIG TO THE PRESIDENT RE IRAN (DUP OF 54598)	2	3/16/1981	B1
54700	LETTER	FELDMAN TO BERNARDEZ REINTERNATIONAL COURT OF JUSTICE CASE (DUP OF 54599)	2	ND	B1
54703	LETTER	HAIG TO WALDHEIM (DUP OF 54600)	1	3/3/1981	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.

SUBJECT: Documents Regarding Iran

- a. Message of August 13, 1979
(NYT Article, January 27, 1981, page A19)
- b. Documents Received by President Reagan

January 27, 1981

9:55 a.m. Called Clay McManaway, CDC, Department of State, and asked for copy of the real cable and for informaton on what the current status of classification is.

10:13 a.m. Clay called back and said Jack Anderson ran part of this before and that he thought they would probably declassify it now but hadn't found it.

4:02 p.m. Called Clay again. Says still looking. Asked him about two attachments to attorney letter to President Reagan dated January 22, 1981.

Clay mentioned he has CBS FOI request for everything regarding Shah's visit.

5:45 p.m. Found cable from TIMES--all but introductory paragraph included (he will send copy).

Other--Precht letter was brought back by Congressman Hansen while he was over there, and the cable is probably one from a group an Air Force cadet bought in Iran for \$5.

January 28, 1981

11:55 a.m. Clay called. He has documents (2); neither has been officially released by State as far has they can tell. His comments in yesterday's 5:45 call regarding how they got out are probably correct. He said they may be investigating Precht document release.

Copy of 8/13/79 item received from DCS. 1/28/81
BKR

Following are excerpts from a confidential cable sent Aug. 13, 1979, to Cyrus R. Vance, then the Secretary of State, and signed by L. Bruce Laingen, chargé d'affaires at the United States Embassy in Teheran, which was seized by militants on Nov. 4, 1979. Mr. Laingen, the top American diplomat in Teheran after the exile of Shah Mohammed Riza Pahlavi, was at the Foreign Ministry when the embassy was overrun, and remained there until after last Christmas. The cable was made available to The New York Times on Jan. 26, 1980, by Dale Van Atta, a reporter with the syndicated columnist Jack Anderson, and was held by The Times for publication until the 52 hostages were freed.

Subject: Negotiations

Recent negotiations in which the embassy has been involved here, ranging from compound security to visa operations... highlight several special features of conducting business in the Persian environment. In some instances the difficulties we have encountered are a partial reflection of the effects of the Iranian revolution, but we believe the underlying cultural and psychological qualities that account for the nature of these difficulties are and will remain relatively constant. Therefore, we suggest that the following analysis be used to brief both USG [United States Government] personnel and private sector representatives who are required to do business with and in this country.

Perhaps the single dominant aspect of the Persian psyche is an overriding egoism. Its antecedents lie in the long Iranian history of instability and insecurity which put a premium on self-preservation. The practical effect of it is an almost total Persian preoccupation with self and leaves little room for understanding points of view other than one's own. Thus, for example, it is incomprehensible to an Iranian that U.S. immigration law may prohibit issuing him a tourist visa when he has determined that he wants to live in California. Similarly, the Iranian central bank sees no inconsistency in claiming force majeure to avoid penalties for late payment of interest due on outstanding

Message From Iran: Aug. 13, '79

loans while the Government of which it is a part is denying the validity of the very grounds upon which the claim is made when confronted by similar claims from foreign firms forced to cease operations during the Iranian revolution.

The reverse of this particular psychological coin, and having the same historical roots as Persian egoism, is a pervasive unease about the nature of the world in which one lives. The Persian experience has been that nothing is permanent and it is commonly perceived that hostile forces abound. In such an environment each individual must be constantly alert for opportunities to protect himself against the malevolent forces that would otherwise be his undoing. He is obviously justified in using almost any means available to exploit such opportunities. This approach underlies the so-called "bazaar mentality" so common among Persians, a mindset that often ignores longer term interests in favor of immediately obtainable advantages and countenances practices that are regarded as unethical by other norms.

Coupled with these psychological limitations is a general incomprehension of causality. Islam, with its emphasis on the omnipotence of God, appears to account at least in major part for this phenomenon. Somewhat surprisingly, even those Iranians educated in the Western style and perhaps with long experience outside Iran itself frequently have difficulty grasping the inter-relationship of events. Witness a Yazdi (Ibrahim Yazdi, who was Foreign Minister when the embassy was seized) resisting the idea that Iranian behavior has consequences on the perception of Iran in the U.S. or that this perception is somehow related to American policies regarding Iran. This same quality also helps explain Persian aversion to accepting responsibility for one's own actions. The *deus ex machina* is always at work.

The Persian proclivity for assuming that to say something is to do it further complicates matters. Again, Yazdi can express surprise when informed that the irregular security forces as-

signed to the embassy remain in place. "But the central committee told me they would go by Monday," he says. There is no recognition that instructions must be followed up, that commitments must be accompanied by action and results.

Finally, there are the Persian concepts of influence and obligation. Everyone pays obeisance to the former and the latter is usually honored in the breach. Persians are consumed with developing *parti bazi* — the influence that will help get things done — while favors are only grudgingly bestowed and then just to the extent that a tangible *quid pro quo* is immediately perceptible. Forget about assistance proffered last year or even last week; what can be offered today?

There are several lessons for those who would negotiate with Persians in all this:

First, one should never assume that his side of the issue will be recognized, let alone that it will be conceded to have merits. Persian preoccupation with self precludes this. A negotiator must force recognition of his position upon his Persian opposite number.

Second, one should not expect an Iranian readily to perceive the advantages of a long-term relationship based on trust. He will assume that his opposite number is essentially an adversary. In dealing with him he will attempt to maximize the benefits to himself that are immediately obtainable. He will be prepared to go to great lengths to achieve this goal, including running the risk of so alienating whoever he is dealing with that future business would be unthinkable, at least to the latter.

Third, interlocking relationships of all aspects of an issue must be painstakingly, forcefully and repeatedly developed. Linkages will be neither readily comprehended nor accepted by Persian negotiators.

Fourth, one should insist on performance as the *sine qua non* at each stage of negotiations. Statements of intention count for almost nothing.

Fifth, cultivation of good will for good will's sake is a waste of effort. The overriding objective at all times should be impressing upon the Persian across the table the mutuality of the proposed undertakings. He must be made to know that a *quid pro quo* is involved on both sides.

Finally, one should be prepared for the threat of breakdown in negotiations at any given moment and not be cowed by the possibility. Given the Persian negotiator's cultural and psychological limitations, he is going to resist the very concept of a rational (from the Western point of view) negotiating process.

CORRECTION

Because of an editing error, the meaning of a sentence was changed in Mirra Komarovsky's article "College Women and Careers," on Friday's Op-Ed page. The sentence should have read: "It is quite true that building bridges, writing books, and splitting the atom are no more essential to society than child-rearing."

Legal Draft

THE WHITE HOUSE
WASHINGTON

January 29, 1981

TO: THE NSC STAFF
FROM: RICHARD V. ALLEN
SUBJECT: Press Guidance Regarding
Iran Hostages

The attached is forwarded for your
information and use "only if asked".

+

Press Guidance Regarding Iran Hostages

1. The country is thankful that the ordeal of the hostages is finally over.
2. The agreements negotiated by the Carter Administration and the related Executive Orders issued by it are detailed and complicated. The final negotiations were concluded only 8 days ago. We have begun an indepth review.
3. This Administration will live up to its obligations under these agreements consistent with international and domestic law.
4. Implementation of these agreements will, however, be complex and time consuming; good faith actions will be required on the part of all parties concerned, as will a cooperative spirit on the part of the Iranians.
5. Our review will analyze the precise nature of our economic and legal obligations under law. We will complete the review as quickly as possible in order that we may, as a nation, put this most unsatisfactory episode in our history behind us.
6. Actions under the agreements necessary for the release of the hostages have been taken. No other actions appear necessary before completion of our review.
7. The United States has no obligation to deliver any military equipment to Iran as a result of these agreements. Nor was the subject of military equipment for Iran discussed during the negotiations. All such items are subject to the provisions of the Arms Export Control Act and their disposition is under study.
8. The Carter Administration revoked the prohibitions against transactions involving Iran. Due to the possible dangers for Americans who might want to visit Iran, the State Department has issued a strong warning to all Americans cautioning against such travel.

NOTE: This includes Dick Allen's and Jim Baker's comments, and is being sent to State to begin discussion.

MEMORANDUM

0318

NATIONAL SECURITY COUNCIL

INFORMATION

February 6, 1981

MEMORANDUM FOR: RICHARD V. ALLEN
FROM: ROBERT M. KIMMITT *Bob*
SUBJECT: Congressional Hearings on Iran

As we approach possible hearings on Iran (Tab A), you should be aware that most of the significant White House documents on this subject are in NSC files rather than with the Carter Library materials. This is because the SCC was the principal coordinating mechanism throughout the crisis. In addition, we would be required to clear release of Carter papers or agency documents reflecting White House consideration of this issue.

Interest in Iran-related documents is starting to accelerate (Tab B), and we should be careful not to commit ourselves too quickly to document inspection or production. As in the case of NSC documents requested for the Haig hearings, significant executive privilege issues are associated with materials that are this sensitive and explicit. We should thus proceed cautiously when approached by the Congress, and we should respond only after coordinating with other offices and taking all relevant factors into consideration.

Attachments

cc: Gary Sick
Brenda Reger



THE WHITE HOUSE
WASHINGTON

February 2, 1981

MEMORANDUM FOR:

Jim Baker
Ed Meese
Dick Allen

FROM:

Max Friedersdorf *u-6*

SUBJECT:

Congressional Hearings on Iran

gks
are to
State

The Senate Foreign Relations Committee will hold hearings Wednesday and Thursday on the Iranian seizure of American hostages with Cutler, Christopher and the bankers expected to testify. I am unaware of any Administration witnesses.

cc: Powell Moore

*Administration testimony
post-posed until later
when we are ready.
max*

B

What to ask about the hostage episode

By Pat M. Holt

It is good that the Senate Foreign Relations and House Foreign Affairs Committees are separately planning hearings on the situation arising from the seizure of the hostages in Iran. There is a valuable opportunity here to learn from the past in order to better shape the future: that, after all, is what congressional investigations are about — or should be.

But there are pitfalls of which the committees should be wary and into which various committees have fallen before.

The first of these is skimming off the sensationalism and letting it go at that — listening to selected returned hostages recount the horrors of their captivity while the nation sits transfixed before its television screens. A certain amount of this should be done to build a sober, official record, but the fascination of the congressional animal with television exposure is such that there will be a temptation to drop the proceedings when media interest begins to wane.

Another trap is to fall into quarreling over the scope of the inquiry. There will be those, particularly conservative Republicans, who will wish to focus on the fall of the Shah, hoping thereby to lay the responsibility on Jimmy Carter. There will be others, particularly liberal Democrats (an endangered but still articulate species), who will wish to go all the way back to the restoration of the Shah in 1953 following the CIA-assisted overthrow of the Mossadegh regime.

A schism of this sort is guaranteed to lead to sterile, unproductive argument. Reviewing American policy toward Iran in the early 1950s might be an interesting exercise in historical scholarship, but it would bog the committees down in a mass of detail. Rehashing the collapse of the Shah's regime in early 1979 would lead the committees, and possibly the country, into a dispute similar to that which followed the collapse of Chiang Kai-shek in China 30 years earlier. If American policy is

subject to criticism in either case, it is not that the United States withdrew support from the Shah and Chiang too soon, but that it continued that support too long.

There will also be a temptation to focus on the various avenues which the Carter administration explored, with increasing frustration, to secure the release of the hostages. This temptation will be especially strong in the case of those who, for whatever reason, wish to see the Carter administration discredited. The main outlines of the Carter efforts are already on the public record. It would be good to have an official statement, probably from former Deputy Secretary of State Warren Christopher, but the committees ought to recognize that such a statement cannot be complete at this time without embarrassing third parties.

Attention needs to be focused instead on what happened in Iran and in United States-Iranian relations in the months of 1979 between the fall of the Shah and the seizure of the hostages. The crucial questions are:

- What was the US Embassy in Tehran, including the CIA, reporting about the uncertain course of Iranian politics during this time?

- To what extent was the embassy consulted about probable Iranian reaction to the decision to admit the Shah to the United States for medical treatment? What was the embassy's response, if any?

- Why was the embassy staff, or most of it, not withdrawn from Iran at the time the decision about the Shah was made? At the least, why were files not burned and code machines destroyed?

American treatment of the Shah during this period gyrated at least as wildly as Iranian politics — from regarding him as a pariah to welcoming him to a New York hospital to (in effect) expelling him to Panama. It was, on the whole, shabby. It is not acceptable that the American government decide whom to admit to the US on the basis of blackmail from a gang of fanatical thugs. But in ignoring blackmail, the US ought also to take steps to remove its representatives abroad from the consequences.

In order to lay out the considerations involved in answering these questions with authority, the committees will need access to telegraphic traffic between Washington and Tehran (including CIA messages). This will raise some delicate questions for the Reagan administration during its first weeks in office. It is likely to be the first test of how forthcoming the new administration will be in its relations with Congress. But it will be idle to pretend that the committees can make a useful investigation without these documents.

Finally, the question arises of what can be done to prevent a recurrence of this trauma. The answer is probably not much beyond increased vigilance and sensitivity on the part of the State Department and American diplomats abroad.

Suggestions have been made that the Vienna conventions on diplomatic and consular relations be amended to provide an automatic response by the world community. The trouble with this is that, as long as the world community is more concerned with oil than law, writing more international law on the subject is not likely to move it very much.

Pat M. Holt, formerly chief of staff of the Senate Foreign Relations Committee, writes on foreign affairs from Washington.

THE WHITE HOUSE

Leg. ul. -- Iran

Office of the Press Secretary

For Immediate Release

February 24, 1981

EXECUTIVE ORDER

SUSPENSION OF LITIGATION AGAINST 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 were based the declarations of national emergency in Executive Order No. 12170, issued November 14, 1979, and in Executive Order No. 12211, issued April 17, 1980, in light of the agreement with the Government of Iran, as reflected in the Declarations of the Government of the Democratic and Popular Republic of Algeria dated January 19, 1981, relating to the release of United States diplomats and nationals being held as hostages and to the resolution of claims of United States nationals against Iran, in order to implement Article II of the Declaration of Algeria concerning the settlement of claims 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:

Section 1. All claims which may be presented to the Iran-United States Claims Tribunal under the terms of Article II of the Declaration of the Government of the Democratic and Popular Republic of Algeria Concerning the Settlement of Claims by the Government of the United States of America and the Government of the Islamic Republic of Iran, and all claims for equitable or other judicial relief in connection with such claims, are hereby suspended, except as they may be presented to the Tribunal. During the period of this suspension, all such claims shall have no legal effect in any action now pending in any court of the United States, including the courts of any state or any locality thereof, the District of Columbia and Puerto Rico, or in any action commenced in any such court after the effective date of this Order. Nothing in this action precludes the commencement of an action after the effective date of this Order for the purpose of tolling the period of limitations for commencement of such action.

Section 2. Nothing in this Order shall require dismissal of any action for want of prosecution.

Section 3. Suspension under this Order of a claim or a portion thereof submitted to the Iran-United States Claims Tribunal for adjudication shall terminate upon a determination by the Tribunal that it does not have jurisdiction over such claim or such portion thereof.

more

(OVER)

Section 4. A determination by the Iran-United States Claims Tribunal on the merits that a claimant is not entitled to recover on a claim shall operate as a final resolution and discharge of the claim for all purposes. A determination by the Tribunal that a claimant shall have recovery on a claim in a specified amount shall operate as a final resolution and discharge of the claim for all purposes upon payment to the claimant of the full amount of the award, including any interest awarded by the Tribunal.

Section 5. Nothing in this Order shall apply to any claim concerning the validity or payment of a standby letter of credit, performance or payment bond or other similar instrument.

Section 6. Nothing in this Order shall prohibit the assertion of a counterclaim or set-off by a United States national in any judicial proceeding pending or hereafter commenced by the Government of Iran, any political subdivision of Iran, or any agency, instrumentality, or entity controlled by the Government of Iran or any political subdivision thereof.

Section 7. The Secretary of the Treasury is authorized to employ all powers granted to me by the International Emergency Economic Powers Act and by 22 U.S.C. § 1732 to carry out the purposes of this Order.

Section 8. Executive Order Nos. 12276 through 12285 of January 19, 1981, are ratified.

This Order shall be effective immediately and copies shall be transmitted to the Congress.

RONALD REAGAN

THE WHITE HOUSE,

February 24, 1981.

Legal --
Iran

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

February 24, 1981

TO THE CONGRESS OF THE UNITED STATES:

Pursuant to Section 204(b) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(b), I have today exercised the authority granted by this Act to suspend certain litigation against Iran.

1. The circumstance necessitating the exercise of this authority is the implementation of the Claims Settlement Agreement between the United States and Iran. After a complete review of the agreements with Iran leading to the release of the hostages held by Iran I have decided to implement them.

This order is part of a series of actions necessary to resolve the national emergencies declared in Executive Order 12170 of November 14, 1979 and in Executive Order 12211 of April 17, 1980 and described in reports submitted to Congress under the IEEPA by President Carter on November 14, 1979; April 7, 1980; April 17, 1980; and January 19, 1981.

2. Although the hostages have been released, financial and diplomatic aspects of the crisis have not yet been resolved and continue to present an unusual and extraordinary threat to the national security, foreign policy and economy of the United States.

3. Thus claims which may be presented to the Iran-United States Claims Tribunal are suspended in accordance with the terms of the attached Executive Order pursuant to the terms of the Claims Settlement Agreement, and my powers under Article II of the Constitution, Section 1732 of Title 22, known as the Hostage Act, and Section 203 of IEEPA.

I am also ratifying earlier Executive Orders signed by President Carter on January 19, 1981 to remove any doubt as to their effect, an issue that has been raised in recent litigation challenging them. In this connection I note that Executive Orders 12276 through 12285 were all signed by President Carter and made effective while he was still in office. The Report to Congress required by IEEPA dated January 19, 1981 indicates that some of the Executive Orders were not signed until the release of the hostages, an event that did not occur until after the end of his term. The report, which was prepared in advance, did not, because of the press of circumstances, reflect events precisely as they occurred and to that extent it stands corrected.

4. The present Executive Order is necessary for the United States to meet its obligations under the Claims Settlement Agreement to peacefully arbitrate certain claims.

5. The action is taken with respect to Iran for the reasons outlined above.

RONALD REAGAN

THE WHITE HOUSE,

February 24, 1981.

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MEMORANDUM

THE WHITE HOUSE
WASHINGTON

March 10, 1981

INFORMATION

MEMORANDUM FOR: MAJOR ROBERT KIMMITT
FROM: RICHARD V. ALLEN *RA*
SUBJECT: "A Gross Violation of Treaty Law,"
from The National Law Journal

You will be interested in the arguments presented by
Stuart Malawer in the attached article.



THE AFTERMATH: Former Secretary of State Edmund Muskie, center, and top aide Warren Christopher, right, with Senate Foreign Relations Committee Chairman Charles Percy, R-Ill., before a hearing on the accords last week.

The Iranian Hostage Agreements

A Gross Violation of Treaty Law

By STUART S. MALAWER

Special to The National Law Journal

IT IS totally astounding that leading international lawyers, legal scholars and diplomats are unclear as to whether the Iranian Hostage Agreements are valid under international law: they are not. As an international lawyer who has spent much of the last 12 years writing articles and books on the effect of duress in the treaty-making process, I find this conclusion inescapable.

Article 52 of the 1969 Vienna Convention on the Law of Treaties declares that "A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of law embodied in the Charter of the United Nations." The "Final Act" of the 1969 Vienna Conference, attached to the text of the convention, "condemns the threat or use of pressure in any form, whether military, political or economic, by any State in order to coerce another State to perform any act relating to the conclusion of a treaty in violation of the principles of the sovereign equality of States and freedom of consent."

While many states question whether the use of nonmilitary force in the treaty-making process vitiates the validity of a treaty, there is unanimous agreement that the use of military force to coerce the conclusion of a treaty voids the treaty. But what constitutes "military force"?

In 1974, subsequent to the completion of the Vienna Convention, the General Assembly of the United Nations adopted the historical resolution on defining aggression, after generations of efforts originating in the old League of Nations during the inter-war period. The resolution declares "aggression" to be the use of armed force. In particular, the resolution defines aggression as the use of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another state, as well as the use of any weapons against the territory of another state, or an attack on the Marines or armed forces of a state. The language of the resolution declares further that the enumeration of acts in it is not exhaustive.

The use of Iranian irregulars to attack U.S. diplomatic territory, American diplomats and

Marines falls squarely within the proscribed behavior. Such behavior amounts to the violation of one of the oldest and recognized principles of traditional international law governing diplomatic relations, as embodied in the Vienna Convention on Diplomatic Relations. The conclusion of illegality is buttressed further by the pronouncements made in the Security Council and of the International Court of Justice concerning the hostages during their captivity.

While technical international legal arguments and other considerations undoubtedly may be raised challenging the conclusion of illegality under international law, they ought not to obscure the gross violation of a core principle of treaty law.

SINCE the Iranian Hostage Agreements are unlawful under general international law, in that they are executive agreements, not treaties endowed with the broad juridical effect of treaties consented to by the Senate, the legal

validity of the presidential orders issued under them as domestic law becomes quite dubious. Of course, this is in addition to the very real possibility that the implementing executive orders are, indeed, outside of the president's emergency authority delegated by Congress, outside of his inherent foreign affairs power, a violation of the exclusive authority of the Congress to regulate foreign commerce and a violation of due process guaranteed all Americans.

Whatever international political and national security reasons exist in not abrogating the Iranian Hostage Agreements, there is no international law reason not to so act. It is certain that as a matter of customary international law such agreements amount to a legal nullity. Agreements concluded without freely given state consent violate the national sovereignty of states, the integrity of the international legal system and that of all law-abiding states. The enforcement of such agreements, which may not be even legally permissible under the Vienna Convention, constitutes a fraud on the world community, sets an abysmal legal and diplomatic precedent and undermines the already weak fabric of a very diverse and divisive community of nations.

From a foreign policy perspective, abrogation would be a clear, convincing act of the Reagan administration laden with symbolism. It could be the act that sets the tone of the administration's foreign policies generally for the next four years, as well as being a ringing indictment of the Iranian conduct. It would be a masterful act upholding the integrity of international treaties and international morality generally, and would signal the current administration's intention to act quite differently if a hostage situation occurs again.

It is difficult to believe that among all the other existing factors, abrogation of the agreements in and of itself would further "lose" Iran to the West. The West survived the 444 days and the Iran-Iraq war better than any expert predicted.

The spurious argument that such abrogation would show disdain of treaty and international obligations is not one bit persuasive. To the contrary, the recognition of such agreements makes a mockery of international law and of the power of the United States — continued recognition only perpetuates an American tragedy.

Article 52 declares coerced agreements as void. The international community has already spoken as to the validity of such agreements: there is none. Warren Christopher's pronouncements at the airport in Algiers ought to be judged as history has judged those made at another airport, during another time, by another negotiator, Neville



ACCORDS SIGNED: Former Deputy Secretary of State Warren Christopher initials documents releasing the hostages.

Dr. Malawer is a senior fellow at the International Law Institute, Georgetown University Law Center, and a professor at the George Mason University School of Law. He is the author of the three-volume "Federal Regulation of International

RECEIVED 18 MAR 81 12

TO LENZ

FROM PETERSON, R

DOCDATE 17 MAR 81

KEYWORDS: LEGISLATIVE REFERRAL IRAN
 LEGAL ISSUES TERRORISM
 INTL TRADE

SUBJECT: HJR-37 RE IMPLEMENTATION OF INTERPARLIAMEN

1- Concur to Kemp

2- Legat^{File}... Iran

O.K.

3-18-81

ACTION: PREPARE MEMO LENZ TO PETERSON DUE: 06 APR

FOR ACTION

FOR COMMENT

KEMP

KIMMITT

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COMMENTS

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ACTION OFFICER (S) ASSIGNED ACTION REQUIRED DUE COPIES TO

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EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

March 17, 1981

1319

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer-
National Security Council



SUBJECT: State proposed report on H.J.Res. 37, "To establish a select committee for the implementation of interparliamentary relations between the legislatures of the Government of Iran and the Government of the United States."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than Tuesday, April 7, 1981.

Questions should be referred to Tracey Cole Lawler (395-4710), the legislative analyst in this office, or to ().

Ronald K. Peterson
RONALD K. PETERSON FOR
Assistant Director for
Legislative Reference

Enclosures
Dave Spevacek



DEPARTMENT OF STATE

Washington, D. C. 20520

Dear Mr. Chairman:

Thank you for the opportunity to comment on H. J. Res. 37, "to establish a select committee for the implementation of interparliamentary relations between the legislatures of the Government of Iran and the Government of the United States."

We note that this resolution was introduced prior to the release of the 52 Americans who had been held hostage in Iran. The release of the hostages may have overtaken the purpose of the proposed legislation. In any event, the Executive branch strongly opposes the enactment of H. J. Res. 37.

The willingness of the present Iranian regime to respect the fundamental principles of international law and custom is by no means clear. We believe that the actions envisaged in this resolution, by appearing to move this country toward more normal relations with Iran under these circumstances, would tend to undermine our efforts to gain international support for effective sanctions against states that violate the principles of international law relating to the inviolability of diplomats and diplomatic premises. Such actions could also damage the credibility of our efforts to make absolutely clear that the United States will not tolerate, and will respond in the strongest terms to, any similar violations in the future. Moreover, we would view with particular concern actions by the Congress designed to establish interparliamentary relations with the government of a country with which we have severed diplomatic relations.

The Honorable
Clement Zablocki,
Chairman,
House Foreign Relations Committee,
House of Representatives,
Washington, D.C.

For these reasons, we strongly oppose passage of H. J. Res. 37, or any move to establish interparliamentary relations between the Congress and the Iranian legislature. We take this position fully cognizant of the vital interests of the United States in the Persian Gulf and the serious threat posed by the Soviet Union to that area.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of these views.

Sincerely,

Alvin Paul Drischler
Acting Assistant Secretary
for Congressional Relations

97TH CONGRESS
1ST SESSION

H. J. RES. 37

To establish a select committee for the implementation of interparliamentary relations between the legislatures of the Government of Iran and the Government of the United States.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1981

Mr. HANSEN of Idaho introduced the following joint resolution; which was referred jointly to the Committees on Foreign Affairs and Rules

JOINT RESOLUTION

To establish a select committee for the implementation of interparliamentary relations between the legislatures of the Government of Iran and the Government of the United States.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 That there is hereby established a select committee on the
4 relationship between Iran and the United States.

5 SEC. 2. Each House of Congress shall appoint from
6 among its Members seven Members which shall constitute
7 the select committee. The chairman of the committee shall be
8 the chairman of the Senate Foreign Relations Committee.

1 Notwithstanding any other provision of law, the select com-
2 mittee created in section 2 shall have the powers set forth in
3 subsections (a) through (c) of this section.

4 (a) The committee shall investigate and report to the
5 Congress all matters concerning the relations of the Govern-
6 ment of Iran with the Government of the United States
7 which in its judgment caused or influenced the deterioration
8 of those relations and/or are necessary to the formulation of
9 laws for the correction of existing or past inequities in those
10 relations.

11 (b) The committee shall be the congressional agency for
12 the implementation of interparliamentary relations between
13 the legislatures of the Government of Iran and the Govern-
14 ment of the United States.

15 (c) The committee shall formulate and offer any bill
16 which in its judgment is necessary and desirable for the ame-
17 lioration of relations between the two governments.

18 (d) To enable the select committee to carry out the pur-
19 pose of this Act, such committee is authorized to utilize the
20 services of staffs of other standing committees of the Con-
21 gress, and to employ investigators, attorneys, consultants, or
22 organizations thereof, and clerical, stenographic, and other
23 assistants.

24 (e) The select committee is authorized and directed to
25 transmit findings and reports to the Congress on any matters

1 which have been referred to it and on which it has acted as
2 soon as practicable.

3 (f) Any bill and accompanying report of the select com-
4 mittee shall be subject to the rules of the Congress in the
5 same manner as though such bill and report had been re-
6 ported from a standing committee of the Congress.

7 (g) The select committee shall expire upon the last day
8 of the Ninety-seventh Congress.

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54696	MEMO KIMMITT TO FIELDING RE IRAN	1	3/18/1981	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]

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54697	MEMO KIMMITT TO ALLEN RE IRAN (DUP OF 54597)	1	3/18/1981	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]

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54698	MEMO ALLEN TO THE PRESIDENT RE IRAN (DUP OF 54595)	1	ND	B1

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

B-1 National security classified information [(b)(1) of the FOIA]

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54699	MEMO HAIG TO THE PRESIDENT RE IRAN (DUP OF 54598)	2	3/16/1981	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]
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54700 LETTER

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B1

FELDMAN TO BERNARDEZ REINTERNATIONAL
COURT OF JUSTICE CASE (DUP OF 54599)

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

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54703	LETTER HAIG TO WALDHEIM (DUP OF 54600)	1	3/3/1981	B1

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

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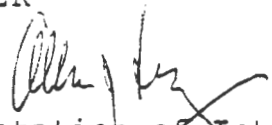
MEMORANDUM

NATIONAL SECURITY COUNCIL

1319

March 18, 1981

MEMORANDUM FOR: TRACEY COLE LAWLER

FROM: ALLEN J. LENZ 

SUBJECT: HJR-37: Implementation of Interparliamentary
Relations Between Iran ~~and the United States~~

The NSC concurs with the Department of State and strongly opposes passage of H.J. Resolution 37, or any move to establish inter-parliamentary relations between the Congress and the Iranian legislature (Tab A).

Re 1319

NATIONAL SECURITY COUNCIL

3/18/81

TO: ALLEN J. LENZ

FROM: GEOFFREY KEMP

Attached for your signature
to OMB is NSC's comments
re HJR-37.



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

March 17, 1981

1319

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer-
National Security Council



SUBJECT: State proposed report on H.J.Res. 37, "To establish a select committee for the implementation of interparliamentary relations between the legislatures of the Government of Iran and the Government of the United States."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than Tuesday, April 7, 1981.

Questions should be referred to Tracey Cole Lawler (395-4710), the legislative analyst in this office, or to ().

Ronald K. Peterson
RONALD K. PETERSON FOR
Assistant Director for
Legislative Reference

Enclosures
Dave Spevacek



DEPARTMENT OF STATE

Washington, D.C. 20520

Dear Mr. Chairman:

Thank you for the opportunity to comment on H. J. Res. 37, "to establish a select committee for the implementation of interparliamentary relations between the legislatures of the Government of Iran and the Government of the United States."

We note that this resolution was introduced prior to the release of the 52 Americans who had been held hostage in Iran. The release of the hostages may have overtaken the purpose of the proposed legislation. In any event, the Executive branch strongly opposes the enactment of H. J. Res. 37.

The willingness of the present Iranian regime to respect the fundamental principles of international law and custom is by no means clear. We believe that the actions envisaged in this resolution, by appearing to move this country toward more normal relations with Iran under these circumstances, would tend to undermine our efforts to gain international support for effective sanctions against states that violate the principles of international law relating to the inviolability of diplomats and diplomatic premises. Such actions could also damage the credibility of our efforts to make absolutely clear that the United States will not tolerate, and will respond in the strongest terms to, any similar violations in the future. Moreover, we would view with particular concern actions by the Congress designed to establish interparliamentary relations with the government of a country with which we have severed diplomatic relations.

The Honorable
Clement Zablocki,
Chairman,
House Foreign Relations Committee,
House of Representatives,
Washington, D.C.

For these reasons, we strongly oppose passage of H. J. Res. 37, or any move to establish interparliamentary relations between the Congress and the Iranian legislature. We take this position fully cognizant of the vital interests of the United States in the Persian Gulf and the serious threat posed by the Soviet Union to that area.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of these views.

Sincerely,

Alvin Paul Drischler
Acting Assistant Secretary
for Congressional Relations

97TH CONGRESS
1ST SESSION

H. J. RES. 37

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