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Last Updated: 11/14/2023

THE DEPUTY SECRETARY OF STATE
WASHINGTON
October 12, 1981

81 OCT 12 P2:55

Copies to:

Dear Ed:

Thank you for your letter of September 10, confirming our September 2 conversation with regard to the arbitration of claims before the Iran-United States Claims Tribunal.

I can assure you that we will keep the Department of Justice fully informed of developments in adjudications before this international tribunal. We appreciate your offer of assistance and look forward to close cooperation between our two departments throughout this process.

As you know, I do not agree with the view you expressed that the Attorney General would be responsible under the laws of the United States for representing the interests of the United States before the Tribunal in the case of subsequent claims either brought against the United States or asserted by us. In our view, the present arrangements for representation of the United States before the Iran-United States Claims Tribunal are in accord with the uniform practice that has been followed in international arbitrations to which the United States has been a party. This representational function falls within the responsibilities of the Secretary of State, by law and at the direction of the President, for the conduct of the nation's foreign affairs. As you may be aware, funds are made available to the Department of State by Congress for the express purpose of participating in binational arbitrations.

That said, let me assure you that we intend to proceed in a spirit of cooperation to seek to utilize the talents and resources of both the State and Justice Departments in the important task of representing the United States before the Claims Tribunal. I hope you will let me know


The Honorable
Edward C. Schmults,
Deputy Attorney General,
Department of Justice.

P
TEAM C
EUR
S/P
L ✓
WH-Meese
RF

- 2 -

if at any time you believe the interests of the Department of Justice are not being given every proper consideration. Should any issue come before the Tribunal which the Attorney General might wish to discuss with Secretary Haig, we would be pleased to seek a satisfactory resolution of your concerns.

Sincerely,



William P. Clark

cc: WH: Mr. Edwin Meese, III

Clearances:

NEA - Mr. Veliotos ^{NV} _{dec}

EUR - Mr. T.M.T. Niles ^{TN} _{dec}

Drafted:L:DRRobinson:edk:x29598

THE DEPUTY SECRETARY OF STATE
WASHINGTON

October 12, 1981

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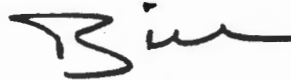
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The Honorable
Edward C. Schmults,
Deputy Attorney General,
Department of Justice.

- 2 -

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Sincerely,

A handwritten signature in dark ink, appearing to be 'W. P. Clark', written in a cursive style.

William P. Clark

cc: WH: Mr. Edwin Meese, III

REGISTERED: V 2068592

FROM DIRECTOR OF S/S-1 MR. KELLY #7241

PART II

THE WHITE HOUSE - Mr. Edwin Meese

THIS PART IS TO BE ADDRESSED BY SENDER AND FIXED TO ENVELOPE
MOISTEN REVERSE SIDE FOR PASTING TO ENVELOPE OR PACKAGE

DATE SENT: 10/13/81

CLASSIFIED MATERIAL
Copy For Addressee

v 2068592

FROM

DIRECTOR OF S/S-1 HQ. KELLY 07241

(Name)

(Office Symbol)

(Room No.)

(Fldg.)

TO:

THE WHITE HOUSE - Mr. Edwin Meese
(Name) (Office Symbol) (Room No.)

(Name)

(Office Symbol)

(Room No.)

(Bldg.)

PART V

DATE _____

RECEIVED:

IDENTIFICATION

Copy S/S 8126393 w orig note from Deputy Secy of State office.

Optional Form 112
Rev. 8/79
State AID USICA

THIS PART MAY BE USED FOR DISTRIBUTION AND/OR
DESTRUCTION - 5 FAM 975.8 AND 960.4
RETAINED FOR 3 YEARS

DECISION DIRECTIVE - Representation of the U.S. Before Iran-U.S. Tribunal

The Attorney General and the Secretary of State disagree on departmental authority for the designation of agents to represent the United States before international tribunals. Although the immediate disagreement concerns representation of the United States against claims asserted by Iran before the Iran-U.S. Claims Tribunal, the dispute is more fundamental, and could encompass claims asserted by or against the United States before any international tribunal on any issue.

The Attorney General relies on 29 U.S.C. 516 (1966), reserving to his office "except as otherwise authorized by law -- the conduct of litigation to which the United States is a party ..." It is argued that the United States having been called upon to "litigate" Iranian claims, the Attorney General is vested with authority and charged with a duty to represent the United States. Moreover, the United States will be best represented by his office because therein reside abundant litigating skills.

With distinguishable exceptions, the Secretary of State, through his Legal Advisor's office, has traditionally represented the United States before international tribunals. He argues that the litigation test, now relied upon by the Attorney General, has not heretofore been seriously asserted because proceedings within international tribunals do not constitute litigation. Trial practices, rules of evidence and procedure, and the usual fact finder determinations are of little significance in international proceedings. These proceedings are governed by international law and rules, and have profound foreign policy implications. The result sought in a particular instance is not necessarily that dictated by a strict application of legal principles. The Secretary of State is best able to determine not only what objective to seek but also how that objective should be sought, and his directions can best be implemented by State lawyers with foreign policy perspective and international adjudication experience. The Attorney General has consistently provided legal assistance to the Secretary of State upon request.

Because of the importance of foreign policy considerations in international adjudications, the Secretary of State, subject to the President's prerogative, will designate agents to represent the United States, and will control all proceedings before international tribunals.

*E.M.:
As discussed,
this might go into
a letter to all
you*

MEMORANDUM

ACTION

THE WHITE HOUSE

WASHINGTON

FOR THE PRESIDENT

FROM: EDWIN MEESE III
WILLIAM P. CLARK

SUBJECT: Representation of the United States Before Iran-United
States Claims Tribunal

Issue: The Attorney General and the Secretary of State disagree on departmental authority for the designation of agents to represent the United States before international tribunals. Although the immediate disagreement concerns representation of the United States against claims in excess of \$10 billion asserted by Iran before the Iran-U.S. Claims Tribunal, the dispute is more fundamental, and could encompass claims asserted by or against the United States before any international tribunal on any issue.

Attorney General Position: The Attorney General relies on 29 U.S.C. 516 (1966), reserving to his office "except as otherwise authorized by law -- the conduct of litigation to which the United States is a party..." It is argued that the United States, having been called upon to "litigate" Iranian claims, the Attorney General is vested with authority and charged with a duty to represent the United States. Moreover, the United States will be best represented by his office because therein reside abundant litigating skills.

State Department Position: With exceptions the Secretary deems distinguishable, the Secretary's Legal Adviser has traditionally represented the United States before international tribunals. The Secretary argues that the litigation test relied upon by the Attorney General, has not heretofore been seriously asserted because proceedings within international tribunals do not constitute litigation. Trial practices, rules of evidence and procedure, and finding determinations are of little significance in international tribunal proceedings. Those proceedings are governed by international law and rules, and have profound foreign policy implications. The result sought in a particular instance is not necessarily that dictated by a strict application of legal principles. The Secretary is best able to determine not only what objectives to seek, but also how those objectives should be sought, and his directions can best be implemented by State lawyers with foreign perspective and international adjudicating experience.

Discussion: While legal considerations are critical in proceedings before international tribunals, they must be tempered with foreign policy considerations, the significance of which is best judged in any particular instance by the Secretary of State. Given that the Attorney General's Office has superior litigating skills, those tools do not appear sufficiently critical in international proceedings to offset State's foreign policy prerogatives as exercised through its lawyers experienced in international adjudications. Historical and legislative interpretation of that statute relied on by the Attorney General does not support the claim that "litigation" is intended to include proceedings before international tribunals.

Recommendation: That the Secretary of State, subject to the President's prerogatives, continue to designate agents to represent the United States and to control proceedings before international tribunals.

Approve _____

Disapprove _____

12 FEB 1982

THE WHITE HOUSE
WASHINGTON

February 12, 1982

ED,

I would like to discuss this with
the President on Tuesday morning.

Bill

11



F

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

February 23, 1982

Honorable Edwin Meese, III
Counsellor to the President
The White House
Washington, D.C. 20500

Re: Representation of the United States before
the Iran-United States Claims Tribunal

Dear Ed:

I have your Memorandum of February 19, 1982, which refers to a disagreement between the Attorney General and the Secretary of State.

Unfortunately this Memorandum totally misstates the basis of the disagreement it purports to resolve--if in fact there is one. I have never objected to the Secretary of State's designation of the agent to represent the United States before this Tribunal. Nor has our discussion extended to the fundamental question of responsibility for representing the United States "before any international tribunal on any issue."

A more serious error in the Memorandum is its representation that my positions and arguments and the relevant facts in this matter have been considered by the President. They obviously have not been. I was wholly unaware that the matter had been referred to the White House, even though I had personally been discussing it with Secretary Haig for some time. Nor did the White House contact the Department of Justice in any manner prior to the issuance of this Memorandum. Accordingly, the manner in which this issue apparently was presented to the President is completely unacceptable to me.

For more than two years the Department of Justice and the Department of State have worked in close cooperation on the numerous troublesome issues that arose out of the Iranian hostage crisis and its resolution. This relationship has been almost totally free of dispute or disagreement. On the rare occasions when disagreement arose, we worked them out in a straight-forward manner.

✓

The question of responsibility for litigating claims against the United States before the Tribunal has been the subject of correspondence and discussion between Secretary Haig and me. I have made clear my complete agreement that the Secretary of State is responsible for the conduct of foreign policy and that the bulk of the matters being dealt with by the Tribunal were within his authority. This includes the designation of the agent to represent the United States before the Tribunal.

However, it is my opinion that the litigation of claims against the United States is a statutory responsibility of the Attorney General, and that this responsibility is not limited to domestic courts. I also believe that the interests of the United States would best be served by having Department of Justice lawyers handle the \$10 billion claim asserted by Iran before the Tribunal. The competence and vigor with which this complex claim is defended will have a substantial effect on our Government's ultimate financial liability. The Department of Justice has the best litigation resources and expertise for developing and presenting our case in this matter.

At a meeting with Secretary Haig earlier this month I thought we had agreed to an arrangement for Justice to manage the day to day litigation of these claims, subject to guidance from State as to all foreign policy matters. At a subsequent meeting between our representatives, however, the State Department's Legal Adviser insisted that he would manage the litigation. Thereafter in a telephone conversation with Secretary Haig I asked if it would be productive to meet again to attempt to resolve this misunderstanding. He suggested that I send a letter and he would advise whether a meeting would be desirable. My letter to Secretary Haig of February 16 reiterated that we should either meet again or that the Department of Justice would disclaim responsibility for litigation of the claims in question.

That was the posture when I received your February 19 Memorandum. At no time did Secretary Haig indicate that the matter had been referred to the White House. Indeed, with my letter - in the absence of an additional meeting - the issue would seem to have been settled.

In view of this history, I find it incredible that the decisions reflected in your Memorandum could be made without any contact whatever with the Department of Justice, and

that your Memorandum would incorrectly represent that all relevant facts, positions and arguments urged by the Attorney General had been considered. The Memorandum is unnecessary because the particular dispute in question had already been resolved between Secretary Haig and me. Moreover, it attempts to resolve a broader issue without any of the consideration or deliberation required to support such an action. The fundamental issue of responsibility for representing the United States before international tribunals raises difficult legal issues involving the statutory authority of the Attorney General, 28 U.S.C. §§516-519, which have not been addressed outside the context of the Iran-United States Claims Tribunal.

The Memorandum should be withdrawn. I must say that I find no explanation or justification for the manner in which this matter has been handled.

Sincerely,

A handwritten signature in cursive script that reads "Bill".

William French Smith
Attorney General

cc: Alexander M. Haig, Jr.
Secretary of State

Donald T. Regan
Secretary of the Treasury

Caspar W. Weinberger
Secretary of Defense

William P. Clark
Assistant to the President for
National Security Affairs

Craig L. Fuller
Assistant to the President
for Cabinet Affairs

23 FEB 1982

f: U.S. Iran Claims Insurance Change from → 0910

to →

1201

(This has gone to C.A.
W/EM, per Mitchell.)
3/2/82

THE WHITE HOUSE
WASHINGTON

CONFIDENTIAL ATTACHMENT

February 28, 1982

MEMORANDUM

TO: Edwin Meese, III

FROM: William P. Clark *WPC*

SUBJECT: Rebuttal of Attorney General Letter of February 23, 1982 -- Representation of U.S. before U.S.-Iranian Claims Tribunal

Attached is the rebuttal of the Legal Adviser of the Department of State to matters asserted in the Attorney General's letter of February 23 to you.

This document is intended as a factual rather than an argumentative statement. It does not purport to draw conclusions, but rather to permit conclusions to be drawn by readers of both this document and the Attorney General's letter. The memo recites that the Secretary of State has authorized this communication.

In the interest of putting this matter to rest, neither the Attorney General nor the persons noted as receiving copies of the Attorney General's letter has received a copy of this document. Neither State nor this office will disburse copies.

Should you feel there to be a need for communicating further with the Attorney General and others, it is my understanding that you may use any of these materials.

CONFIDENTIAL ATTACHMENT

UNCLASSIFIED UPON REMOVAL
OF CLASSIFIED ENCLOSURES

CJS 2/9/07

2 NOV 1982

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

November 1, 1982

TO THE CONGRESS OF THE UNITED STATES:

Pursuant to Section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. Section 1703(c), I hereby report to the Congress with respect to developments between my last report of May 6 and mid-October 1982, concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979.

1. The Iran-United States Claims Tribunal established at the Hague pursuant to the Claims Settlement Agreement of January 19, 1981, is now actively engaged in the process of arbitrating the several thousand claims filed before it by the January 19, 1982 deadline. Although it has only recently begun to schedule significant numbers of prehearing conferences and hearings on the merits, the Tribunal has rendered decisions on twelve claims of U.S. nationals against Iran. Eight of those decisions approved settlements reached by the parties directly concerned; two more represented adjudications in favor of the U.S. claimants. The remaining two resulted in the dismissal of claims for lack of jurisdiction. In total, the Tribunal has made awards of more than \$7.6 million in favor of U.S. claimants. The Department of State, with the assistance of the Departments of the Treasury and Justice and other concerned government agencies, continues to coordinate the presentation of U.S. claims against Iran as well as the U.S. response to claims brought by Iran, and also assists U.S. nationals in the presentation of their claims against Iran.

2. The Tribunal rendered its decision on the four issues concerning the \$1 billion security account held by the N.V. Settlement Bank of the Netherlands to pay Tribunal awards against Iran. As indicated in the last report, those issues, which had not been resolved in the negotiations leading to the establishment of the security account in August 1981, involved (1) the disposition of the interest accruing on the funds in the account; (2) indemnification of the Settlement Bank and its parent, the Netherlands Central Bank, against any claims relating to the management of the security account; (3) payment of the administrative fees of the Settlement Bank; and (4) payment of settlements reached directly between U.S. claimants and Iran.

The Tribunal decided the last question first, ruling on May 14 that such settlements may be paid from the security account if the Tribunal determines that it has jurisdiction over the underlying claims and accepts the terms of the settlement agreements as the basis for rendering an award on agreed terms.

The decision on the other three issues was rendered August 3, 1982. The Tribunal decided that interest earned on the security account should continue to be credited to a separate suspense account established pursuant to the interim arrangements under which the security account had been managed

more

(OVER)

since it was established. The Tribunal further decided that any such interest may be used by Iran to fulfill its obligation to replenish the security account whenever the payment of awards causes the balance to fall below \$500 million. The decision thus prevents the diversion of the interest to any purpose other than payment of awards in favor of U.S. claimants, without the agreement of both the United States and Iran, until all claims are decided and all awards paid.

On the questions of management fees and indemnification, the Tribunal decided that fee payments should be shared equally by the two Governments and that indemnification should be joint and several, leaving open until an actual case arises the question of how ultimate responsibility for indemnification should be allocated between the United States and Iran.

3. The January 19, 1981 agreements with Iran also provided for direct negotiations between U.S. banks and Bank Markazi Iran concerning the repayment of non-syndicated loans and disputed interest from the \$1.418 billion escrow account presently held by the Bank of England. The U.S. banks and Bank Markazi Iran continue to negotiate concerning payments out of this account.

4. Since my last semiannual report submitted to the Congress in May, there have been no transfers of assets to Iran by or through the U.S. Government under the January 19, 1981 agreements with Iran. However, I attach herewith five excerpts from the Federal Register that deal with the Iranian Assets Control Regulations. The first, published on May 24, 1982, is a requirement that holders of tangible property in which Iran had or asserted any interest report on such property to the Office of Foreign Assets Control. The purpose was to obtain information for use in promoting the resolution of disputes with Iran, preparing submissions for the Iran-United States Claims Tribunal, and formulating policies to deal with the tangible properties. The second, published on June 8, 1982, contains additional information with respect to the tangible property reports. The third was published on June 10, 1982. It is a directive license to the New York Federal Reserve Bank to deduct two percent of award amounts it receives from the security account for payment to U.S. claimants who have received awards from the Iran-United States Claims Tribunal. That two percent is for deposit in the U.S. Treasury to reimburse the U.S. Government for costs incurred for the benefit of U.S. nationals with claims against Iran. On September 14, 1982, the Administration submitted to the Congress a bill that deals with this deduction and also gives authority to the Foreign Claims Settlement Commission of the United States to receive and determine the validity and amounts of certain claims of U.S. nationals against Iran. Also, the bill authorizes the Secretary of the Treasury to reimburse the Federal Reserve Bank of New York for expenses incurred by the Bank in the performance of fiscal agency agreements relating to the settlement or arbitration of claims pursuant to the January 1981 agreements with Iran. The fourth Federal Register item revoked any authorizations for the permanent disposition, by means of a final judicial judgment or order, of interests of Iran in any standby letter of credit or similar instrument. The purpose was to preserve the status quo to permit resolution of claims involving those interests through either the Claims Tribunal or negotiations with Iran. Iran has filed more than 200 such claims with the Tribunal, and U.S. nationals also have filed a large number of claims concerning the same issues

or related undertakings. U.S. account parties are still able to prevent payments to Iran by obtaining preliminary injunctions or other temporary relief, short of final dispositions, or by using procedures set forth in the Iranian Assets Control Regulations. Finally, on July 22, 1982, the Office of Foreign Assets Control published a new provision of the Iranian Assets Control Regulations that sets forth a licensing procedure for the sale and disposition of tangible property that is currently blocked because of an interest of Iran in the property. The purpose is to conserve the value of the assets and to permit the satisfaction of certain claims against the property. Licenses for such sales may be issued after a case-by-case review of license applications.

5. Several financial and diplomatic aspects of the crisis with Iran have not yet been resolved and continue to present an unusual challenge to the national security and foreign policy of the United States. By separate action, I am extending the emergency with respect to Iran beyond the November 14, 1982 anniversary. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

RONALD REAGAN

THE WHITE HOUSE,

November 1, 1982.

#

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations to require that tangible property census reports (Forms TFR-625) be filed no later than July 1, 1982 by any person subject to the jurisdiction of the United States who has an interest in, or who, between November 14, 1979, and January 19, 1981, had in his custody, control or possession, tangible property in which there was or is any interest of Iran or an Iranian entity. The purpose of this census is to provide the United States Government with information it may use in promoting the resolution of disputes with Iran, preparing submissions to the Iran-United States Claims Tribunal, and formulating appropriate policies to deal with tangible properties.

EFFECTIVE DATE: May 20, 1982. In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3507, the information collection requirements of Form TFR-625 which are imposed by this final rule have been or will be submitted for approval to the Office of Management and Budget (OMB). Form TFR-625 is not effective until OMB approval has been obtained.

FOR FURTHER INFORMATION CONTACT: Loren Dohm, Chief, Census Unit, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, Tel.: (202) 376-0988.

SUPPLEMENTARY INFORMATION: Copies of Form TFR-625, "Report on Tangible Property in Which Iran Has An Interest," are being sent to persons who have submitted materials to, or made inquiries of, the Office of Foreign Assets Control indicating that they have an interest in or control over such property. Other persons required to report or otherwise interested in obtaining copies of the form and instructions may do so from the nearest regional Federal Reserve Bank or from the Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220.

Forms are to be completed in triplicate and two copies are to be returned in a set to Unit 625, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220 by July 1, 1982. Reporting under these sections is mandatory. Observance of the filing deadline is very important.

Persons required to report on Form TFR-625 include, but are not limited to, all persons who reported holding tangible property as of March 31, 1980, on Treasury Department Form TFR-615, "Census of Blocked Iranian Assets." Form TFR-625 should be filed not only as to tangible property currently held by U.S. persons but also as to any such property which was formerly held and

has since been transferred to Iran or has been the subject of other disposition pursuant to Treasury license or otherwise.

Reports filed on TFR-625 are regarded as privileged and confidential. This census requirement is informational in nature, and the Treasury Department does not regard statements made on Form TFR-625, in and of themselves, to be determinative of ownership rights to reported property. For example, the reporting of an asserted Iranian interest in property does not constitute a recognition on the part of the reporter of the validity of such an interest. Statements made on TFR-625 are without prejudice to the reporter's right to assert or contest interests in reported property or to make claims relating to such property in an appropriate forum.

The information from the census may be used as background to discussions with the Government of Iran concerning implementation of the January 19, 1981 Algiers Accords and in preparation of United States submissions to the Iran-United States Claims Tribunal. In appropriate cases, certain information collected on this census may be shared with Iran or included in submissions to the Claims Tribunal.

Since this amendment involves a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Similarly, because the regulation is issued with respect to a foreign affairs function of the United States, it is not subject to Executive Order 12291 of February 17, 1981, dealing with federal regulation.

List of Subjects in 31 CFR Part 535

Iran, Foreign assets control.

PART 535—IRANIAN ASSETS CONTROL REGULATIONS

31 CFR Part 535 is amended as follows:

Section 535.625 is added as follows:

§ 535.625 Reports on Form TFR-625.

(a) *Requirement for report.* Reports on Form TFR-625 are hereby required to be filed on or before July 1, 1982, in the manner prescribed herein, with respect to all tangible property subject to the jurisdiction of the United States or in the possession or control of any person subject to the jurisdiction of the United States at any time between November 14, 1979, and January 19, 1981, in which Iran or an Iranian entity has or has had any interest or asserted interest.

Office of Foreign Assets Control

31 CFR Part 535

**Iranian Assets Control Regulations:
Survey of Tangible Property in Which
Iran Has An Interest**

AGENCY: Office of Foreign Assets
Control, Treasury.

ACTION: Final rule.

(b) *Who must report.* Reports on Form TFR-625 must be filed by any person, or the successor to such person, subject to the jurisdiction of the United States who has an interest in, or who, between November 14, 1979, and January 19, 1981, had in his custody, control, or possession, directly or indirectly, in trust or otherwise, tangible property in which there was or is any direct or indirect interest or an asserted interest of Iran or an Iranian entity. This includes, but is not limited to, all persons who reported holding tangible property as of March 31, 1980 on Treasury Department Form TFR-615, "Census of Blocked Iranian Assets."

(c) *Filing Form TFR-625.* Reports on Form TFR-625 shall be prepared in triplicate. On or before July 1, 1982, two copies shall be sent in a set to Unit 625, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220. The third copy must be retained with the reporter's records.

(d) *Certification.* Every report on Form TFR-625 shall contain the certification required in Part D of the Form. Failure to complete the certification shall render the report ineffective, and the submission of such a report shall not constitute compliance with this section.

(e) *Confidentiality of reports.* Reports on Form TFR-625 are regarded as privileged and confidential.

(Secs. 201-207, 91 Stat. 1826, 50 U.S.C. 1701-1706; E.O. No. 12170, 44 FR 65729; E.O. No. 12205, 45 FR 24098; E.O. No. 12211, 45 FR 28605; E.O. No. 12276, 46 FR 7913; E.O. No. 12279, 46 FR 7919; E.O. No. 12280, 46 FR 7921; E.O. No. 12281, 46 FR 7923; E.O. No. 12282, 46 FR 7925; and E.O. No. 12294, 46 FR 14111)

Dated: May 20, 1982.

Raymond W. Konan,
Chief Counsel, Acting Director.

Approved:
John M. Walker, Jr.,
Assistant Secretary.

[FR Doc. 82-14206 Filed 5-20-82; 4:27 pm]

BILLING CODE 4810-25-M

Office of Foreign Assets Control

31 CFR Part 535

**Iranian Assets Control Regulations:
Notice Concerning Form TFR-825****AGENCY:** Office of Foreign Assets Control, Treasury.**ACTION:** Rule related notice.

SUMMARY: This notice informs affected parties that Form TFR-825, "Report on Tangible Property in Which Iran Has an Interest," requirements for which were published as § 535.625 of the Iranian Assets Control Regulations at 47 FR 22361 (May 24, 1982), has been approved by the Office of Management and Budget. This notice also contains additional information clarifying the term "tangible property" for purposes of reporting on Form TFR-825.

EFFECTIVE DATE: June 7, 1982.

FOR FURTHER INFORMATION CONTACT: Loren Dohm, Chief, Census Unit, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, Tel. (202) 376-0968.

Section 535.625 of the Iranian Assets Control Regulations, published on May 24, 1982, establishes the requirement that Form TFR-825, "Report on Tangible Property in Which Iran Has an Interest," be submitted to the Office of Foreign Assets Control by persons required to

report. In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3507, as noted when § 535.625 was published, the information collection requirements of Form TFR-825 are not effective until approval by the Office of Management and Budget (OMB) has been obtained. OMB has approved Form TFR-825, assigning it OMB number 1505-0056, and it is now effective. The expiration date is August 31, 1982.

Reports on Form TFR-825 are to be returned in duplicate to Unit 825, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, by July 1, 1982.

For purposes of reporting on Form TFR-825, the category of tangible property is not coterminous with the term "properties" as used in § 535.215 but is a narrower category. The term "tangible property" means personal property and realty. Examples of tangible property of which the Office is aware include aircraft, road building equipment, spare parts, housing units, and engines. Tangible property does not include certain other property or property interests such as bank deposits, commercial obligations, advance payments received, performance bonds or standby letters of credit and related § 535.568 accounts in favor of Iran.

In this regard, the requirement in the instruction for Form TFR-825 that all persons who reported property on Form TFR-815 report on Form TFR-825 applies only to persons who reported *real estate* on line 8, or *personal property* on line 9.a or 9.b of Part B of Form TFR-815. Such persons must report such property on Form TFR-825 and account for its disposition even if they no longer hold the property. Certain financial obligations are to be reported and described in Part B, Item 3.c. of Form TFR-825 only if tangible property has been reported in Part B, Items 3.a or b. Such items should be reported regardless of whether there exists a specific relationship between such obligations and the tangible assets reported in order to provide a comprehensive picture of the reporter's position with respect to Iran.

Dated: June 7, 1982.

Dennis M. O'Connell,

Director.

(FR Doc. 82-15728 Filed 6-7-82; 4:22 pm)

BILLING CODE 4810-05-M

of each amount after deduction is to be paid immediately thereafter to the person identified by the award as the awardee, without further deduction or alteration. The two percent deduction is to be deposited in the Treasury to reimburse the United States Government for costs incurred for the benefit of U.S. nationals who have claims against Iran.

The Algiers Accords, which achieved the release of the American hostages from Iran, consisted primarily of two "declarations" by the Government of Algeria which were adhered to by the United States and Iran. The first of these (the General Declaration) provided for the revocation of sanctions and nullification of certain claims and attachments as well as the transfer of Iranian funds and other assets. In particular, the General Declaration provides for a Security Account at an initial funding level of \$1,000,000,000 to secure the payment of claims against Iran in accordance with the second declaration (the Claims Settlement Agreement). The Claims Settlement Agreement provides for an Iran-United States Claims Tribunal at The Hague to decide, *inter alia*, claims by nationals of the United States against Iran arising out of debts, contracts, expropriations or other measures affecting property rights. Under implementing agreements signed on August 17, 1981, by the Federal Reserve Bank of New York as Fiscal Agent of the United States, Bank Markazi Iran, Bank Centrale d'Algerie as escrow agent and the Dutch Central Bank and its subsidiary depository bank, awards by the Tribunal against Iran in favor of U.S. nationals will be certified by the President of the Tribunal for payment from the Security Account at the depository bank to the Federal Reserve Bank of New York.

**Directive License Federal Reserve
Deduction From Tribunal Awards**

To: Federal Reserve Bank of New York,
Fiscal Agent of the United States

Pursuant to the Fiscal Agency Agreement between the United States and the Federal Reserve Bank of New York dated August 14, 1981, Executive Orders issued January 19, 1981 (Nos. 12278-12284), the authority of the Independent Office Appropriations Act (31 U.S.C. 483(a)) the Technical Agreement of August 17, 1981, among De Nederlandsche Bank N.V., Banque Centrale d'Algerie as Escrow Agent, Bank Markazi Iran, and the Federal Reserve Bank of New York as fiscal agent of the United States ("FRBNY") and the Technical Agreement of August 17, 1981, among the N.V. Settlement

**Issuance of Directive License to the
New York Federal Reserve Bank
Relating to the Payment of Awards by
the Iran-U.S. Claims Tribunal**

June 7, 1982

The Treasury Department today issued a directive license authorizing the New York Federal Reserve Bank ("Fed") to deduct two percent of each amount received in satisfaction of an award, including interest thereon, by the Iran-United States Claims Tribunal in favor of a United States national. The balance

Bank of the Netherlands, Banque Centrale d'Algerie as Escrow Agent, Bank Markazi Iran, and FRBNY, FRBNY is hereby licensed, authorized, directed and compelled:

1. As amounts are received from the Security Account provided for in the Declaration of the Democratic and Popular Republic of Algeria of January 17, 1981, for the execution of arbitral awards, including interest thereon, by the Iran-United States Claims Tribunal in favor of United States claimants, to deduct two percent of such amounts on behalf of the Treasury Department;

2. To pay the balance, immediately following deduction pursuant to paragraph 1, of such amounts to the U.S. claimants designated by the awards as

recipients, without further deduction or alteration of the amounts; and

3. To pay to the Treasury Department for deposit in the general fund miscellaneous receipts the amounts deducted pursuant to paragraph 1 above.

FRBNY has no obligation to invest amounts received from the Security Account pending transfer to the recipient, and should transfer funds to recipients as soon as is practical in the circumstances. Further, FRBNY may rely on instructions from the N.V. Settlement Bank of the Netherlands or the Banque Centrale d'Algerie as Escrow Agent, or on telephone or telex instructions from recipients, designating the depository

institution to which the funds are to be transferred.

— Dated: June 7, 1982.

Treasury Department.

Robert E. Powis,

Acting Assistant Secretary (Enforcement and Operations).

[FR Doc. 82-15745 Filed 6-8-82; 9:43 am]

SELLING CODE 4810-35-01

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations;
Judicial Action Involving Standby
Letters of CreditAGENCY: Office of Foreign Assets
Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations, by: (1) Revoking and withdrawing any and all licenses and authorizations for enjoining permanently, terminating or otherwise permanently disposing of any interest of Iran in any standby letter of credit or similar instrument by means of the entry of any final judicial judgment or order; and (2) making clear that section 535.222 is not a licensing provision and that standby letter of credit litigation is governed by § 535.201, as modified by the section 535.504 license for judicial proceedings.

The amendment is needed to facilitate the ongoing implementation of the Lan- U.S. agreements of January 19, 1981.

EFFECTIVE DATE: July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Raymond W. Konan, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, tel. (202) 376-0236.

SUPPLEMENTARY INFORMATION: Iran has filed more than 200 claims with the Iran-United States Claims Tribunal (the "Tribunal") based on standby letters of credit issued for the account of United States parties. United States nationals have filed with the Tribunal a large number of claims related to, or based on, many of the same standby letters of credit at issue in Iran's claims. Other United States nationals have litigation pending in United States courts concerning some of these same letters of credit.

The purpose of the amendment is to preserve the status quo by continuing to allow U.S. account parties to obtain preliminary injunctions or other temporary relief to prevent payment on standby letters of credit, while prohibiting, for the time being, final judicial action permanently enjoining, nullifying or otherwise permanently disposing of such letters of credit.

Preservation of the status quo will provide an opportunity for negotiations with Iran regarding the status and disposition of these various letters of credit claims. Preservation of the status quo for a period of time also permits possible resolution in the context of the

Tribunal of the matters pending before it. The amendment will expire by its terms on December 31, 1982.

Since the Regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date, are inapplicable. Similarly, because the Regulations are issued with respect to a foreign affairs function of the United States, they are not subject to Executive Order 12291 of February 17, 1981, dealing with Federal regulations.

List of subjects in 31 CFR Part 535

Iran, Foreign assets control.

PART 535—IRANIAN ASSETS
CONTROL REGULATIONS

31 CFR Part 535 is amended as follows:

Section 535.222 is amended by the revision of paragraph (g) to read as follows:

§ 535.222 Suspension of claims eligible for claims tribunal.

• • • • •

(g) Nothing in this section shall apply to any claim concerning the validity or payment of a standby letter of credit, performance or payment bond or other similar instrument. However, assertion of such a claim through judicial proceedings is governed by the general license in § 535.504.

• • • • •

Section 535.504 is amended by the addition of new paragraph (b)(3) as follows:

§ 535.504 Certain judicial proceedings with respect to property of Iran or Iranian entities.

• • • • •

(b) This section does not authorize:

• • • • •

(3)(i) Any final judicial judgment or order (A) permanently enjoining, (B) terminating or nullifying, or (C) otherwise permanently disposing of any interest of Iran in any standby letter of credit, performance bond or similar obligation. Any license authorizing such action is hereby revoked and withdrawn.

(ii) Nothing in this paragraph (b)(3) shall prohibit the assertion of any defense, set-off or counterclaim in any pending or subsequent judicial proceeding commenced by the Government of Iran, any political subdivision of Iran, or any agency, instrumentality or entity owned or controlled by the Government of Iran or

any political subdivision thereof.

(iii) Nothing in this paragraph (b)(3) shall preclude the commencement of an action for the purpose of tolling the period of limitations for commencement of such action.

(iv) Nothing in this paragraph (b)(3) shall require dismissal of any action for want of prosecution.

(v) The provisions of this paragraph (b)(3) shall expire at 11:59 p.m., a.s.t., on December 31, 1982.

(Secs. 201-207, 91 Stat. 1625, 80 U.S.C. 1701-1706; E.O. No. 12170, 44 FR 85729; E.O. No. 12206, 45 FR 24099; E.O. No. 12211, 45 FR 26606; E.O. No. 12276, 46 FR 7913; E.O. No. 12278, 46 FR 7917; 46 FR 10696; E.O. No. 12279, 46 FR 7919; E.O. No. 12280, 46 FR 7821; E.O. No. 12281, 46 FR 7823; E.O. No. 12282, 46 FR 7826; and E.O. No. 12294, 46 FR 14111)

Dated: July 1, 1982.

Dennis M. O'Connell,

Director, Office of Foreign Assets Control.

Approved:

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

FR Doc. 82-19025 Filed 7-6-82; 8:58 am.

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the proceeds of a licensed sale of such property and for the transfer of any net proceeds in excess of such claims to Iran.

The disposition of tangible property in which Iran has an interest is governed by the provisions of sections 535.201 and 535.215 of the Regulations. Section 535.215 authorizes and directs the transfer of "properties . . . owned by Iran or its agencies, instrumentalities or controlled entities" as directed by the Government of Iran or its agent. However, § 515.333 of the Regulations provides that term "properties" as used in § 535.215 includes all uncontested and non-contingent liabilities and property interests of the Government of Iran. Among other matters, the section provides:

(b) Properties are not Iranian properties or owned by Iran unless all necessary obligations, charges and fees relating to such properties are paid and liens on such properties (not including attachments, injunctions and similar orders) are discharged.

Among other properties subject to the foregoing provisions are tangible properties as to which Iran does not possess complete or uncontested ownership rights under applicable provisions of U.S. law because of failure to pay the purchase price and other related charges. The referenced provisions implement the provisions of paragraph 9 of the Declaration of the Government of the Democratic and Popular Republic of Algeria which obligates the United States to arrange the transfer to Iran of "Iranian properties" (other than bank deposits or financial assets) "subject to the provisions of U.S. law applicable prior to November 14, 1979 . . ."

Tangible property in which Iran has an interest which is exempt from transfer to Iran under § 535.215 by virtue of § 535.333 of the Regulations remains subject to the blocking provisions of § 535.201. Section 535.201 prohibits, among other matters, the U.S. holder of such property from exercising any lien or set off against such property as a means of satisfying claims. Also, the prohibitions and nullifications in § 535.218 apply to such property even if it is exempt from transfer to Iran under § 535.215 by virtue of § 535.333. Further, such claims are suspended for purposes of seeking satisfaction out of such property through any action in a U.S. court (e.g., judicial creation or enforcement of a lien) by § 535.222.

In order to better formulate a licensing policy regarding Iranian tangible property, on May 24, 1982, the Office initiated a census of such property under § 535.825. Reports on Form TFR-

825 were due July 1, 1982. Any person subject to the reporting requirement who has not submitted the report, which is mandatory, should do so immediately.

Under the new policy, the applicant holding property and wishing to dispose of it through public sale must establish that reasonable efforts have been made to obtain payment from Iran and that neither payment nor adequate assurance of payment has been received. The applicant must have, under provisions of law applicable prior to November 14, 1979, a right to sell, or a right to reclaim and sell such property by methods not requiring judicial proceedings.

The applicant must agree to indemnify the United States against liability in the Iran-United States Claims Tribunal in an amount equal to 150% of the proceeds of a licensed sale.

In the event that the applicant elects to use the license to exercise a lien against the property to satisfy a claim out of the proceeds of the sale, the applicant must post a bond or establish a standby letter of credit in favor of the United States in the amount of the proceeds of the sale in order to back up the indemnity. The applicant may elect to hold all or a part of the proceeds in a blocked, interest-bearing account at a domestic bank to the extent they constitute contested property under § 535.333. In the event that the entire proceeds are so held, no bond or standby letter of credit is required. Any proceeds which are un-contested and non-contingent are subject to § 535.215 and must be transferred to Iran.

Reasonable costs of administration of a licensed sale will be licensed to be deducted from the proceeds in any case. A full report to the Office of Foreign Assets Control on the conduct of the sale will be required.

List of Subjects in 31 CFR Part 535

Iran, Foreign assets control.

31 CFR Part 535 is amended as follows:

PART 535—IRANIAN ASSETS CONTROL REGULATIONS

Section 535.540 is added as follows:

§ 535.540 Disposition of certain tangible property.

(a) Specific licenses may be issued in appropriate cases at the discretion of the Secretary of the Treasury for the public sale and transfer of certain tangible property that is encumbered or contested within the meaning of § 535.333 (b) and (c) and that, because it is blocked by § 535.201, may not be sold or transferred without a specific license,

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations Tangible Properties Licensing Policy

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations to provide a licensing procedure for the sale and disposition of tangible property that is currently blocked because of an interest of Iran in the property. The purpose of the amendment is to prevent the property from physically deteriorating and declining in value, to halt the accrual of storage charges, and to permit the satisfaction of certain claims against the property. The new licensing policy will permit the authorized sale of such property in appropriate cases following the review of license applications on their individual merits on a case-by-case basis.

EFFECTIVE DATE: July 20, 1982.

FOR FURTHER INFORMATION CONTACT: Raymond W. Konan, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, Tel. (202) 376-0236.

SUPPLEMENTARY INFORMATION: The new statement of licensing policy provides a mechanism for the disposition of blocked Iranian tangible property held by United States exporters, purchasing agents and others. It also provides for the satisfaction of certain claims out of

provided that each of the following conditions is met:

(1) The holder or supplier of the property has made a good faith effort over a reasonable period of time to obtain payment of any amounts owed by Iran or the Iranian entity, or adequate assurance of such payment;

(2) Neither payment nor adequate assurance of payment has been received;

(3) The license applicant has, under provisions of law applicable prior to November 14, 1979, a right to sell, or reclaim and sell, such property by methods not requiring judicial proceedings, and would be able to exercise such right under applicable law, but for the prohibitions in this part, and

(4) The license applicant shall enter into an indemnification agreement acceptable to the United States providing for the applicant to indemnify the United States, in an amount up to 150 percent of the proceeds of sale, for any monetary loss which may accrue to the United States from a decision by the Iran-U.S. Claims Tribunal that the United States is liable to Iran for damages that are in any way attributable to the issuance of such license. In the event the applicant and those acting for or on its behalf are the only bidders on the property, the United States shall have the right to establish a reasonable indemnification amount.

(b) An applicant for a license under this section shall provide the Office of Foreign Assets Control with documentation on the points enumerated in paragraph (a) of this section. The applicant normally will be required to submit an opinion of legal counsel regarding the legal right claimed under paragraph (a)(3) of this section.

(c) Any sale of property licensed under this section shall be at public auction and shall be made in good faith in a commercially reasonable manner. Notwithstanding any provision of State law, the license applicant shall give detailed notice to the appropriate Iranian entity of the proposed sale or transfer at least 30 days prior to the sale or other transfer. In addition, if the license applicant has filed a claim with the Iran-U.S. Claims Tribunal, the license applicant shall give at least 30 days' advance notice of the sale to the Tribunal.

(d) The disposition of the proceeds of any sale licensed under this section, minus such reasonable costs of sale as are authorized by applicable law (which will be licensed to be deducted), shall be in accordance with either of the following methods:

(1) Deposit into a separate blocked, interest-bearing account at a domestic bank in the name of the licensed applicant; or

(2) Any reasonable disposition in accordance with provisions of law applicable prior to November 14, 1979, which may include unrestricted use of all or a portion of the proceeds, provided that the applicant shall post a bond or establish a standby letter of credit, subject to the prior approval of the Secretary of the Treasury, in favor of the United States in the amount of the proceeds of sale, prior to any such disposition.

(e) For purposes of this section, the term "proceeds" means any gross amount of money or other value realized from the sale. The proceeds shall include any amount equal to any debt owed by Iran which may have constituted all or part of a successful bid at the licensed sale.

(f) The proceeds of any such sale shall be deemed to be property governed by § 535.215 of this part. Any part of the proceeds that constitutes Iranian property which under § 535.215 is to be transferred to Iran shall be so transferred in accordance with that section.

(g) Any license pursuant to this section may be granted subject to conditions deemed appropriate by the Secretary of the Treasury.

(h) Any person licensed pursuant to this section is required to submit a report to the Chief of Licensing, Office of Foreign Assets Control, within ten business days of the licensed sale or other transfer, providing a full accounting of the transaction, including the costs, any payment to lienholders or others, including payments to Iran or Iranian entities, and documentation concerning any blocked account established or payments made.

(Sec. 201-207, 91 Stat. 1626, 50 U.S.C. 1701-1706; E.O. No. 12170, 44 FR 65729; E.O. No. 12205, 45 FR 24099; E.O. No. 12211, 45 FR 26605; E.O. No. 12276, 46 FR 7913; E.O. No. 12279, 46 FR 7919; E.O. No. 12280, 46 FR 7921; E.O. No. 12281, 46 FR 7923; E.O. No. 12282, 46 FR 7925; and E.O. No. 12294, 46 FR 14111)

Dennis M. O'Connell,
Director, Office of Foreign Assets Control.

Approved:
John M. Walker, Jr.,

Assistant Secretary.

[FR Doc. 82-18867 Filed 7-20-82; 11:53 am]
BILLING CODE 4810-35-01